HOUSE OF REPRESENTATIVES—*Tuesday, October 26, 1993*

The House met at 12 noon.

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

As we walk through the events of daily living and immerse ourselves in the human experiences, may we be aware, gracious God, of Your guiding hand that points to a purpose and a meaning to all existence. May we not be so troubled by the pressures of job or relationships that we forget Your promises of hope and a better way, Your assurances of a renewed spirit, and Your peace that passes all human understanding. No matter how great the trouble, we are grateful for faith; no matter how steep the climb, we are thankful for Your strength. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair recognizes the gentleman from New Jersey [Mr. SMITH] to lead the House in the Pledge of Allegiance.

Mr. SMITH of New Jersey 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.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF FURTHER CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON H.R. 2445, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that it be in order on today or any day hereafter, clause 2 of rule XXVIII notwithstanding, to consider a further conference report and amendments reported from conference in disagreement on the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes;

That the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement be considered as read; and

That points of order under clause 7 of rule XVI against the motion printed in the joint explanatory statement of the committee of conference to dispose of the amendment of the Senate numbered 33 be waived, that such motion be debatable for 1 hour equally divided and controlled by the proponent and an opponent, and that the previous question be considered as ordered on such motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would just like to say to my colleagues on the other side of the aisle that we continue to get closed and restrictive rules that violate minority rights in this House. The only way to send a signal is to object to these kinds of motions.

Mr. Speaker, I am not going to object, but I hope the majority will start thinking more favorably about open rules.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution on Monday, October 25, 1993:

H.R. 328, to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM;

H.R. 2491, 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, 1994;

H.R. 2519, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes;

H.R. 2750, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes; and

H.J. Res. 228, to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

BREAST CANCER AWARENESS MONTH

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today during Breast Cancer Awareness Month to urge my colleagues to recognize the importance of funding for breast cancer research and education programs.

Women develop breast cancer more than any other type of cancer. It is tragic that every 3 minutes, a woman is diagnosed with breast cancer, and every 12 minutes a woman dies from the disease.

This year, about 20,000 women in my home State of California will discover they have breast cancer, and approximately 4,800 California women will die from breast cancer.

While risk factors such as family history help indicate a predisposition to breast cancer, over 70 percent of breast cancer occurs in women who have no identifiable risk factors.

Mr. Speaker, women can do something to protect themselves. Although there is no cure for breast cancer, and we do not know how to prevent it, early detection of the disease is a vital key for successful treatment.

Adult women, especially women over age 50, should get mammograms; do a monthly breast self-examination; and have an annual clinical breast exam—done by a trained health care professional.

I urge this body to help in fighting the disease by devoting funds to research on better detection methods and cures. Our lives depend on it.

IT'S TIME FOR REFORM: WHERE ARE THE DEMOCRATS?

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

Mr. DOOLITTLE. Mr. Speaker, it's time for reform: Where are the Democrats? Republicans are eager to begin.

In September, Democrats promised October would be reform month.

Then as most of October disappeared, they decided that the last week in October this week would be reform week.

Now, they announce reform is moving to November.

The only consistency here is that reform gets scaled back as it gets moved back on the calendar.

The Democrat calendar seems to have all its days labeled "tomorrow."

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Apparently Democrats are dressing up for Halloween as reformers this year; and they've decided to pull a large trick on America instead of giving out the promised reform treat.

If the Democrats postpone their ever-receding, ever-shrinking reform agenda once again, I think turkey day would be appropriate for its consideration.

NAFTA IS IMPORTANT FOR ECONOMIC FUTURE OF AMERICA

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

Mr. TORRICELLI. Mr. Speaker, the defeat of the Conservatives in Canada's election presents the Clinton administration with a problem and an opportunity. A problem, because the new Canadian Government is certain to seek renegotiations and changes in the NAFTA agreement, leaving this Congress with the legislative equivalent of hopping onto a moving train. It presents an opportunity, because for a series of environmental and labor rights reasons, the NAFTA agreement already required some changes.

Mr. Speaker, I am urging therefore today that the Clinton administration seize this opportunity, return to the negotiating table, and deal with the substantive problems that already exist, working with our new Canadian partners. The NAFTA agreement is important for the economic future of this country, important enough that it is worth doing right.

□ 1210

THE PRESIDENT'S HEALTH CARE PLAN

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

Mr. GINGRICH. Mr. Speaker, tomorrow, apparently, after 5 weeks of having testimony without a bill, the President will actually introduce his health bill. I hope this introduction will indicate that they have learned some lessons for the last 5 weeks. I hope they will have taken out the provision that would allow a single State to eliminate Medicare.

I hope they will be candid about the tax they seek to impose on every American in the form of a several hundred billion dollar tax for health services. I hope they will have taken out the provision that would allow the Secretary of the Treasury, by himself or herself, to unilaterally impose an employee payroll tax on one State.

There is area after area where the President's original plan, as he explained it here, was different from the plan released by the White House. I hope tomorrow's legislative introduction will have a clear and a candid outline that all of us can agree on in terms of facts, even if we disagree on policy. I think, then, the real hearings and the real testimony can begin, because only then will we have a real bill to look at.

A SECRET THAT EVERYBODY KNOWS

(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, the big story in Washington today is not about taxes. It is not about trade. It is not about murder.

The big story in the District of Columbia today is about a diary. A diary of a politician is being hushed up because other Washington, DC, politicians may be implicated.

Mr. Speaker, what is so secretive? Stainless steel panty hose? Chain link lingerie?

There is no big secret here. The American people, the American worker will not be surprised at all because of a very simple fact: Washington politicians have been screwing them for years.

KICKING OFF REFORM WEEK

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

Mr. GOSS. Mr. Speaker, today was to have marked the beginning of a high-profile Reform Week. But the Democrat leadership has backtracked on its promise, and now Reform Week has been sloughed off to next month. I am not holding my breath and I am not waiting for the leadership. Today I am introducing legislation to ban lobbyist-paid travel for Members and their staff. The House ethics manual has seven pages devoted to the can and cannots of accepting travel from private sources. Most Members do not even know the rules and most Americans believe that lobbyists are buying special access along with the plane ticket, the hotel room, and the golf fees. The American people want change that will restore their confidence in this institution. Letting people know that when we travel we are working for all America, not for one particular interest, is one change that we should make—now.

JOBS, JOBS, JOBS

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, in Detroit last week, 20,000 people stood in line for hours at the Detroit Post Office hoping to get a job when the U.S. Postal Service made available applications for the civil service exam. Let me be clear: They were not advertising jobs. They were merely making available the applications that determine eligibility for employment; and 20,000 showed up. Sadly, for last week's job seekers, the Postal Service is only hiring from a pool of eligible applicants from 1989.

Mr. Speaker, this line of 20,000 job seekers, 1 in every 50 Detroiters, speaks volumes. The unemployed people in my district want jobs. They are ready to work.

In a few weeks, we will vote on the NAFTA trade agreement and then reinvent Government. But what about jobs? I submit to my colleagues that nothing on our agenda is more important than Americans having jobs now. Some are saying that the economy has turned the corner, that it is on the path to recovery. Twenty thousand people in line in Detroit tells me that we still have a long way to go. America needs a comprehensive jobs program that will put our people back to work.

CONGRESSIONAL REFORM

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

Mr. THOMAS of Wyoming. Mr. Speaker, somebody once said that reform, congressional or otherwise, consists of taking a bone from a hound. Ironically, many freshman Members of the majority who campaigned on campaign and term limitations had a chance to take that bone away the first day, when we organized. Unfortunately, they wimped out on that. For the past several years, we have been wrestling with just such a hound, the hound of the House Post Office, the House Bank, or the House Restaurant.

And it roams the moors of this institution freely because simple ideals—such as a free and open process in committee and on the floor, proxy voting, appropriate ratios in committee membership and staffing, and open committee hearings and meetings—have been set aside.

Mr. Speaker, it is time for us to reclaim those ideas. It is time for the Joint Committee on the Organization of Congress to unleash its report. And it is time for us to debate that report and all that it encompasses under an open rule.

NAFTA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as a NAFTA backer, I am keenly sympathetic to the concerns people have about the treaty. For this reason, I supported the side agreements on labor

and the environment. And I am supporting comprehensive job retraining measures and the establishment of a development bank, such as the one proposed by Representative ESTEBAN TORRES of California.

As for companies pulling up stakes and moving to Mexico, the problem is that they can do that today, without NAFTA. NAFTA will not only not spark a further exodus, it will give companies an added incentive to stay in the United States because it dramatically cuts Mexican tariffs. U.S. tariffs are not as affected because they are already low. The result is that the Mexican market will open up to American-made goods much more than the already accessible United States market will expand for Mexican goods.

Opening up Mexico's market to American-made goods is especially beneficial to Colorado. Our trade with Mexico more than doubled between 1987 and 1992, as did our exports to Canada, our other NAFTA participant. Canada is now our second largest trading partner, and Mexico is our sixth. Colorado exports to Canada and Mexico totaled $673 million in 1992, representing almost 18,000 jobs. That is a huge number of jobs. In effect, exports to our northern and southern neighbors employ more people than the State's largest private-sector company, US West, which has 16,000 employees.

NAFTA is a major plus for Colorado and I am proud to support it.

REFORM WEEK

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, this was supposed to be Reform Week in the Congress. What happened?

As I look at my floor schedule, I just have to shake my head. Not one bit of reform legislation on this entire week's calendar. No spending reform, no lobbying reform, no campaign reform and, most disappointing to me, no congressional reform.

Now the Speaker says November will be Reform Month. I am beginning to believe he has the right month but the wrong year.

Mr. Speaker, the only way real reform, bold reform will be achieved in this institution is with the November election of 1994. Only then will the American people be able to clean house, and thereby clean up this House.

Only then can the Democrat majority become the Democrat minority. We will not get the spending cuts the President promised us. We will not get the gift ban. The Democrat version of campaign reform is making the taxpayers pay for elections, and real congressional reform is being derailed, as we speak, by senior Democrats.

Mr. Speaker, the Democrat majority has put off reform one too many times. There have been 40 years of scandal, spending, special interests and shadow, not sunshine, on our efforts. I just hope the American people have had enough.

JUSTICE DEPARTMENT ABOUT TO SEND THE WRONG SIGNAL ON CHILD PORNOGRAPHY

(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, the Justice Department is about to send a very wrong signal on child pornography cases. Child pornography, as we know, is one of the most despicable, depraved, and disgraceful crimes against humankind.

In the case of Knox versus the United States, which came out of the Federal District Court for the Middle District of Pennsylvania, and then affirmed on appeal to the third circuit, a conviction against a child pornographer was rendered. The case is now on appeal to the Supreme Court and, in a brief filed by the Justice Department, the Justice Department ask a reinterpretation of the existing law on child pornography to make it harder, not easier, to make it harder to reach a conviction on that most despicable of crimes, child pornography.

Mr. Speaker, I hope that the Justice Department has some opportunity to withdraw its brief and recast its argument to support the conviction in the district court and to support the affirmation on appeal to the third circuit. A terrible message otherwise will have been sent by the Justice Department that child pornography is not the horrible criminal act that we know that it is.

□ 1220

THE MIRAGE

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

Mr. HEFLEY. Mr. Speaker, reform in the House is like a mirage. The closer we get to it, the further it goes away.

This last week in October was supposed to be "Reform Week," but we are not even talking about reform of this institution, but the smoke screen of campaign, lobbying, and spending reform. Even the smoke screen has been pushed back to sometime in November.

The Joint Committee on the Organization of the Congress was supposed to make its final recommendations for far-reaching reform by October, so we could vote on those recommendations by the end of the session. Now, we may vote on those reforms sometime next year, if at all.

Mr. Speaker, this House is beset by corruption, marred by institutional gridlock, handicapped by inefficiency, and tainted by scandal. It needs reform.

Let us hope that the mirage of reform becomes reality.

A SALUTE TO PRESIDENT REAGAN AND SUPPORTERS ON THE 10TH ANNIVERSARY OF GRENADA INVASION

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

Mr. LIVINGSTON. Mr. Speaker, yesterday was the 10th anniversary of one of the most significant cold war victories for the forces of freedom. It was on October 25, 1983, that United States airborne troops and marines landed on the island of Grenada to liberate American medical students, and the people of Grenada, from brutal, revolutionary Communist thugs. It was the very first time that United States troops had been used to actually liberate a country from Communist control, and it marked the turning point in America's battle against Soviet expansionism.

At Grenada, the United States moved from the old doctrine of containment of communism to a new strategy of rolling back the Communist menace. President Reagan's rollback strategy was so successful that in just 6 short years the Berlin Wall fell, and 2 years later the Soviet Union itself disintegrated.

So on the 10-year anniversary of the liberation of Grenada, I salute President Reagan and all the good people who used Grenada as a springboard from which to launch the most successful freedom offensive the world has ever known.

CONGRESS SHOULD BE AS FAIR AND OBJECTIVE WITH REGARD TO WASHINGTON, DC, AS "PLACES RATED ALMANAC"

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, we should all thank the 1993 edition of the widely respected publication, "Places Rated Almanac," for helping us gain perspective through the publication of the best 343 metropolitan areas in North America. Washington, DC, and its metropolitan area ranked seventh.

The survey is based on transportation, health care, the arts, cost of living, job outlook, housing market, recreation, climate, and yes, crime.

Today's high rating for Washington reveals how important it is to evaluate a city in light of all the ingredients that account for the quality of life. At the moment, in the District, crime in a few areas heavily burdened with poverty has skewed the reputation and the

morale of one of America's most beautiful cities, containing many of the Nation's most livable and comfortable neighborhoods. Places Rated Almanac helps eliminate stereotypes of trouble spots in America as well. Small cities and regions were disproportionately at the bottom of the ratings.

These ratings show how much Americans have in common, and how much we need to pull our domestic economy together nationally without exception. Meanwhile, it's awfully nice to be rated so high. All Washingtonians ask is that Congress judge us with the fairness and objectivity of Places Rated Almanac.

CLINTON WORKS TO WEAKEN CHILD PORN LAW IN UNITED STATES

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

Mr. SMITH of New Jersey. Mr. Speaker, last month, with noticeably little fanfare, the Justice Department postured for a significantly weakened interpretation of child pornography law, giving further protection to kiddie porn peddlers and pedophiles at the expense of vulnerable children.

Outraged, shocked, and dismayed by this action, last Wednesday, nearly one-third of the Members of this House signed a bipartisan letter to Attorney General Janet Reno expressing this body's strong support for existing Federal child pornography law and urging her to abandon the Department's dangerous new position. On that very day, ironically, Ms. Reno testified before a Senate committee in favor of confining TV violence to hours where children are least likely to be in the audience. This, she says, comes from her dedication to protecting children.

Mr. Speaker, it would appear to me while Ms. Reno speaks as a child advocate, her actions, at least in this case, prove otherwise. The Clinton Justice Department's abandonment of aggressive child porn prosecution amounts to a policy of appeasement toward child pornographers and pedophiles, and is no less than an engraved invitation to the child porn industry to exploit our children.

For the children of America, reverse course, Mr. Clinton, before another child is exploited.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would announce that the gentleman from New Jersey [Mr. SMITH] cannot address the President directly; the Chair would prefer him to address the Chair, and he will relay the message.

INTRODUCTION OF LEGISLATION TO GUARANTEE CERTAIN HAITIAN CHILDREN UNITED STATES RESIDENT STATUS

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK. Mr. Speaker, today I am introducing legislation which would allow the Haitian children of legal United States residents and citizens to adjust their status here in the United States.

As a result of a backlog of cases, antiquated facilities, a shortage of officers and the closure of the United States consulate office in Haiti for a year after the coup that deposed President Jean-Bertrand Aristide, numerous children of legal United States residents and United States citizens are being stranded in Haiti. Most of the children have lived in the United States for years and were summoned to the consulate for routine interviews, the final step in becoming a legal resident. In all of the cases the petitions for these children have been approved by the Immigration and Naturalization Service. Usually approval is automatic, as long as parents can prove they can support the children without public assistance.

But consular officers are denying these children the necessary visas to return to the only home they know, requiring more documentation. Even when the necessary proof has been received, children are forced to remain in Haiti for months separated from their families, friends, and schools—for a new appointment at an already overburdened consular office. As a result, many of the children are having to miss school and oftentimes live with strangers, costing their parents thousands of dollars to support them in Haiti. Too many of them are having to stay in poor neighborhoods which are subjected to constant gunfire by the military-backed thugs.

Mr. Speaker, it is negligent of us to send these children back to Haiti for what is usually a 1-day interview in other countries to determine if these children actually were the offspring of people who were granted amnesty by the 1986 Immigration and Nationality Act. There is something terribly wrong with immigration policies and procedures that disrupt lives and break up the families of legal Haitian residents. If Haiti is not safe enough for armed soldiers to land there, it certainly is not safe for children to be there.

ARE JURY VERDICTS DESIGNED TO SATISFY THUGS AND MOBS?

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

Mr. COBLE. Mr. Speaker, several days prior to the return of the jury's verdict regarding the attack upon Reginald Denny, a constituent said to me, "I hope that jury's decision does not upset the thugs and mobs in Los Angeles. Otherwise, they will try to burn down the city again." Have we reached this low point, that we are dictated to dispense jury verdicts designed to satisfy thugs and mobs? If so, we should abandon our judicial system, because it cannot function as intended.

The silver lining, Mr. Speaker, that surfaced from this brutal attack, however, involves two class acts, a truck driver who was savagely and unmercifully beaten by thugs, and his four fellow citizens, who rushed to his rescue.

As for the thugs individually, and the mobs collectively, they serve no good purpose for themselves nor for society.

TRIBUTE TO OBERT C. TANNER

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SHEPHERD. Mr. Speaker, it is with both sorrow and pride that I rise to honor Obert C. Tanner, a man of intellect, peace, and enormous generosity. His passing at 89 left Utah richer for his generous philanthropy but much poorer for the loss of his fierce love of beauty, the arts, and philosophy.

His gifts to Utah, the Nation, and indeed the world include 42 fountains in location spread from Oxford University to Salt Lake City. He and his wife of 62 years, Grace, gave generously of their time and resources as they enriched the Utah community in every way.

The Tanner lectures on human values, given annually at nine universities from Cambridge to Stanford and funded by a $10 million endowment will remain O.C. Tanner's lasting gift to all of us. The lectures will continue to speak of the values he held and those he taught by example as a teacher of philosophy.

I was one of the lucky ones. O.C. Tanner was my teacher. As a freshman in his philosophy of religion course, I learned from him how ideas can electrify the intellect and how the great philosophers can illuminate the moral dilemmas of humanity.

Mr. Speaker, as Justice Warren Burger said upon hearing of O.C.'s passing, "His life is the story of America. He was lavish with his worldly goods to the arts, music, education, and public affairs but he also gave of himself." I agree. O.C. Tanner's legacy will live beyond him.

□ 1230

THE PROMISED LAND

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

Mr. LINDER. Mr. Speaker, this week, we were to enter the promised land of congressional reform. The Speaker had assured the press and the House that this week we would finally consider campaign, lobbying, and spending reform legislation.

The promised land has now been pushed back another week.

Mr. Speaker, as long as the majority in this Congress continues to rule imperiously, we will never reach that promised land.

As I look up at the gallery, and see the representations of great law-givers on the wall in this Chamber, I see the eyes of Moses staring down in judgment on our actions.

Moses struggled to find the promised land after 40 years in the desert.

Much like Moses, it seems we will only reach our promised land of reform when we break the Democrats 40-year control of this institution.

FEDERAL TROOPS IN WASHINGTON, DC

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

Mr. APPLEGATE. Mr. Speaker, the United States sent the Marines to Beirut, we sent troops to Grenada, we sent our military troops to Panama, we sent them to Kuwait, we sent them to Somalia. And if we can do that for the rest of the world, why do we not do it for Washington, DC?

I say we ought to give Mayor Sharon Pratt Kelly the authority to be able to call out the National Guard if she so desires to stop the killing and to restore peace in Washington, DC. It is time the carping council started to work with the mayor.

It is a shame that Washington, DC, has become the murder capital of the world. There has been over 370 murders this year, with 2 months to go.

If we believe in world peace, I think we should start in our Nation's Capital. Do not forget: Washington too is a part of the world.

PROTECTION OF CHILDREN IS IMPORTANT FEATURE OF THE REPUBLICAN CRIME PROPOSAL

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

Mr. FISH. Mr. Speaker, the Republican crime proposal (H.R. 2872) has many worthy goals—but none more important than the protection of our children. I have previously spoken of provisions in the bill to make our schools safe—community policing and tougher penalties for violations of the Gun-Free School Zones Act. Today, I bring to the attention of the House other elements to protect our children from those who would abuse, exploit, and victimize.

We send a message to would-be offenders. We double penalties for those who use minors in the commission of a crime. We create new crimes to combat child pornography and drugs, and to catch dead-beat dads. In addition, a national register will be kept on all child abusers. These are overdue steps to protect our vulnerable children and young adults.

PRESIDENT ARISTIDE THE PEOPLE'S CHOICE IN HAITI

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

Mr. OWENS. Mr. Speaker, we need a more clearly enunciated U.S. foreign policy for the Western Hemisphere. Support for democracy, human rights, and free market economic development must be among the foundation components of this updated foreign policy.

In Haiti, the elected leader most capable of promoting democracy, human rights, and free market economic development is President Jean-Bertrand Aristide. To implement a more meaningful and more moral foreign policy in Haiti, we must firmly support the speedy return of President Aristide. Congress must reject the obsolete, misguided Aristide character assassination campaign of the big-spending, incompetent CIA which failed to predict the fall of the Soviet economy.

By 70 percent of the vote, Aristide is the people's choice. This leader speaks eight languages, and has studied in universities and seminaries all over the world. Haiti is fortunate to have President Jean-Bertrand Aristide.

It is in the vital interest of the United States to support the return of President Aristide.

DRUG STRATEGY LACKS SUBSTANCE

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

Mr. OXLEY. Mr. Speaker, the White House is once again sending the message that it is not serious about drugs. Last week, the Office of National Drug Control Policy released its long-awaited interim national drug control strategy. Disappointment in the plan was universal. The document is utterly devoid of substance, particularly regarding specifics on program funding. There is a lot of rhetoric about shifting resources from law enforcement to treatment and education, but no discussion whatsoever of budget recommendations.

Frankly, Mr. Speaker, I find it difficult to fault Drug Czar Lee Brown for this strategy, because this is exactly what you would expect from an office that had its staffing slashed from 112 to 25 people, as the administration did. It is obvious that the President has assigned this issue the lowest possible priority.

When Lee Brown was appointed, there was a lot of ballyhoo about President Clinton giving the drug czar full Cabinet-level status. Well I'm sorry, Mr. Speaker, but this is not a Cabinet-level effort. Not by a long shot.

CANADIAN ELECTION PRESENTS OPPORTUNITY TO RENEGOTIATE NAFTA

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

Mr. LEVIN. Mr. Speaker, the Liberal Party's victory in Canada and its desire to renegotiate certain parts of the North American Free-Trade Agreement should be considered more of an opportunity than a threat.

The United States should use this opportunity to address the basic economic flaws in NAFTA.

During the last decade the Mexican Government has followed a deliberate policy of suppressing wages and salaries to attract basic investment, especially in industry but also in agriculture. This rigidly enforced policy has worked—as seen in the creation of 600,000 white- and blue-collar jobs in 2,000 maquiladora plants, financed primarily by U.S. investment.

NAFTA as presently constructed fails to address this basic dynamic. Indeed, rather than altering this Mexican strategy, NAFTA legitimizes it and will lead to its expansion.

It is time to face rather than ignore or dodge the basic economic issue embodied in the present NAFTA. The failure to confront it is the major reason why NAFTA is in such deep trouble in the United States and Congress.

The United States should not react to the Canadian election in a way that forecloses further efforts that could lead to a NAFTA that is truly in the best interests of the United States.

WHY THE DELAY ON REFORM?

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

Mr. BOEHNER. Mr. Speaker, when it comes to matters of reform, the Democrat leadership in this body has adopted a strategy of delay, delay, delay.

Congressional reform? It's been delayed.

PAC reform? Delayed.

Lobbying reform? Delayed.

What is the holdup. I ask my friends. Could it be that reform might very well alter the status quo that has enabled one-party rule in this Chamber for the last 40 years?

Could it be that if reform is postponed and postponed and postponed again, we might just forget about it and go home?

Mr. Speaker, we were told recently that "Reform Week" will probably come sometime in November. Let's hope so. In poll after poll, the American people are saying that they have little faith in Congress' ability to police itself. Let's give them a little surprise for Thanksgiving. Let us show them that the "People's Body" sometimes listens to the people it represents. Let us adopt a comprehensive congressional reform package now.

MORE ENTITLEMENTS

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

Mr. BAKER of California. Mr. Speaker, Sunday's Washington Post had an interesting page story: "Health Care Costs a Long-Term Headache: Economist Fear New Entitlements Would Become a Budget Buster."

This headline refers to the President's health care plan.

According to the Story: "Behind President Clinton's promise of 'health security' lies what many economists view as a darker reality; the administration is proposing to establish a sweeping new category of entitlements, despite broad agreement among experts that such programs are at the root of America's budget problems."

Real health care reform is occurring in the private sector: more patient decisionmaking, medical IRA's, rebates for health habits and reduced usage, and new medicines and procedures make American health care the best in the world. But the Clinton health care plan calls for more bureaucracy Government control while patients would be denied their current health care plan.

Mr. Speaker, creating new entitlements is the worst way to cure our deficit, as this story rightly concludes.

□ 1240

STARS IN MY CROWN

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

Mr. BURTON of Indiana. Mr. Speaker, I saw a great movie this weekend. It starred Joel McCrea. It was called "Stars In My Crown" after an old spiritual song. It was a movie about a minister, about right and wrong, about morals, and it was very inspiring.

Contrast that with today. Movies are either immoral or amoral. They are violent, pornographic, and if they make any reference to God or religion at all, it is usually negative.

Our country is in trouble. Crime is up. Violence is up. Pornography is up. We have lost our moral underpinnings.

Throughout history when a country became immoral and ignored God, they suffered greatly and we shall be no exception.

Let us try to lead back to this model behind me, "In God We Trust."

NAFTA AND THE U.S. AUTO INDUSTRY

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

Mr. KNOLLENBERG. Mr. Speaker, I rise today to give you an example of how the North American Free-Trade Agreement will help keep high paying manufacturing jobs in the United States.

The Chrysler Corp. will soon introduce its Neon subcompact car in North America. The company plans on selling 300,000 Neons in America next year and 75,000 in Mexico. While the main Neon plant is located in Illinois, Mexico's rules have forced Chrysler to build an additional plant in Mexico to produce those 75,000 cars destined for the Mexican market.

As Chrysler president Bob Lutz stated recently, "If we had NAFTA, we would not have had the expense of putting in the Mexican facility."

Let us allow Chrysler to keep U.S. auto production jobs here at home. Let us provide jobs for the most productive work force in the world—the American worker. Let us pass NAFTA. Let us do what is best for America.

REJECT GRIDLOCK AND GET ON WITH CONGRESSIONAL REFORM

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

Mr. GOODLATTE. Mr. Speaker, before I was elected, the Congress created the Joint Committee on the Organization of Congress by an overwhelming vote. I know that a majority of this House hopes the joint committee will bring forward meaningful congressional reform.

When the committee was formed, it was understood that the House alone would address matters related to our body and that the other body would do the same.

Yet, at this late date, a few Members on the other side of the aisle in this House have decided to link changes in the way the other body conducts its business to any attempt to resolve the longstanding problems of this House. And it is ironic that their target is the Chamber which provides for nearly unlimited debate while the Members of this House are told when they can debate, for how long, and even whether they can offer amendments.

It is clear to me what is going on. A handful of people opposed to reform are attempting to throw up any roadblock they can out of fear that the joint committee might actually do something. We should reject their attempt at gridlock and get on with reform.

CONGRESSIONAL REFORM OR CONGRESSIONAL INERTIA

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

Mr. ALLARD. Mr. Speaker, there is a huge expectation for Congress to adopt strong reform measures. If you page through the countless surveys, articles, editorials, and constituent letters concerning congressional reform, they all echo a theme. That theme is "now is the best opportunity we have to make Congress more effective and responsive."

As a member of the Joint Committee on the Organization of Congress, I am particularly aware of the pressure from constituents and Members of Congress to promote really meaningful reforms. We have the most reform minded Congress in history, thanks to the strong interest fed by both the freshman and sophomore classes. They aren't the only Members of Congress who are asking for reform.

Ninety percent of the Members who answered a Joint Committee on the Organization of Congress survey, agreed that Congress needs major procedural and organizational improvements. As Members who have all been frustrated from time to time with our work, we are all well aware of areas that need change. Congress has a unique opportunity to do this important work if it adopts strong, true, and meaningful reforms.

However, I am worried that even with good conditions and interest in congressional reform, congressional inertia will result in only minor or cosmetic changes. Most Members are sincere when they say they want to adopt serious reforms. I hope this sincerity prevails over the politics which have strangled meaningful reform efforts in the past.

LESSONS OF POP JORDAN'S DEATH

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

Mr. BARTLETT of Maryland. Mr. Speaker, speaking of reform, the country is now debating a crime bill. In this regard, I am reminded of the death of Pop Jordan, along that roadside spot in Robeson County, NC.

Both of the young thugs who were responsible, most likely, for his death had long criminal records. These two thugs are illustrative of the fact that in many jurisdictions 75 percent of all crimes are committed by those who have previously committed crime.

It is very obvious that by one very simple mechanism, just by not letting unrehabilitated criminals back out on the streets, we could reduce crime by 75 percent.

All the initiatives in the President's crime package will come nowhere close to reducing crime by 75 percent.

Why can we not do this one simple, obvious thing? Do not let unrehabilitated criminals back on the streets, and we will reduce crime by 75 percent.

Mr. Speaker, I hope the President is listening.

POTENTIAL ENVIRONMENTAL DEVASTATION BY DECADES OF SOVIET NUCLEAR DUMPING

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

Mr. WELDON, Mr. Speaker, we are only now beginning to realize the potential environmental devastation caused by decades of Soviet nuclear dumping. If something is not done soon, the Arctic Circle and our oceans could become radioactive wastelands by the turn of the century.

Let me set things in perspective. The Three Mile Island nuclear accident in my home State entered a total of 15 curies of radioactivity. The Soviet Union has now admitted formally that they have dumped 2.5 million curies of radioactive waste in our oceans, and currently have over 10 million curies of radioactive waste stored in the Murmansk Harbor.

As the ranking member of the Subcommittee on Oceanography of the Committee on Merchant Marine and Fisheries, I requested a hearing on this issue last month, and there is even more disturbing news, Mr. Speaker.

Radiation from the Chelyabinsk and Mayak military installations in the southern Urals totalling twice the radiation released at Chernobyl has accumulated into Lake Karachai, and radiation from plants along the Ob River threaten to run off into the Arctic.

We must address this issue with President Yeltsin, and address it now. Whatever the outcome, we must start now. This problem can wait no longer.

□ 1250

THE ELECTION OF JEAN CHRETIEN: A POSITIVE OUTCOME FOR THOSE WHO SUPPORT NAFTA

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

Mr. DREIER. Mr. Speaker, contrary to reports that we have received this morning, the election of Jean Chretien and his Liberal Party, in Canada actually is a positive outcome for those of us who support the North American Free-Trade Agreement. Yes, Mr. Chretien has some concerns about the NAFTA, but they are not unlike those that were voiced by President Clinton during his campaign. Yes, he wants to make some modifications, but Jean Chretien does not oppose the North American Free-Trade Agreement. The NDP Party, which has opposed NAFTA, took a sound beating in the polls. They went from 43 seats down to 8 seats in the election. That should be a message for those in the Congress who oppose NAFTA.

I believe that we can work this out in a way which will be positive for Canada, United States, and Mexico.

BEFORE WE TRY TO ELIMINATE THE FILIBUSTER, LET'S END CLOSED RULES

(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, there is an effort in this House to change the procedures of the other body the Senate as the first priority of congressional reform. Advocates of this position state that the majority should always rule.

Well, if those who are leading the effort to eliminate the filibuster in the other body are serious about majority rule, I call on them today to go to their own leadership and call for an end to closed rules—the greatest barrier to majority rule in this House. One cannot have the majority rule if they cannot even vote.

Closed rules prevent honest debate, and, while they are at it, maybe they could also ask the leadership for fair representation for the minority on the Rules Committee and proportional representation and funding for the minority on all committees.

There is an old saying, "physician heal thyself." Well, in this House, I hope that these senior, influential members of the majority can refocus their efforts on bringing fairness and majority rule to their own House of Representatives.

REINVENTING GOVERNMENT

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

Mr. SMITH of Michigan. Mr. Speaker, I rise today with guarded optimism that Republicans and Democrats can work together in the reinventing Government effort that was announced by the White House.

As a cochair of the bipartisan freshman task force on procurement, I am disappointed that the President has backed away from his proposal to allow Davis-Bacon waivers and similar modifications in the Service Contracting Act. I am disappointed that cost savings from personnel reductions and other changes are not real, and the lobbyists who have gotten some of the costly special interest garbage into our Federal laws are still being successful in protecting their special interests.

There are 142,000 Government employees who work in the area of Government procurement purchasing $200 billion of goods and services every year. Incorporated in 4,500 pages of Government regulations are many special interest provisions that have resulted in billions of dollars of increased costs.

Mr. Speaker, I ask my colleagues, the President, and the Vice President to work to reinvent Government in such a way so that the taxpayer is the most important special interest.

NAFTA IS GOOD FOR AMERICA

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

Mr. ROHRABACHER. Mr. Speaker, I want to salute those of my colleagues, especially my Democrat colleagues, and that will be rarely heard from me, on the courage that they have been showing in opposing the hysteria that has been spread by the opponents of NAFTA, and it takes a lot of courage for those people on the Democrat side of the aisle to stand up for truth against the lies that have been told about NAFTA.

What do we know about NAFTA? The North American Free-Trade Agreement does two things: It lowers the tariffs; this is all it does. It lowers the tariffs, hopefully ending the tariffs, eliminating them, over a period of time. Our goods are taxed by the Mexicans at 10 percent. Their goods are taxed by us as they come in by 4 percent. We get a 2½ times benefit for that. And the other thing NAFTA does is cut the regulations so that our businessmen that do business down there cannot face any more regulations than they placed on their own businessmen, and their Mexican businessmen cannot have more regulations placed on them than we place on our own businessmen.

Mr. Speaker, it is a plus for us because we do not regulate their businessmen more than we regulate our own. It is a plus for us because we get 2½ times the benefit in terms of lowering the tariffs.

NAFTA is good for America. It is going to create jobs here.

REQUEST FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 48, CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 2403, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

Mr. HOYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 48) to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Maryland?

Mr. SMITH of New Jersey. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

FURTHER CONFERENCE REPORT ON H.R. 2445, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994

Mr. BEVILL. Mr. Speaker, pursuant to the unanimous consent agreement of today, October 26, 1993, I call up the further conference report on the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, October 26, 1993, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House Friday, October 22, 1993, at page H8364.)

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 2445, as well as the Senate amendments in disagreement thereto, and that I may include extraneous material and tables.

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

There was no objection.

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

Mr. Speaker, I am pleased to once again present the conference report on the fiscal year 1994 energy and water development appropriations bill for your favorable consideration.

Mr. Speaker, our colleagues may recall that the House considered the conference report on this bill on Tuesday, October 19, at which time it was recommitted with instructions to conference. The conference committee met again on Thursday, October 21, to consider the instructions of the House. The conference agreement we bring to the House floor today reflects the concerns expressed by the House. The conference report was filed in the House on October 22.

Mr. Speaker, the House action was a clear signal of the strong desire for termination of the superconducting super collider. The conference agreement before the House includes $640 million for termination costs for the superconducting super collider. The conferees have agreed to an orderly termination of the project and have asked the Secretary of Energy to prepare a plan to maximize the value of the investment to date and the current assets. The total costs for termination are not fully known at this time, and it is possible that some funding will be necessary in future years to complete termination of the project.

Mr. Speaker, with the exception of the termination of the superconducting super collider, there are no changes in the conference agreement we bring to the House floor today from the conference agreement which was presented earlier. The conference agreement is $26,064,000 below the subcommittee's 602(b) allocation for budgetauthority, and $130,664,000 below the President's budget request.

Mr. Speaker, amendment No. 33 and the statement of the managers have been revised to reflect the change in the superconducting super collider. In addition, language was included directing the Department of Energy to submit to the Congress a report concerning plans for other large science projects within the jurisdiction of the Department of Energy, including recommendations as to whether these projects should continue to be pursued, and how they should be funded and financed.

Mr. Speaker, as I indicated in my opening remarks, the conference is at our 602(b) allocation for outlays and $26 million below our allocation for budget authority. Our bill has been scored by the Congressional Budget Office and these are their numbers.

The conference report on page 132 shows a total of $22,215,382,000 for budget authority. However, in order to be consistent with the budget resolution, which is the basis for the 602(b) allocations, a number of adjustments to the bill are required. These adjustments, which are determined by CBO, are minus $224,446,000. Therefore, for comparison with our 602(b) allocation, CBO scores our bill at $21,990,936,000 which is $26,064,000 below our 602(b) allocation.

Mr. Speaker, I strongly urge the Members to support the hard work of my subcommittee and pass the conference report and amendments which will be presented to the House.

I would like to call the Members' attention to several minor printing errors in the conference report printed in the October 22, 1993, CONGRESSIONAL RECORD:

On page H8364, column two, first line, insert "disagreement to the" after "its".

On page H8365, column three, insert "Lake" after "Old Hickory".

On page H8366, column two, the amount provided for the Anacostia River, Maryland and District of Columbia, should be $700,000" instead of "$7,000,000".

On page H8402, column two, insert "Unit" after "Garrison Diversion".

Mr. Speaker, at this point I would like to insert a table in the RECORD which summarizes the financial aspects of the conference agreement.

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

FY 1994 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 2445)

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF DEFENSE - CIVIL						
DEPARTMENT OF THE ARMY						
Corps of Engineers - Civil						
General investigations	175,780,000	157,800,000	207,540,000	208,544,000	207,540,000	+31,760,000
Construction, general	1,360,503,000	1,206,237,000	1,389,138,000	1,441,167,000	1,400,875,000	+40,372,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	351,182,000	343,000,000	352,475,000	348,875,000	348,875,000	-2,307,000
Operation and maintenance, general	1,596,668,000	1,657,700,000	1,691,350,000	1,673,704,000	1,688,990,000	+92,322,000
Regulatory program	86,000,000	92,000,000	92,000,000	92,000,000	92,000,000	+6,000,000
Flood control and coastal emergencies	190,000,000	20,000,000	20,000,000	20,000,000	20,000,000	-170,000,000
General expenses	142,000,000	148,500,000	148,500,000	148,500,000	148,500,000	+6,500,000
Oil spill research	.....	350,000	350,000	350,000	350,000	+350,000
Total, title I, Department of Defense - Civil	3,902,133,000	3,625,387,000	3,901,353,000	3,933,140,000	3,907,130,000	+4,997,000
TITLE II - DEPARTMENT OF THE INTERIOR						
Bureau of Reclamation						
General investigations	12,540,000	12,714,000	13,109,000	14,409,000	13,819,000	+1,279,000
Construction program	470,568,000	431,848,000	464,423,000	460,898,000	464,423,000	-6,145,000
Operation and maintenance	274,760,000	282,898,000	282,898,000	282,898,000	282,898,000	+8,138,000
Loan program	4,102,000	5,800,000	12,163,000	13,500,000	13,500,000	+9,398,000
(Limitation on direct loans)	(8,000,000)	(11,636,000)	(18,726,000)	(21,000,000)	(21,000,000)	(+13,000,000)
General administrative expenses	53,745,000	54,034,000	54,034,000	54,034,000	54,034,000	+289,000
Emergency fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	.....
Colorado River Dam fund (by transfer, permanent authority)	(-6,563,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-605,000)
Central Utah project completion account	.....	21,000,000	25,770,000	25,770,000	25,770,000	+25,770,000
Utah reclamation mitigation and conservation account	.....	9,850,000	9,850,000	9,850,000	9,850,000	+9,850,000
Central Valley project restoration fund	.....	34,000,000	45,000,000	45,000,000	45,000,000	+45,000,000
Total, title II, Department of the Interior	816,715,000	853,144,000	908,247,000	907,359,000	910,294,000	+93,579,000
(By transfer)	(-6,563,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-605,000)
TITLE III - DEPARTMENT OF ENERGY						
Energy Supply, Research and Development Activities:						
Operating expenses	2,527,287,000	2,702,102,000	2,731,464,000	2,818,216,000	2,802,840,000	+275,553,000
Plant and capital equipment	488,506,000	454,070,000	436,170,000	431,070,000	421,070,000	-67,436,000
Total	3,015,793,000	3,156,172,000	3,167,634,000	3,249,286,000	3,223,910,000	+208,117,000
Uranium Supply and Enrichment Activities:						
Operating expenses	1,202,457,000	246,992,000	160,000,000	246,992,000	246,992,000	-955,465,000
Plant and capital equipment	83,863,000	100,000	.....	100,000	100,000	-83,763,000
Subtotal	1,286,320,000	247,092,000	160,000,000	247,092,000	247,092,000	-1,039,228,000
Gross revenues	-1,462,000,000	-70,000,000	.....	-70,000,000	-70,000,000	+1,392,000,000
Net appropriation	-175,680,000	177,092,000	160,000,000	177,092,000	177,092,000	+352,772,000
Uranium enrichment decontamination and decommissioning fund	.....	286,320,000	286,320,000	286,320,000	286,320,000	+286,320,000
General Science and Research Activities:						
Operating expenses	726,162,000	781,264,000	719,785,000	835,187,000	1,329,785,000	+603,623,000
Plant and capital equipment	691,622,000	804,927,000	474,329,000	779,927,000	285,329,000	-406,293,000
Total	1,417,784,000	1,586,191,000	1,194,114,000	1,615,114,000	1,615,114,000	+197,330,000
Nuclear Waste Disposal Fund	275,071,000	258,028,000	260,000,000	260,000,000	260,000,000	-15,071,000
Isotope production and distribution fund	5,000,000	3,866,000	3,910,000	3,910,000	3,910,000	-1,090,000
Environmental Restoration and Waste Management:						
Defense function	(4,831,547,000)	(5,428,112,000)	(5,185,877,000)	(5,106,855,000)	(5,181,855,000)	(+350,308,000)
Non-defense function	(709,694,000)	(1,003,798,000)	(1,003,798,000)	(1,003,798,000)	(1,003,798,000)	(+294,104,000)
Total	(5,541,241,000)	(6,431,910,000)	(6,189,675,000)	(6,110,653,000)	(6,185,653,000)	(+644,412,000)
Atomic Energy Defense Activities						
Weapons Activities:						
Operating expenses	4,010,209,000	3,350,648,000	3,244,656,000	3,248,930,000	3,248,656,000	-761,553,000
Plant and capital equipment	558,540,000	358,652,000	327,542,000	348,552,000	346,542,000	-211,998,000
Total	4,568,749,000	3,709,300,000	3,572,198,000	3,597,482,000	3,595,198,000	-973,551,000
Defense Environmental Restoration & Waste Management:						
Operating expenses	4,074,490,000	4,767,513,000	4,465,613,000	4,537,278,000	4,552,278,000	+477,788,000
Plant and capital equipment	757,057,000	660,599,000	720,264,000	569,577,000	629,577,000	-127,480,000
Total	4,831,547,000	5,428,112,000	5,185,877,000	5,106,855,000	5,181,855,000	+350,308,000

FY 1994 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 2445), continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Materials Support and Other Defense Programs:						
Operating expenses	2,227,602,000	1,808,970,000	1,729,283,000	1,654,246,000	1,654,246,000	-573,356,000
Plant and capital equipment	390,727,000	336,278,000	317,309,000	309,509,000	309,509,000	-81,218,000
Total	2,618,329,000	2,145,248,000	2,046,592,000	1,963,755,000	1,963,755,000	-654,574,000
Defense Nuclear Waste Disposal	100,000,000	119,742,000	120,000,000	120,000,000	120,000,000	+20,000,000
Total, Atomic Energy Defense Activities	12,118,625,000	11,402,402,000	10,924,667,000	10,788,092,000	10,860,808,000	-1,257,817,000
Departmental Administration:						
Operating expenses	397,876,000	405,922,000	393,458,000	393,458,000	393,458,000	-4,418,000
Plant and capital equipment	7,780,000	8,561,000	7,780,000	7,780,000	7,780,000	.....
Subtotal	405,656,000	414,483,000	401,238,000	401,238,000	401,238,000	-4,418,000
Miscellaneous revenues	-318,381,000	-239,209,000	-239,209,000	-239,209,000	-239,209,000	+79,172,000
Net appropriation	87,275,000	175,274,000	162,029,000	162,029,000	162,029,000	+74,754,000
Office of the Inspector General	30,362,000	31,757,000	31,757,000	30,362,000	30,362,000	.....
Power Marketing Administrations						
Operation and maintenance, Alaska Power Administration	3,577,000	4,010,000	4,010,000	4,010,000	4,010,000	+433,000
Operation and maintenance, Southeastern Power Administration	32,411,000	29,742,000	29,742,000	29,742,000	29,742,000	-2,669,000
Operation and maintenance, Southwestern Power Administration	21,907,000	33,587,000	33,587,000	33,587,000	33,587,000	+11,680,000
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	326,634,000	352,956,000	292,956,000	277,956,000	277,956,000	-48,678,000
(By transfer, permanent authority)	(6,563,000)	(7,168,000)	(7,168,000)	(7,168,000)	(7,168,000)	(+605,000)
Total, Power Marketing Administrations	384,529,000	420,295,000	360,295,000	345,295,000	345,295,000	-39,234,000
Federal Energy Regulatory Commission						
Salaries and expenses	158,639,000	165,375,000	165,375,000	165,375,000	165,375,000	+6,736,000
Revenues Applied	-158,639,000	-165,375,000	-165,375,000	-165,375,000	-165,375,000	-6,736,000
Total, title III, Department of Energy	17,158,759,000	17,497,397,000	16,550,726,000	16,917,500,000	16,964,840,000	-193,919,000
(By transfer)	(6,563,000)	(7,168,000)	(7,168,000)	(7,168,000)	(7,168,000)	(+605,000)
TITLE IV - INDEPENDENT AGENCIES						
Appalachian Regional Commission	190,000,000	189,000,000	189,000,000	249,000,000	249,000,000	+59,000,000
Defense Nuclear Facilities Safety Board	13,000,000	15,060,000	15,060,000	18,060,000	16,560,000	+3,560,000
Delaware River Basin Commission:						
Salaries and expenses	325,000	333,000	333,000	333,000	333,000	+8,000
Contribution to Delaware River Basin Commission	475,000	488,000	488,000	488,000	488,000	+13,000
Total	800,000	821,000	821,000	821,000	821,000	+21,000
Interstate Commission on the Potomac River Basin:						
Contribution to Interstate Commission on the Potomac River Basin	485,000	498,000	498,000	498,000	498,000	+13,000
Nuclear Regulatory Commission:						
Salaries and expenses	535,415,000	542,900,000	542,900,000	542,900,000	542,900,000	+7,485,000
Revenues	-514,315,000	-520,900,000	-520,900,000	-520,900,000	-520,900,000	-6,585,000
Subtotal	21,100,000	22,000,000	22,000,000	22,000,000	22,000,000	+900,000
Office of Inspector General	4,585,000	4,800,000	4,800,000	4,800,000	4,800,000	+215,000
Revenues	-4,585,000	-4,800,000	-4,800,000	-4,800,000	-4,800,000	-215,000
Subtotal	.....	.....	.....	.....	.....	.....
Total	21,100,000	22,000,000	22,000,000	22,000,000	22,000,000	+900,000
Susquehanna River Basin Commission:						
Salaries and expenses	301,000	308,000	308,000	308,000	308,000	+7,000
Contribution to Susquehanna River Basin Commission	290,000	298,000	298,000	298,000	298,000	+8,000
Total	591,000	606,000	606,000	606,000	606,000	+15,000

FY 1994 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 2445), continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Tennessee Valley Authority: Tennessee Valley Authority Fund	135,000,000	138,973,000	138,973,000	140,473,000	140,473,000	+5,473,000
Nuclear Waste Technical Review Board	2,060,000	2,160,000	2,160,000	2,160,000	2,160,000	+100,000
Office of the Nuclear Waste Negotiator		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Total, title IV, independent agencies	363,036,000	370,118,000	370,118,000	434,618,000	433,118,000	+70,082,000
Scorekeeping adjustments	-161,096,000	-222,446,000	-224,446,000	-224,446,000	-224,446,000	-63,350,000
Grand total:						
New budget (obligational) authority	22,079,547,000	22,123,600,000	21,505,998,000	21,968,171,000	21,990,936,000	-88,611,000
(By transfer)						

□ 1300

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, your conferees bring back a conference report which is the best that could be made of a bad situation. Our chairman has presented what is in the conference, little changed from the House position, except for some authorizing language which was necessary to terminate the superconducting super collider. The chairman has already adequately explained this.

Mr. Speaker, I think the big difference here is that no one can tell just exactly how much the termination is finally going to cost, because it is impossible today for anyone to make that prediction. We know because of action last year and two votes this year that the House is overwhelmingly opposed to the superconducting super collider. Your conference recognized this, and we agreed with the Senate that we would terminate it. We do provide for some things that will be discussed later in Senate amendment 33.

Mr. Speaker, first, we authorize the Secretary to move forward toward termination. But pending that, the Secretary shall report back to the committee of any progress made and what some of the estimates are in cost. We recognize not only do we have to close down the present operation in Texas, and we do not know for sure what that will cost, but we have contracts that must be liquidated and contractors that must be paid off. We know the State of Texas has some claim on this. We are going to have to repay the State of Texas some figure. We know we have site restoration. We have 20 percent of the tunnel already dug. We have to take some action on this.

Mr. Speaker, we do have the $640 million provided in the House bill and it provides that the Secretary shall use that for termination, whatever the termination costs are.

The Secretary also by July 1 of next year is to report back to the Congress on any possibility there might be for someone else to operate this or to try to recapture as much of the taxpayer investment as we possibly can.

Mr. Speaker, this conference report, as I mentioned earlier, is the best we could come up with. No one can tell just exactly what the termination costs will be. We do know from all indications, and the Secretary will be reporting back as soon as possible what the estimates are for termination, but it may be years before we know what the cost is of termination. In any event, we know the taxpayers are losing an awful lot of money. It was a bad investment. They are going to probably make a prediction that it will cost pretty much half as much to terminate this program as it would to complete it, and we would have had something to show for it.

Mr. Speaker, nevertheless, it has been the wish of the House that we do this, and your conferees have done it. It has made the best of a bad situation.

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

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, today the House is making what I believe is a serious mistake in terminating the superconducting super collider. By our action we are striking a critical blow to high energy physics, to investment in science, and to our Nation's future as a leader in science.

For years, we have moved forward aggressively in exploring the unknown and pushing against the outer limits of knowledge. Our efforts have been rewarded as we have made tremendous gains in medicine, computers, communications, and advanced materials that have benefited all mankind.

Unfortunately, we have lost our nerve, and we will all be poorer because of this unwise decision by the House. It is, indeed, a sad day for science, a sad day for the United States.

But the decision, as wrong is it is, has been made, and we must move on.

Mr. Speaker, approximately $2 billion has been invested in the SSC to date. State-of-the-art laboratories and related facilities have been built. An extraordinary team of talented scientists and engineers have been brought together.

This conference report directs the Secretary of Energy to submit a report to Congress with a plan to maximize the value of this investment. It also directs the Secretary to make recommendations on ways to best utilize SSC assets and todetermine the feasibility of pursuing an international high energy physics endeavor.

I pledge to work with the Secretary and the State of Texas on protecting the investment that's been made and on finding alternative uses for the people, buildings, and equipment now in place.

Hopefully, we can find a way to minimize the damage to science and to the future of our Nation's competitiveness that will result from the House decision today.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, first of all I would like to say to the chairman and ranking Republican that they have done a good job in bringing this in below fiscal year 1993. I believe it is about $25.2 million below last year. It is $131 million below the request of the President. It is, however, above the House-passed bill, and slightly above the Senate-passed bill. Therefore, there are some places in this bill where we could make some economies.

For instance, the conference agreement contains $3.9 billion for the Army Corps of Engineers. This is approximately $5.7 million above the House bill. But it is $240 million, or almost 7 percent, above last year's appropriation for the Corps of Engineers.

Mr. Speaker, $240 million is a lot of money. I proposed an amendment when the bill was before the House that would cut the rate of growth for the Army Corps of Engineers to no more than the rate of inflation, which was then about 3.2 percent. That would have saved $17 million.

So I believe there can be some economies, and that we should cut where we can, especially in view of the huge budget deficits we have been having and will be having in the foreseeable future.

In addition to that, I have a couple of questions which I will address to my colleagues when we get into the amendments in technical disagreement.

Mr. Speaker, overall I think the committee did an outstanding job. However, there are some ways to save some additional moneys, and I will be getting a vote on that to point out to my colleagues where we could save another couple hundred million dollars if we choose to do so.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, the distinguished chairman of the subcommittee and his fellow members have an incredible task each year to try to keep us within fiscal restraint and to meet the enormous priorities that we have in this country on energy and water issues, and I applaud them in that effort.

Mr. Speaker, I have a dispute, obviously, with one of the proposals that is in the legislation before us, and that is the advanced liquid metal reactor. We in the House of Representatives voted in June 272 to 146 to terminate this program based on the fact that a number of studies have shown that it is highly improbable to ever be economically viable as a source of generating electricity, and, second, it raises dangers of nuclear proliferation, that is, the plutonium which is at the core of this reactor, unlike other reactors that we use in our society today. Indeed, I believeit falls afoul of the basic American antinuclear proliferation efforts around the world which are now being intensified because of a variety of countries trying to go forward.

□ 1310

Mr. Speaker, I think it is imperative that we continue the battle to try to bring this program to an end, to save money, and to eliminate those risks on proliferation.

The fact is, the administration urged that we cut it back in Congress. The

House of Representatives voted to eliminate it all together. The Senate, unfortunately, added not only all the money back but it will spend more, not only than what the administration requested but more than was spent last year.

We are going forward in this legislation, as we should, with advanced nuclear technologies, and there are five other reactors besides the one I am focusing on to go forward.

I realize that for this year and for this piece of legislation, which has been through an enormous turmoil, that we are not going to succeed at this time. But I do want to indicate that many of us are fighting to get this a part of the rescission bill, and we will continue the pressures at the various points in the budgetary process.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SKEEN], a valued member of the Committee on Appropriations.

Mr. SKEEN. Mr. Speaker, I thank the gentleman for yielding time to me. Mr. Speaker, I would like to express my gratitude to Chairman BEVILL, Mr. MYERS, and staff for working with me and the rest of the New Mexico congressional delegation on some issues very important to our State.

Incorporated in this conference report is bill language dealing with the monitored retrievable storage [MRS] program which I have sought for the last couple of years. As the chairman and ranking member are aware, I have been following closely the developments regarding the Mescalero Apache Tribe's application for Federal funding toward siting a MRS facility on its reservation.

I have tried to refrain from interfering with the Mescalero's right to study the issue. However, since the Mescaleros received over $300,000 2 years ago, they have not received any support from the congressional delegation, the Governor, and city, and county officials for this contentious program.

This lack of consensus and the enormous public opposition to this plan makes it important that Congress prohibit phase II–B grants to study the feasibility of siting a monitored retrievable storage [MRS]. This bill language is similar to the report language included in this year's House passed report to accompany the fiscal year 1994 Energy and Water appropriations bill. This language is important to prevent the further waste of taxpayer money.

Mr. Speaker, on another issue, I would like to have a colloquy with the gentleman from Alabama [Mr. BEVILL], if he would.

DOE has just announced that it is no longer going to pursue conducting radioactive tests at WIPP, in Carlsbad, NM. This is a 180-degree turn by the DOE which could have great ramifications for our country's nuclear waste situation.

I hope that this decision was not made in order to satisfy those interest groups which have opposed the opening of WIPP since its inception. It took over 6 years to finally pass a legislative land withdrawal through Congress, and now the heart of that hard fought agreement has been taken out. In fact, most of the debate centered around how to implement WIPP's test phase. Therefore, we deserve some detailed answers about why DOE now believes we can do these tests above ground at our national labs, and about where we go from here. This DOE decision was made recently without a congressional hearing.

Will his committee be reviewing the situation during the hearings on the fiscal year 1995 budget and will your committee work with me on evaluating this new policy and its impact on New Mexico?

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

Mr. SKEEN. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, the answer is "Yes." We will be glad to work with the gentleman on this matter.

Mr. SKEEN. Mr. Speaker, I certainly do appreciate that from the chairman.

Mr. BEVILL. I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise to express my concern about the termination costs for the superconducting super collider contained in the conference report.

As has been previously explained, the $640 million appropriated for construction of the SSC has now been changed to pay for termination costs.

I certainly support canceling the SSC and recognize that termination costs are in order when a project of this magnitude is canceled by the Government. However, the $640 million seems to be somewhat at variance to the figures that have been submitted by the Energy Department.

On January 14, 1993, then Secretary of Energy James Watkins submitted an estimate of the cost of the SSC shutdown at $278,100,000. On October 20, 1993, the termination costs for the SSC had grown by an estimate of the Department of Energy Legislative Affairs shop to $1,171,000,000. Of this latter figure, $625 million was for what was labeled as claims in litigation potential for employees, contractors, the State of Texas, and county and local governments.

I would remind my colleagues, Mr. Speaker, that in 1990, when the House debated an SSC authorization bill, by a 93-vote margin the House struck an indemnification provision for the State of Texas which would have indemnified that State should Congress cancel the SSC.

I would hope that the $640 million that are labeled for termination costs is a high estimate in the conference committee report, that it can be done closer to the January 1993 figure of $278,100,000 and that the will of the House that no money be spent for indemnification of the State of Texas and county and local governments, who shared the risks of the SSC when they made the bid, be paid.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO], the ranking majority member of this subcommittee.

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the conference report on H.R. 2445.

Mr. Speaker, this conference report represents the balanced approach we need to meet the energy, water, and scientific challenges of the next century.

The report provides for the orderly and efficient termination of the SSC. The bill emphasizes fairness by recognizing the valuable contributions of the SSC work force and by providing for a transition period for these workers and their families. The bill also insures long-term savings by giving the Secretary of Energy the flexibility she needs to maximize the Federal Government's investment in the project.

Mr. Speaker, while most of the debate in this Chamber has focused on the SSC, I want to emphasize that there is much more to this bill than the SSC termination. This bill is about our future.

The conference report puts our country firmly on a path to resume our position of world leadership in renewable energy technologies. The bill also includes over $4 billion in water resource projects in every State and every region of the country. Finally, the conference report makes environmental restoration and improvement a national priority.

We have provided funding for the key energy, science, and water projects, and we have done so within our subcommittee's allocation. We are under the President's budget request, under the 602(b) allocation, and under the amount appropriated last year.

This bill is a balanced approach. It is about looking ahead and making our economy stronger and our communities safer. I strongly urge a "yes" vote on the conference report.

□ 1320

Mr. FAZIO. Mr. Speaker, will the gentleman engage in a colloquy with me?

Mr. BEVILL. If the gentleman will yield, I will be pleased to join the gentleman in a colloquy.

Mr. FAZIO. Mr. Speaker, as the gentleman knows, the bill includes initial

funding for the Renewable Energy Production Incentive Program.

Mr. Speaker, the intent of this provision is for Department of Energy to provide incentive payments to as many types of eligible resources as possible, including methane gas recovery projects. Is this correct?

Mr. BEVILL. Yes, the gentleman is correct.

Mr. FAZIO. I thank the Chairman for this clarification.

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, let me begin by thanking Chairman BEVILL and Mr. MYERS and all the House conferees for their excellent work in last week's conference. The conferees represented the House position fairly, forcefully, and judiciously, and I greatly appreciate their work. I know what a fine job they did because Chairman BEVILL took the unusual step of allowing me and the gentleman from Kansas [Mr. SLATTERY] to participate in those proceedings, and I thank him for that courtesy.

The outcome of that conference is the amendment we have before us today, which carries out the will of this House—which is to say the will of the people—to shut down the superconducting super collider [SSC]. The question before us now is: Where do we go from here?

Part of that concerns the shutdown process itself. All I want to say is that we will be watching closely to ensure that this project is closed out as cheaply and swiftly as possible.

But there is a larger question I must address today, and that is the question of what happens next to American science in general and to high-energy physics in particular.

I do not want the House vote on the SSC to be misinterpreted. This is not a vote that portends the end of Federal support for science, and this is not a signal that young people should be turning their attention to other fields. Indeed, many of us voted to kill the SSC precisely because we believed that science was being harmed by the SSC, and many scientists have applauded us for our work.

People who are painting the SSC vote in the darkest hues are doing this body a disservice, and they are needlessly frightening the scientific community. And if the doomsayers are believed, their words will become self-fulfilling prophecy. People should not despair about the Federal commitment to science—funding in many areas of science continues to rise, and with the demise of the SSC should be able to rise further.

High-energy physicists, of course, do have cause for concern. But this vote does not mean the end of high-energy physics any more than aborting the Isabelle project—the SSC's predecessor—meant the doom of high-energy physics.

I stand ready to work with the high-energy physics community to come up with a program that can have long-term Federal support. It is not our goal to see this field of physics flounder. The Science Committee will be holding hearings on this subject, and we have already begun informal discussions with the White House Science Office.

The message of this vote was put well by an editorial in Sunday's New York Times. The Times wrote:

> On costly projects like this, it will be critical to enlist other nations as partners. And it will be imperative to project costs accurately from the start, to head off the kind of anger that developed as the SSC's costs kept rising.

That is the message the House tried to send in our 1990 authorization bill for the SSC, and if that bill had become law, we would never have gotten to the point we are at today. Each side would have understood its commitments and stuck to them.

So let the planning for the future of high-energy physics begin today. The key must be to make the politics and logistics of high-energy physics as international as the science is. I look forward to working with my colleagues and with scientists to achieve that goal.

Mr. Speaker, I would like to engage the gentleman from Alabama [Mr. BEVILL], the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations, in a colloquy.

Mr. Speaker, the amendment you have just proposed states that the $640 million can be used solely for the orderly termination of the SSC. It is my understanding that this money cannot be transferred to any other account. If termination costs did not reach $640 million, the money would remain unexpended. Is that correct?

Mr. BEVILL. Will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Alabama.

Mr. BEVILL. Yes, Mr. Speaker, that is correct.

Mr. BOEHLERT. The amendment also calls on the Secretary to recommend ways of making use of the assets of the SSC. I just want to make clear what we are talking about here. As I understand it, the recommendations would concern making the most out of the Federal investment while still entirely closing down the SSC site. Under this amendment, the site could not be mothballed or kept warm. It must be entirely closed down and the Federal presence entirely withdrawn. Is that correct?

Mr. BEVILL. Yes, that is correct.

Mr. BOEHLERT. I thank the chairman. Making it clear that this project is absolutely shut down is important not just for financial reasons but for plotting the future of high-energy physics. We cannot have scientists assuming that this project still has life in it. My understanding is that the only work that can still be done on the site would be work required to enable the Federal Government to end its presence there as inexpensively and as speedily as possible. Is that correct?

Mr. BEVILL. Yes, that is correct.

Mr. BOEHLERT. One final question. The amendment gives the Secretary authority regarding severance pay, relocation costs, and contracting for advice on the future of this project. It is my understanding that this language is entirely permissive. It does not require the Secretary to do anything. Is that correct?

Mr. BEVILL. Yes, that is correct.

Mr. BOEHLERT. That is important, because planning in high-energy physics has generally been done by voluntary advisory groups, not by contractors. I want to thank the chairman for his work with us and for representing the position of the House forcefully and forthrightly in last week's conference.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, I rise in regretful but continued opposition to the conference report on H.R. 2445. While I take pride that the conference committee finally agreed to uphold this body's strong position that we cannot afford to continue funding for the superconducting super collider, I am dismayed by the fact that after the conference report was recommitted, the committee did not address the more fundamental institutional problem.

From a budgetary standpoint, this bill illustrates a disturbing tendency of conferees to agree to the higher level of spending rather than agree to one body's lower funding, or even to compromise in the middle.

I particularly object to the funding in this bill for the unnecessary, expensive, and dangerous advanced liquid metal reactor [ALMR], which this body voted overwhelmingly to terminate during original consideration of this legislation. Despite that 272-to-146 vote, and significant support in the other body for terminating this program completely, the conference committee has provided $147 million for the ALMR program, far more than the administration requested, and $14 million more than the program received last year.

The conference committee first agreed to the higher spending number, usually the number of the other body, in 11 out of 14 items in disagreement on Department of Energy civilian programs. This conferencing up resulted in the final bill having more spending

than the original versions passed by either body. Now, excluding the SSC, the conference agreement still contains the higher number for 10 of those 14 items in disagreement.

This conferencing up undermines serious deficit reduction efforts, and I want to add further that the vote to terminate the SSC will make sense only if we insist on similar efforts on other projects that no longer measure up.

Mr. Speaker, I do not propose to battle today on this issue. I understand that only one upheaval per bill is customary, and the SSC took that opportunity here. Also, the distinguished chairman, as well as the ranking member, of the subcommittee certainly have suffered enough for this year.

However, we will have other opportunities to insist on the position of this house, and to apply the same sort of budget discipline that we brought to the SSC, to other programs—as we must do if we are serious about bringing the deficit under control.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of the conference report on H.R. 2445. I would like to speak in support of one of the projects funded by this bill, the Department of Energy's Advanced Liquid Metal Reactor and Actinide Recycle R&D Program.

I firmly believe that the United States is in desperate need of technology which is capable of burning or reducing nuclear waste and disposing of plutonium from our weapons stockpile.

□ 1330

The Department of Energy has studied actinide recycle and advanced liquid metal rector technology as technology which might meet both of these goals in addition to having the capability of producing both tritium and electricity.

I know that there is some controversy over this particular program. But without this funding, the Department of Energy, in its search for technology to produce tritium, dispose of plutonium, and address the nuclear waste issue, would be unable to even think about advanced liquid metal reactor technology, no matter how promising it might be. I believe that this is wrong.

Without some sort of prospective program to address the nuclear waste problem, I believe we will close out the nuclear option, which, incidentally, supplies about 15 percent to 17 percent of all of our electricity in this country.

Mr. Speaker, I firmly believe that we should pass this bill, this conference report, in its present form.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I thank our distinguished ranking member of the Subcommittee on Energy and Water Development for yielding me this time. I rise in strong support of this conference report.

Mr. Speaker, I rise to address provisions in the conference report on H.R. 2445, the Energy and Water Development Appropriations Act for fiscal year 1994. I particularly want to express strong support for various water resources projects and programs of the Army Corps of Engineers funded throughout the bill.

First, let me commend the conferees for their efforts. From the beginning, they have cooperated with the Public Works and Transportation Committee, the House's authorizing committee for corps' water resources programs. I especially want to thank members of the House Appropriations Committee. They have worked closely with me and others on the Public Works Committee to include funding to address not only the Nation's water infrastructure needs but those in Pennsylvania, as well.

The conference report includes $10 million for a critically needed environmental infrastructure and resource development program for south central Pennsylvania. The project, authorized in section 313 of the Water Resources Development Act of 1992, would help the corps meet various environmental and economic needs of rural communities. As one of the provision's primary drafters, I can assure Members that our intent was for the corps to accelerate normal procedures to get to actual construction as soon as possible.

The conference agreement is consistent with our intent regarding the Section 313 Program. It is also consistent with language from the House Appropriations Committee report on H.R. 2445 describing how funds should be spent.

While it provides only $10 million of the $17 million authorized, it will help to get the corps moving in the right direction—beyond preliminary study and planning and swiftly into project construction and implementation. This is not merely study money; it is money to get various projects up and running. While $10 million is less than I had hoped for, $5 million for each of the Chesapeake Bay and Ohio River watersheds will be helpful in meeting the region's enormous needs.

It is important to note, Mr. Speaker, that the conferees specifically rejected the Senate's approach to funding and implementation of the south central Pennsylvania program. The Senate bill had provided only $700,000—barely enough to get the program moving beyond the conceptual stage and certainly not enough to get it moving quickly towards construction. The conferees, however, adopted the House's approach of providing a significant amount of funds from the construction general account to move the program into construction in fiscal year 1994. Therefore, the intent is clear: This program is not to be constrained by drawn-outstudies or lengthy preconstruction delays.

Mr. Speaker, I would be remiss if I did not thank Congressman JOHN MURTHA for the invaluable role he has played in both authorizing and appropriating funds for the south central Pennsylvania program. We worked together on the provision in the 1992 act and again the drafting of funding provisions in this legislation. I appreciate his leadership and help.

I also appreciate the Appropriations Committee's willingness to address other water resources issues in south central Pennsylvania. For example, the conference report provides $400,000 for a watershed reclamation and wetlands pilot project for the broad top region. Also, it appropriates $450,000 for the corps to initiate a comprehensive study of the Juniata River corridor, including a reevaluation of the flood control needs of Tyrone, PA.

To avoid any possible confusion, I should also clarify our intent regarding the Juniata River basin study. The Senate bill included only $250,000—rather than $450,000 as in the House bill—and limited the scope of the study to just the Tyrone component. The conference agreement, adopting the House's approach, provides $450,000 for the Juniata River basin, including the Tyrone component.

Thank you, Mr. Speaker, for the opportunity to clarify some of the provisions in the conference report. I appreciate the work of the conferees, not only as it pertains to Pennsylvania but also to the entire Nation's water resources and environmental infrastructure.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I compliment the conferees in general for their work, but this Member strongly objects to the $640 million appropriated in this conference report to shut down thesuperconducting super collider [SSC]. That is largely a waste of taxpayer funds since it is clearly excessive for legitimate shutdown costs. The inclusion of these funds in the conference report is just one more effort to keep the SSC alive.

According to Secretary of Energy O'Leary, the cost of shutting down the SSC project was estimated at over $1 billion. The administration would work with the State of Texas to find jobs for the 2,000 people who work on the project near Dallas, she also said. The Secretary further commented that additional Federal funds may be necessary to help Texas cope with the SSC loss.

This Member takes very strong exception to the Department of Energy's estimate that it could take as much as $1 billion to terminate the SSC over 2 years. For that matter $640 million is too much. Both amounts are outrageously excessive. Just as the estimated construction cost continued to escalate, now it appears that costs associated with stopping this project are heading in the same direction. No matter what Secretary O'Leary said, the $640 million should be the only funds made available to shut down the SSC project, and again even that amount is grossly excessive.

Mr. Speaker, it appears to be easier to drive a wooden stake through the heart of a vampire than to kill the SSC. This Member fears that SSC supporters in the Congress and the Department of Energy seek these excessive

funding levels in the hopes of reversing the clear congressional mandate to end the SSC project once and for all.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Speaker, I also rise in support of this conference committee report.

I wanted to respond to some of the arguments that have been made about the advanced liquid metal reactor, or the IFR technology, because it is important that it is included in this bill. Its opponents have pointed out, or have argued that it is not economically viable, and that it is not needed technology, that it is wasteful. But the opposite is true.

Several years ago the U.S. Congress asked the National Academy of Sciences to study all of the nuclear technology that is available to us today and to tell this Congress which of those options were the ones that it should pursue. And for long-term research needs that report said that the committee believes that the LMR should have the highest priority for long-term nuclear technology development.

Mr. Speaker, in Congress we have faced many times the need to focus America's efforts on maintaining its leading edge in research and development in many areas of science throughout the world. Nuclear research is one of those key areas that we must not forget. And if we do not support and continue to support the integral fast reactor and liquid metal reactor research, America will slip that much further behind in this needed area of technology.

For all of the reasons that have been stated in past debates, and as the gentleman from California [Mr. MOORHEAD] stated today, we must keep our competitive edge in the nuclear arena, and we must recognize that the integral fast reactor is the best source for our long-term nuclear options.

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in respectful opposition to the conference report. I am opposed not because of the work of the chairman, the subcommittee chairman or the members of the committee, but because of the fundamental decision embedded in the conference report that the United States is going to turn its back on basic research at the highest level, specifically with regard to the termination of the SSC.

President Lincoln at the end of the War Between the States, or right before the end of the War Between the States, gave a famous speech which he concluded by saying, "With charity toward all, with malice toward none." He said that in victory. I would like to paraphrase President Lincoln in defeat. I think it is much more difficult to be magnanimous in defeat than it is victory, and I certainly have no disrespect or malice toward any of the opponents of the SSC. I believe they have acted in what they think is in the best interests of their constituency and the national good.

But I think they are mistaken, because the super collider's termination marks the first time in our Nation's history that as a nation we have turned our back on the ability to expand the frontiers of basic knowledge. The consequences of that are yet to be determined, but there is no doubt in my mind that those consequences will be negative and not positive.

Unfortunately, the Federal Government is the only institution in this Nation that can finance basic science at the highest levels. The cost is significant. The latest official cost estimate for the SSC was $8.2 billion. That is a lot of money. But we needed that to go, as they say on "Star Trek," where no man has gone before. Simply put, it is more expensive to do cutting edge, world-class science than it is to do backyard science, so to speak.

The SSC is 20 percent complete, and in spite of all of the hyperbole, the SSC is approximately 6 percent under budget of money expended as opposed to money that should have been expended for work completed.

It is very important to remember that the size and the cost of the SSC were not pulled out of a hat. It was a conscientious decision by the scientific community to expand the energy level of particle accelerators by an order of magnitude 20 times more powerful than the most powerful accelerator now in use, which is the Tevetron Fermi Lab, which has an energy level of 1 trillion electron volts. The SSC, if completed, would have been 20 trillion electron volts, 20 times more powerful. It was designed to be that large and that powerfulbecause the scientists calculated that was what was needed to finally get to the basic question of how the universe was created and what the ultimate building blocks of matter are. They estimated that the energy level necessary for experimental purposes was somewhere between 15 trillion and 20 trillion electron volts.

I respectfully disagree with the gentleman from New York [Mr. BOEHLERT] when he said that termination of the SSC does not mean that the United States is backing away from basic science. Ladies and gentlemen, there has been a science brain drain in this country for the last 15 years as high-energy physicists have gone to Europe. We had reversed that with the building of the SSC. We are not going to see that brain drain started again, and the best high-energy physicists are going to go to Europe, because that is where the best science is being done. The Japanese will almost certainly help the Europeans at the CERN facility in Switzerland. They are not going to come here. If Albert Einstein was alive and looking for a place to do science today, he would not come to the United States, like he did in the 1930's. He would go to Europe, to Switzerland.

So termination of the SSC does represent a fundamental decision on behalf of the House of Representatives to turn our back on maintaining the United States as the world leader is basic research.

The latest cost numbers that are actually coming in, in the last few months show clearly that the project is moving ahead. Tunneling done to date is somewhere between 30 and 40 percent under budget, and we would have recognized significant savings in this area in the next year had we continued the project.

With all due respect, I would hope that we would defeat this conference report. If we cannot do that, I would hopethat the President would veto the bill and send it back with instructions to include funding:

I include for the RECORD my letter to President Clinton asking him to do just that:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 22, 1993.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to ask you to veto H.R. 2445, the FY94 Energy and Water Appropriations bill, when it comes to you for your signature.

As you know, this bill appropriates $640 million for termination of the Superconducting Super Collider (SSC). I do not believe that stopping the SSC at this time is wise. We have already invested over $2 billion in this project to bring it to 20 percent completion. Thousands of people have invested their careers in this project and moved themselves and their families from across the Nation and around the world.

In addition to the buildings, land, and people, the long-term scientific benefits of the SSC provide a compelling argument for saving the SSC. At a time when the world looks to the United States for leadership, we cannot afford to "cut-and-run" on our truly pioneering endeavors in science.

The fate of the SSC, the thousands of dedicated employees, and indeed the future of high energy physics research rests in your hands. I strongly urge you to veto the FY94 Energy and Water Appropriations bill, and send it back with instructions to restore funding for building the SCC, not terminating it.

Sincerely,

JOE BARTON,
Member of Congress.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 1 minute.

The discussion has been made here today that the $640 million provided in this bill for termination is too much. I do not think anyone can say it is too much or too little.

Secretary O'Leary sent our chairman a letter this morning saying that she was examining this. Under the conditions of the next amendment that we

are going to be considering, the Secretary does have to make an estimate back to us. She has to report back to us on what those costs are. We do not know. There are a lot of contracts that have been let, but as of this date no one can say just how much those contracts are going to cost to terminate.

□ 1340

So whether it is $640 million, too little or too much, is all conjecture. We do not know at this point. The committee did feel it was going to cost a lot of money and the taxpayers are going to lose a lot of money on this project because of the termination. We know it is going to cost a considerable amount of money.

The committee did say that the $640 million, said very carefully, it cannot be spent for anything except for termination costs and costs associated with the restoration of the site in Texas.

Mr. Speaker, that is a little bit like taking a swipe when we say that that is too much money; no one knows.

Mr. Speaker, with that I yield back the balance of my time.

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

I rise urging each Member to please support this conference and the amendments in disagreement. This has been a most difficult conference and one that is most unusual. Each of the two Houses were voting in opposite directions and with the final vote being so different. It has made it very difficult. But the Senate has receded to the House's position, and we would appreciate now the House voting for this conference report and the amendments thereto.

Mr. MINETA. Mr. Speaker, I rise in strong support of the conference report on energy and water development appropriations, and in particular support of the Advanced Liquid Metal Reactor Program.

The ALMR system is an advanced reactor power plant and fuel cycle concept being jointly developed by U.S. industry and the national laboratories under DOE sponsorship. We in Congress have supported this ALMR development for the past several years. This important cost-shared R&D program is also supported by utilities, industry, and foreign countries with great potential for commercialization after 2010.

Mr. Speaker, countries around the world recognize the important role nuclear power must play in the production of clean, safe, economical, and abundant electricity. Global markets for United States industry are rapidly increasing in countries such as Japan, Taiwan, Korea, and Indonesia. These countries continue to look to the United States for leadership in nuclear power technology. The nuclear power plant market potential in the Pacific rim nations during the next 15 years is estimated to be over $175 billion. This represents well over 100,000 U.S. jobs.

Abandonment of advanced nuclear research by the United States would send a frightening message to the rest of the world—that this Nation does not have the foresight to prepare for the energy problems of the future, and that we are content to rely on increasingly scarce resources and will continue to ignore the potential benefits of nuclear energy.

Mr. Speaker, the Advanced Liquid Metal Reactor Program has the potential to meet our Nation's long-term energy needs. In addition, the ALMR will address the spent fuel challenges of the lightwater reactor industry, provide a path for conversion of weapons plutonium to useful energy, and strengthen the U.S. technical and economic world leadership. A strong U.S. nuclear industry can and must be a major contributor to the world's need for clean, safe, and low-cost electricity.

I urge my colleagues to support funding for the Advanced Liquid Metal Reactor Program and to pass the conference report on energy and water development.

Mr. SLATTERY. Mr. Speaker, I would first of all like to thank Chairman BEVILL, and also the ranking member, Mr. MYERS, for their hard work on this important bill, and for their fairness in dealing with us on the issue of the superconducting super collider [SSC].

The passage of H.R. 2445, the fiscal year 1994 energy and water appropriations bill conference report, is a very significant event for Congress, this House, and the American taxpayers. This bill contains very clear instructions regarding the termination of the superconducting super collider. Termination of this project will save taxpayers as much as $10 billion over the next decade.

I would also like to recognize and thank all of the Members, present and past, who worked on the effort to terminate the SSC. I would especially like to thank Dennis Eckart, who was a champion of this effort before he left Congress last year. Also, Howard Wolpe is another Member who worked hard to expose the problems of the SSC. And finally I would like to thank SHERRY BOEHLERT, who has been my tireless partner in working to kill the super collider.

I would like to state that the termination of the SSC is not an action against science. I strongly support scientific and technological research, and have been concerned that going forward with the super collider would have squeezed out smaller, but vital, research projects. I did not argue that the SSC was a pork-barrel project. I have argued, however, that while the SSC may be interesting science, it is not priority science, and the project has had too many problems and has grown too expensive to be justified at this time of large budget deficits and a crippling national debt.

The SSC is not being canceled due to a whim of the House, due to antiscience sentiments, or due to anti-Texas sentiments. This was a well-reasoned decision. The Members of the House weighed carefully the pro's and con's of the SSC and concluded that the SSC no longer met the terms that had been outlined when we first agreed to build it.

Unfortunately, nothing about the super collider turned out as advertised. The cost rose from an original estimate of only $4.4 billion to recent projections of $13 billion, or triple the cost. Numerous studies by the General Accounting Office [GAO] and the Department of Energy's own inspector general found that the SSC was overbudget, behind schedule, and that many expenditures were unreasonable because they were unnecessary, excessive, or represented uncontrolled cost growth.

Government investigators also reported that employees at the SSC laboratory obstructed audits, tried to disguise expenditures by shifting them to different accounts, arbitrarily marked documents as classified, and wasted taxpayer funds on unauthorized expenditures such as large quantities of liquor, expensive receptions and hospitality meetings, and extravagant holiday parties.

And even in its most recent testimony, GAO noted that the SSC's contractor, Universities Research Association [URA], still had not implemented the cost and schedule control system required by their contract, making it impossible to accurately track the expenditure of funds. In fact, the Secretary of Energy announced her intention earlier this year to fire URA as the contractor for the construction of the super collider.

Other agencies and experts came out against the SSC. Many scientists argued that the project focused too much funding on a small subfield of physics, and that it would have drained funds from other important fields. The Congressional Budget Office [CBO] reported that the SSC would not provide the research and training opportunities necessary to justify a project of its size. CBO also concluded that the super collider was consuming a disproportionate share of U.S. science resources, and that it was an investment that would not provide society with a good rate of return.

Early backers of the SSC, including Presidents Reagan and Bush, Energy Secretary Watkins, and key scientists such as project director Roy Schwitters were unable to persuade foreign governments to make the contributions that had been promised to offset U.S. expenditures. Legislators were told originally that the Federal Government would only have to fund two-thirds of the construction costs. The Secretary of Energy later promised to obtain $1.7 billion from foreign governments. However, earlier this year the Secretary of Energy downgraded that commitment to only $400 million.

Last year during House debate, the chairman of the House Science, Space, and Technology Committee, a strong supporter of the SSC, argued that we could not afford to build a project of this magnitude on our own. He sponsored an amendment stating that no further Federal dollars should be spent on the SSC if we did not obtain $650 million in foreign contributions by April 1993. We have received only 10 percent of that amount. Even President Bush, a Texan, was unsuccessful in convincing the Japanese of the merits of the project, further undermining congressional confidence.

As the evidence of serious problems with the project continued to increase, political support for the SSC shrank. Two years ago funding for the SSC was approved in the House by a margin of 86 votes. Last year the House voted by a margin of 51 votes to reject further funding of the super collider. And finally last week the House voted 282 to 143—an overwhelming margin of 139 votes—to terminate the project.

Again, two-thirds of the House of Representatives decided to terminate the super

collider, not because they are opposed to science, but because of the tremendous problems that plagued this project in particular. It became too difficult to go home to constituents demanding spending cuts and explain why the Government was continuing to fund the costly super collider. We simply cannot justify spending $13 billion on a project with such narrow benefits, such a dismal management record, and without international cooperation. It was poor implementation and management, not a poor scientific idea, that lead to this outcome.

I understand the sorrow of those who worked on this project, and who may now lose their jobs. Many residents of my State have lost their jobs in recent years due to causes ranging from defense cutbacks at the Kansas Army ammunition plant in Parsons, downsizing of the aviation and aeronautics industries in Wichita, and a faltering economy in general. I certainly hope we can turn this situation around. I hope the Federal Government will help create cost-effective, high-technology manufacturing jobs for the future. But the SSC cost us approximately $80,000 per job created, with no product generated. I have argued that to get our debt under control, we need to make tough choices and cut spending. This was a tough choice, but we simply cannot afford to continue to fund every big-ticket project that comes along.

I think the American people understand this, and respect Congress for the tough decision it has made. The House stood behind its vote and changed a process in need of reform. I hope that in the future, spending cuts can be accomplished more readily, because I realize that killing the SSC is only a small drop in the bucket. But I will end my statement as I began it by stating that this bill signifies an important landmark in the effort to control Federal spending. Passage of this conference report sends a critical signal to taxpayers that Congress hears their message and has the backbone to stand up and make the tough choices.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 332, nays 81, not voting 20, as follows:

[Roll No. 526]

YEAS—332

Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Durbin
Edwards (CA)
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Grams
Grandy
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Snowe
Spence
Spratt
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—81

Allard
Archer
Armey
Baker (LA)
Bartlett
Barton
Boehner
Bonilla
Burton
Buyer
Camp
Coble
Collins (GA)
Combest
Condit
Coppersmith
Crane
Cunningham
Dreier
Duncan
Dunn
Ewing
Fields (TX)
Franks (CT)
Frost
Gekas
Goss
Green
Hall (TX)
Hancock
Hefley
Hoke
Holden
Hunter
Inglis
Inhofe
Jacobs
Johnson, E. B.
Johnson, Sam
Klink
Klug
Lewis (FL)
Maloney
Manzullo
Margolies-Mezvinsk
McCollum
McHugh
McMillan
Mica
Miller (FL)
Minge
Nadler
Nussle
Orton
Oxley
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pombo
Ramstad
Roberts
Roth
Royce
Sensenbrenner
Sharp
Shays
Smith (MI)
Smith (TX)
Solomon
Stark
Stearns
Stenholm
Stump
Sundquist
Taylor (NC)
Upton
Valentine
Walker
Zeliff

NOT VOTING—20

Abercrombie
Berman
Blackwell
Brooks
Brown (CA)
DeLay
Dornan
Engel
Gephardt
Greenwood
Horn
Kennedy
Lowey
Porter
Price (NC)
Ridge
Rose
Rostenkowski
Smith (IA)
Wilson

□ 1403

Mrs. MALONEY, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. NADLER, HALL of Texas, and STENHOLM changed their vote from "yea" to "nay."

Mr. GRAMS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. LOWEY. Mr. Speaker, I inadvertently missed rollcall vote 526. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, on rollcall No. 526 I was recorded as voting "nay." I would like the RECORD to reflect my intention was to vote "aye."

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to the order of the House of today, October 26, 1993, the amendments in disagreement

and the motions printed in the joint statement of the committee of conference to dispose of the amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: page 2, strike out all after line 20 over to and including "$500,000" in line 6 on page 4 and insert:

Central Basin Groundwater Project, California, $750,000;

McCook and Thornton Reservoirs, Illinois, $5,500,000;

Indianapolis, White River, Central Waterfront, Indiana, $900,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $310,000;

Ohio River Shoreline Flood Protection, Indiana, $400,000;

Hazard, Kentucky, $250,000;

Brockton, Massachusetts, $350,000;

Passaic River Mainstem, New Jersey, $10,000,000;

Pocotaligo River and Swamp, South Carolina, $400,000;

Jennings Randolph Lake, West Virginia, $400,000;

Monongahela River Comprehensive, West Virginia, $600,000; and

West Virginia Comprehensive, West Virginia, $500,000:

Provided, That notwithstanding ongoing studies using previously appropriated funds, and using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct hydraulic modeling, foundations analysis and related design, and mapping efforts in continuing preconstruction engineering and design for the additional lock at Kentucky Dam, Kentucky project, in accordance with the Kentucky Lock Addition Feasibility Report approved by Report of the Chief of Engineers, dated June 1, 1992: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of available funds to complete a detailed project report, and plans and specifications for a permanent shore erosion protection project at Geneva State Park, Ashtabula County, Ohio: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 appropriated herein to continue preconstruction engineering and design, including preparation of the special design report, initiation of National Environmental Policy Act document preparation, and initiation of hydraulic model studies for the Kaumalapau Harbor navigation study, Lanai, Hawaii: *Provided further*, That the Secretary of the Army is directed to limit the Columbia River Navigation Channel, Oregon and Washington feasibility study to investigation of the feasibility of constructing a navigation channel not to exceed 43-feet in depth from the Columbia River entrance to Port of Portland/Port of Vancouver and to modify the Initial Project Management Plan accordingly: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of funds appropriated herein to initiate a reconnaissance study, including economic and environmental studies, for the Pocataligo River and Swamp, South Carolina: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $90,000 of funds appropriated herein to complete the reconnaissance study of the Black Fox and Oakland Spring wetland area in Murfreesboro, Tennessee: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $200,000 of available funds to initiate the planning and design of remedial measures to restore the environmental integrity and recreational boating facilities at Old Hickory Lake, in the vicinity of Drakes Creek Park, in accordance with the reconnaissance study findings dated September, 1993: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $4,460,000 of available funds to complete preconstruction, engineering and design for the Ste. Genevieve, Missouri flood control project authorized by section 401(a) of the Water Resources Development Act of 1986 (100 stat. 4118) so that the project will be ready for construction by October 1, 1994: *Provided further*, That all plans, specifications and design documents shall be concurrently previewed in order to expedite the project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $2,000,000 of funds appropriated herein to engineer and design the Virginia Beach Erosion Control and Hurricane Protection, Virginia project, including storm water collection and discharge, as authorized by section 102(cc) of Public Law 102-580

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

Central Basin Groundwater Project, California, $750,000;

Los Angeles County Water Conservation, California, $100,000;

Los Angeles River Watercourse Improvement, California, $300,000;

Norco Bluffs, California, $150,000;

Rancho Palos Verdes, California, $80,000;

Biscayne Bay, Florida, $700,000;

Lake George, Hobart, Indiana, $200,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $310,000;

Ohio River Shoreline Flood Protection, Indiana, $400,000;

Hazard, Kentucky, $250,000;

Brockton, Massachusetts, $350,000;

Passaic River Mainstem, New Jersey, $17,000,000;

Broad Top Region, Pennsylvania, $400,000;

Juniata River Basin, Pennsylvania, $450,000;

Lackawanna River Basin, Greenway Corridor, Pennsylvania, $300,000;

Jennings Randolph Lake, West Virginia, $400,000;

Monongahela River Comprehensive, West Virginia, $600,000; and

West Virginia Comprehensive, West Virginia, $500,000:

Provided, That notwithstanding ongoing studies using previously appropriated funds, and using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct hydraulic modeling, foundations analysis and related design, and mapping efforts in continuing preconstruction engineering and design for the additional lock at the Kentucky Dam, Kentucky, project, in accordance with the Kentucky Lock Addition Feasibility Report approved by Report of the Chief of Engineers dated June 1, 1992: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of the Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provide further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of available funds to complete a detailed project report, and plans and specifications for a permanent shore erosion protection project at Geneva State Park, Ashtabula County, Ohio: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of the funds appropriated herein to continue preconstruction engineering and design, including preparation of the special design report, initiation of National Environmental Policy Act document preparation, and initiation of hydraulic model studies for the Kaumalapau Harbor navigation study, Lanai, Hawaii: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with detailed designs and plans and specifications, including detailed cost estimates, for the master plan of the Indianapolis, White River, Central Waterfront, Indiana, project: *Provided further*, That the Secretary of the Army is directed to limit the Columbia River Navigation Channel, Oregon and Washington, feasibility study to the investigation of the feasibility of constructing a navigation channel not to exceed 43 feet in depth from the Columbia River entrance to the Port of Portland/Port of Vancouver and to modify the Initital Project Management Plan accordingly: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of the funds appropriated herein to initiate a reconnaissance study, including economic and environmental studies, for the Pocataligo River and Swamp, South Carolina, project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $90,000 of the funds appropriated herein to complete the reconnaissance study of the Black Fox and Oakland Spring wetland area in Murfreesboro, Tennessee: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $200,000 of available funds to initiate the planning and design of remedial measures to restore the environmental integrity and recreational boating facilities at Old Hickory Lake, Tennessee, in the vicinity of Drakes Creek Park, in accordance with the reconnaissance study findings dated September 1993: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $4,460,000 of available funds to complete preconstruction engineering and design for the Ste. Genevieve, Missouri, flood control project authorized by section 401(a) of the Water Resources Development Act of 1986 (100 stat. 4118) so that the project will be ready for construction by October 1, 1994: *Provided further*, That all plans, specifications and design documents shall be concurrently reviewed in order to expedite the project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $2,000,000 of the funds appropriated herein to undertake preconstruction engineering and design of the Virginia Beach Erosion Control and Hurricane Protection, Virginia, project, including storm water collection and discharge, as

authorized by section 102(cc) of Public Law 102-580

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: page 4, line 16, strike out "$1,389,138,000" and insert "$1,296,167,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert "$1,255,875,000".

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

Mr. BEVILL. Mr. Speaker, I will yield to the gentleman from Indiana [Mr. BURTON] if he wishes to debate the motion.

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Alabama [Mr. BEVILL] a question.

Mr. Speaker, this amendment is about $12 million above what left the House in the House-passed bill. Can the gentleman tell me what that extra $12 million is for? Is that for somebody's special project, or what did that go for?

Mr. BEVILL. Mr. Speaker, this if for a group of projects. It is all the projects that are in the construction account.

Mr. BURTON of Indiana. Are these projects new projects, or are they ongoing projects that are being refunded?

Mr. BEVILL. Most of them are ongoing projects.

Mr. BURTON of Indiana. Are they pretty much the same as last year as far as cost is concerned, or are they above last year?

Mr. BEVILL. Most are about the same.

Mr. BURTON of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 4, strike out all after line 24 over to and including "$1,467,000" in line 24 on page 7, and insert:

Rillito River, Arizona, $4,200,000;

Coyote and Berryessa Creeks, California, $4,000,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

San Timoteo Creek (Sante Ana River Mainstem), California, $12,000,000;

Sonoma Baylands Wetland Demonstration Project, California, $4,000,000;

Central and Southern Florida, Florida, $9,500,000;

Kissimmee River, Florida, $5,000,000;

Casino Beach, Illinois, $300,000;

O'Hare Reservoir, Illinois, $5,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $1,700,000;

Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;

Salyersville, Kentucky, $1,000,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $700,000;

Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $200,000;

Anacostia River, Maryland and District of Columbia, $700,000;

Stillwater, Minnesota, $2,400,000;

Sowashee Creek, Mississippi, $3,240,000;

Molly Ann's Brook, New Jersey, $1,000,000;

New York Harbor Collection and Removal of Drift, New York and New Jersey, $2,900,000;

Lake O' The Pines-Big Cypress Bayou, Texas, $300,000;

Red River Basin Chloride Control, Texas and Oklahoma, $4,000,000;

Wallisville Lake, Texas, $1,000,000;

Quonset Point-Davisville, Rhode Island (for 2 elevated water storage towers and the relocation of sewer lines), $1,875,000; and

Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $3,500,000;

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of available funds to initiate and complete construction of the Finn Revetment portion of the Red River Emergency Bank Protection, Arkansas and Louisiana project: *Provide further*, That the Chief of Engineers is directed to use a fully funded contract for the construction of the Finn Revetment: *Provided further*, That the Secretary of the Army is directed to use $3,500,000 of funds appropriated herein to continue the Red River Levees and Bank Stabilization below Denison Dam, Arkansas project, including completion of studies to improve the stability of the levee system from Index, Arkansas to the Louisiana State line and continuation of rehabilitation work underway: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers of the Army Corps of Engineers, shall (1) use $2,000,000 of funds appropriated herein to carry out engineering design for the relocation of the comfort and lifeguard stations on the Atlantic coast of New York City, from Rockaway Inlet to Norton Point, as authorized by section 1076 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2015), and (2) not later than 1 year after the date of enactment of this Act, report to Congress on the results of the expenditure of funds required under paragraph (1): *Provided further*, That with $2,000,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Bethel, Alaska project authorized by Public Law 99-662, including but not limited to initiating lands and damages, erosion control construction, and continued related engineering and construction management: *Provided further*, That no fully funded allocation policy shall apply to the construction of the Bethel, Alaska project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $24,119,000 of the funds appropriated herein to continue the Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project, including continued construction of parallel protection along Orleans and London Avenue Outfall Canals and the award of continuing contracts for construction of this parallel protection under the same terms and conditions specified for such work under this heading in Public Law 102-377: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $450,000 of funds appropriated herein to complete the repair and restoration to a safe condition of the existing Tulsa and West Tulsa local protection project, Oklahoma, authorized by the Flood Control Act of 1941, Public Law 73-228: *Provided further*, That with $19,300,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the BigSandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That with $5,365,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That with $3,500,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further*, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland river project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction of offshore breakwaters at Grand Isle, Louisiana, as an integral part of the repair of features of the Grand Isle and Vicinity, Louisiana, project damaged by Hurricane Andrew using funds previously appropriated for the purpose in the fiscal year 1992 Dire Emergency Supplemental Appropriations Act, Public Law 102-368, which are available for this work: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the section 14 bank stabilization program at McGregor Park in Clarksville, Tennessee utilizing heretofore appropriated funds until the Federal funds limit of $550,000 is reached or bank protection for the entire park is completed: *Provided further*, That using $6,300,000 of the funds appropriated herein, the Secretary of

the Army, acting through the Chief of Engineers, is directed to continue with the authorized Ouachita River Levees, Louisiana project in an orderly but expeditious manner and within this amount, $3,800,000 shall be used to continue rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this critical protection, and $2,500,000 shall be used to repair the river bank at Columbia, Louisiana, which is eroding and placing the project levee protecting the city in imminent danger of failure: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $3,000,000 appropriated herein to provide design and construction assistance for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas as authorized by section 220 of Public Law 102-580; and in addition, $145,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, as authorized by laws, and the Secretary is directed to continue the second phase of construction of Locks and Dams 4 and 5; complete construction of Howard Capout, McDade, Elm Grove, Cecile, Curtis, Sunny Point, and Eagle Bend Phase I and Phase II revetments in Pools 4 and 5, and levee modifications in Pool 5, all of which were previously directed to be initiated; and award continuing contracts in fiscal year 1994 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5, Piermont/Nicholas and Sunny Point Capouts, Lock and Dam 4 Upstream Dikes, Lock and Dam 5 Downstream Additional Control Structure, Wells Island Road Revetment, and construction dredging in Pool 4; all as authorized by laws, and the Secretary is further directed to provide annual reimbursement to the projects local sponsor for the Federal share of management costs for the Bayou Bodcau Mitigation Area as authorized by Public Law 101-640, the Water Resources Development Act of 1990

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

Rillito River, Arizona, $4,200,000;

Coyote and Berryessa Creeks, California $4,000,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $12,000,000;

Sonoma Baylands Wetland Demonstration Project, California, $4,000,000;

Central and Southern Florida, Florida, $17,850,000;

Kissimmee River, Florida, $5,000,000;

Melaleuca Quarantine Facility, Florida, $1,000,000;

Casino Beach, Illinois, $820,000;

McCook and Thornton Reservoirs, Illinois, $13,000,000;

O'Hare Reservoir, Illinois, $5,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $2,700,000;

Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $200,000;

Anacostia River, Maryland and District of Columbia, $700,000;

Clinton River Spillway, Michigan, $2,000,000;

Silver Bay Harbor, Minnesota, $2,600,000;

Stillwater, Minnesota, $2,400,000;

Sowashee Creek, Mississippi, $3,240,000;

Molly Ann's Brook, New Jersey, $1,000,000;

New York Harbor Collection and Removal of Drift, New York and New Jersey, $3,900,000;

Rochester Harbor, New York, $4,000,000;

Wilmington Harbor Ocean Bar, North Carolina, $5,266,000;

West Columbus, Ohio, $9,000,000;

Lackawanna River Greenway Corridor, Pennsylvania, $2,000,000;

South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $10,000,000;

Quonset Point-Davisville, Rhode Island (for 2 elevated water storage towers and the relocation of sewer lines), $1,875,000;

Lake O' The Pines—Big Cypress Bayou, Texas, $300,000;

Red River Basin Chloride Control, Texas and Oklahoma, $4,000,000;

Wallisville Lake, Texas, $1,000,000;

Richmond Filtration Plant, Virginia, $1,000,000;

Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $3,500,000; and

State Road and Ebner Coulees, LaCrosse and Shelby, Wisconsin, $1,467,000:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of available funds to initiate and complete construction of the Finn Revetment portion of the Red River Emergency Bank Protection, Arkansas and Louisiana, project: *Provided further*, That the Chief of Engineers is directed to use a fully funded contract for the construction of the Finn Revetment: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of the funds appropriated herein to continue the Red River Levees and Bank Stabilization below Denison Dam, Arkansas, project, including the completion of studies to improve the stability of the levee system from Index, Arkansas, to the Louisiana stateline and the continuation of rehabilitation work underway: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to expend $500,000 in fiscal year 1994 to initiate reconstruction of the Sacramento River floodwall between miles 58 and 60 of the Sacramento River, California, as an essential portion of the Sacramento Urban Levee Reconstruction project pursuant to the Sacramento River Flood Control Act of 1917, as amended, and the Local Cooperation Agreement signed on June 4, 1990: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall (1) use $2,000,000 of the funds appropriated herein to carry out engineering and design for the location of the comfort and lifeguard stations on the Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York, project as authorized by section 1076 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2015), and (2) not later than one year after the date of enactment of this Act, report to Congress on the results of the expenditure of funds required under paragraph (1): *Provided further*, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Bethel, Alaska, project authorized by Public Law 99-662, including but not limited to initiating lands and damages, erosion control construction, and continued related engineering and construction management: *Provided further*, That no fully allocated funding policy shall apply to the construction of the Bethel, Alaska, project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $214,119,000 of the funds appropriated herein to continue the Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project, including continued construction of parallel protection along the Orleans and London Avenue Outfall Canals and the award of continuing contracts for construction of this parallel protection under the same terms and conditions specified for such work under this heading in Public Law 102-377: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $450,000 of the funds appropriated herein to complete the repair and restoration to a safe condition of the existing Tulsa and West Tulsa local protection project, Oklahoma, authorized by the Flood Control Act of 1941, Public Law 73-228: *Provided further*, That with $5,000,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the Pike County, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of the Public Law 96-367, with initial efforts concentrated in the communities of Buskirk and McCarr, in accordance with the Huntington District Commander's preliminary draft detailed project report for Pike County, Kentucky, dated March 1933, using continuing contracts: *Provided further*, That with $700,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction, using continuing contracts, of the Williamsburg, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367, in accordance with Plan B of the approved draft specific project report for Williamsburg, Kentucky, dated April 1993: *Provided further*, That with $19,300,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of the Public Law 96-367, and is further directed to design and constructa system to collect and transport sewage from the unincorporated community of Rio Vista to the Harlan, Kentucky, treatment plant, as part of the Harlan, Kentucky, element: *Provided further*, That with $5,365,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That with $3,500,000 of the funds

appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further*, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland river project: *Provided further*, That with $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction, using continuing contracts, of the Salyersville, Kentucky, cut-through channels project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction of offshore breakwaters at Grand Isle, Louisiana, as an integral part of the repair of features of the Grand Isle and Vicinity, Louisiana, project damaged by Hurricane Andrew using funds previously appropriated for that purpose in the fiscal year 1992 Dire Emergency Supplemental Appropriations Act, Public Law 102-368, which are available for this work: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the section 14 bank stabilization program at McGregor Park in Clarksville, Tennessee, utilizing heretofore appropriated funds until the Federal funds limit of $500,000 is reached or bank protection for the entire park is completed: *Provided further*, That using $6,300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the authorized Ouachita River Levees, Louisiana, project in an orderly but expeditious manner and within this amount, $3,800,000 shall be used to continue rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this critical protection, and $2,500,000 shall be used to repair the river bank at Columbia, Louisiana, which is eroding and placing the project levee protecting the city in imminent danger of failure: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $3,000,000 of the funds appropriated herein to provide design and construction assistance for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas, as authorized by section 220 of Public Law 102-580; and in addition, $145,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, as authorized by laws, and the Secretary of the Army is directed to continue the second phase of construction of Locks and Dams 4 and 5; complete construction of Howard Capout, McDade, Elm Grove, Cecile, Curtis, Sunny Point, and Eagle Bend Phase I and Phase II revetments in Pools 4 and 5, and levee modifications in Pool 5, all of which previously directed to be initiated; and award continuing contracts in fiscal year 1994 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5,Piermont/Nicholas and Sunny Point Capouts, Lock and Dam 4 Upstream Dikes, Lock and Dam 5 Downstream Additional Control Structure, Wells Island Road Revetment, and construction dredging in Pool 4; all as authorized by laws, and the Secretary is further directed to provide annual reimbursement to the project's local sponsor for the Federal share of management costs for the Bayou Bodcau Mitigation Area as authorized by Public Law 101-640, the Water Resources Development Act of 1990

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

Mr. BEVILL. Mr. Speaker, I yield to the gentleman from Indiana [Mr. BURTON] if he wishes to debate the motion.

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, there are 32 specific projects that were either in the House or Senate bills. Are any of these new projects?

Mr. BEVILL. Mr. Speaker, they are all authorized.

Mr. BURTON of Indiana. I understand that, Mr. Speaker, but are any of them new projects?

Mr. BEVILL. They were either in the House or the Senate bill.

Mr. BURTON of Indiana. I understand that, Mr. Speaker, but I would just like to know if there are new projects, new from last year, and, if there are, I would just like to know what they are real quickly.

Mr. BEVILL. Some are continuations from last year, and some are new projects.

Mr. BURTON of Indiana. Can the gentleman from Alabama tell me how many new projects there are?

Mr. BEVILL. How many new projects are there?

Mr. BURTON of Indiana. I would just like to know.

Mr. BEVILL. Mr. Speaker, I would be happy to get that information for the gentleman. It is a mixture of both, and, if the gentleman will just wait, we can get that information for him.

Mr. Speaker, there are about eight new ones.

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Mr. BURTON of Indiana. They were authorized last year as well?

Mr. BEVILL. They have been authorized, every one of them.

Mr. BURTON of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Without objection, the motion is agreed to.

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 9, line 20, after "programs" insert ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $5,000,000 of available funds to undertake and complete critical maintenance items for water supply of the Kentucky River Locks and Dams 5-14 and to transfer such facilities to the Commonwealth of Kentucky: *Provided further*, That the Secretary of the Army is directed during fiscal year 1994 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use Operation and Maintenance funds and complete, in coordination with the schedule for feasibility phase, studies to deepen the Columbia River navigation channel, long-term dredge disposal plans for the existing authorized Columbia River Navigation Channel project, including associated fish and wildlife studies.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 12, after line 5, insert:

SEC. 106. In fiscal year 1994, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with Government-owned dredges in fiscal year 1992.

Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 14, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 12, after line 5, insert:

SEC. 107. Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to reprogram, obligate and expend

such additional sums as necessary to continue construction and cover anticipated contract earnings of any water resources project which received an appropriation or allowance for construction in or through an appropriations Act or resolution of a current or last preceding fiscal year, in order to prevent the termination of a contract or the delay of scheduled work.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 12, after line 5, insert:

SEC. 109. (1) IN GENERAL.—The Secretary of the Army is authorized to convey to the City of Galveston, Texas, fee simple absolute title to a parcel of land containing approximately 605 acres known as the San Jacinto Disposal Area located on the east end of Galveston Island, Texas, in the W.A.A. Wallace Survey, A-647 and A-648, City of Galveston, Galveston County, Texas, being part of the old Fort Jacinto site, at the fair market value of such parcel to be determined in accordance with the provisions of paragraph (4). Such conveyance shall be made at the discretion of the Secretary of the Army upon the agreement of all interested parties.

(2) COMPENSATION FOR CONVEYANCE.—Upon receipt of compensation from the City of Galveston, the Secretary shall convey the parcel as described in paragraph (1). Such compensation shall include—

(A) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, City of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States. The fair market value of such parcel will be determined in accordance with the provisions of paragraph (4); and

(B) payment to the United States of an amount equal to the difference in the fair market value of the parcel to be conveyed pursuant to paragraph (1) and the fair market value of the parcel to be conveyed pursuant to paragraph (2)(A).

(3) DISPOSITION OF SPOIL.—Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement between the United States of America and the City of Galveston dated October 18, 1973. Upon conveyance of the parcel described in paragraph (1), the Department of the Army shall be compensated directly for any anticipated costs which may be incurred in site preparation and in the disposition of spoil in excess of the present value of current costs of spoil disposition.

(4) DETERMINATION OF FAIR MARKET VALUE.—The fair market value of the land to be conveyed pursuant to paragraphs (1) and (2) shall be determined by independent appraisers using the market value method.

(5) NAVIGATIONAL SERVITUDE.—Those portions of a 605-acre parcel of land known as the San Jacinto Disposal Area and more fully described in paragraph 1, supra, are declared to be nonnavigable waters of the United States.

(6) SURVEYS AND STUDIES.—The 605-acre parcel and the 564-acre parcel shall be surveyed and further legally described prior to conveyance. Not later than 60 days following enactment of this Act, if it deems it necessary, the Secretary of the Army shall complete a review of the applicability of section 404 of the Clean Water Act to the said parcels.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 108. (a) IN GENERAL.—The Secretary of the Army is authorized to convey to the City of Galveston, Texas, fee simple absolute title to a parcel of land containing approximately 605 acres known as the San Jacinto Disposal Area located on the east end of Galveston Island, Texas, in the W.A.A. Wallace Survey, A-647 and A-648, City of Galveston, Galveston County, Texas, being part of the old Fort San Jacinto site, at the fair market value of such parcel to be determined in accordance with the provisions of subsection (d). Such conveyance shall only be made by the Secretary of the Army upon the agreement of the Secretary and the City as to all compensation due herein.

(b) COMPENSATION FOR CONVEYANCE.—Upon receipt of compensation from the City of Galveston, the Secretary shall convey the parcel as described in subsection (a). Such compensation shall include—

(1) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, City of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States. The fair market value of such parcel will be determined in accordance with the provision of subsection (d); and

(2) payment to the United States of an amount equal to the difference of the fair market value of the parcel to be conveyed pursuant to subsection (a) and the fair market value of the parcel to be conveyed pursuant to paragraph (1) of this subsection.

(c) DISPOSITION OF SPOIL.—Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement (LCA) between the United States of America and the City of Galveston dated October 18, 1973, as amended. Upon conveyance of the parcel described in subsection (a), the Department of the Army shall be compensated directly for the present value of the total costs to the Department for disposal of dredge material and site preparation pursuant to the LCA, in excess of the present value of the total costs that would have been incurred if this conveyance had not been made.

(d) DETERMINATION OF FAIR MARKET VALUE.—The fair market value of the land to be conveyed pursuant to subsections (a) and (b) shall be determined by independent appraisers using the market value method.

(e) NAVIGATIONAL SERVITUDE.—

(1) DECLARATION OF NONNAVIGABILITY; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the parcel described in subsection (a) are not in the public interest then, subject to paragraphs (2) and (3), such parcel is declared to be nonnavigable waters of the United States.

(2) LIMITS ON THE APPLICABILITY: REGULATORY REQUIREMENTS.—The declaration under paragraph (1) shall apply only to those parts of the parcel described in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(3) EXPIRATION DATE.—If, 20 years after the date of the enactment of this Act, any area or part thereof described in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in paragraph (2), or if work in connection with any activity permitted in paragraph (2) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(f) SURVEY AND STUDY.—The 605-acre parcel and the 564-acre parcel shall be surveyed and further legally described prior to conveyance. Not later than 60 days following enactment of this Act, if he deems it necessary, the Secretary of the Army shall complete a review of the applicability of section 404 of the Federal Water Pollution Control Act to the said parcels.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 12, line 13, after "Act" insert "and for feasibility studies of alternatives to the Unitah and Upalco Units".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 20, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 13, after line 2, insert:

In addition, for necessary expanse incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,000,000, to remain available until expended.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 20, line 11, after "development" insert ", of which $4,500,000 shall be derived by transfer from the Geothermal Resources Development Fund.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 29, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 30: Page 20, strike out lines 13 to 17 and insert:

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for residual uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102-486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary and payment to the Tennessee Valley Authority under the settlement agreement filed with the United States Claims Court on December 18, 1987; purchase of passenger motor vehicles (not to exceed 5, of which 5 are for replacement only), $247,092,000, to remain available until expended: *Provided*, That revenues received by the Department for residual uranium enrichment activities authorized by section 201 of Public Law 95-238, and estimated to total $70,000,000 in fiscal year 1994, shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities, notwithstanding section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1994 so as to result in a final fiscal year 1994 appropriation estimated at not more than $177,092,000.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 30, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 21, strike out all after line 1 down to and including "obligated" in line 4 and insert "and in addition, an estimated $49,679,000 in unexpended balances, consisting of an estimated $6,267,000 of unobligated balances and an estimated $43,412,000 of obligated".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the amendment is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 31, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 32: Page 21, line 6, after "expenses" insert "*Provided*, That at least $40,600,000 of amounts derived from the fund for such expenses shall be expended in accordance with title X, Subtitle A of the Energy Policy Act of 1992".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the amendment is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 32, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 33: Page 21, line 17, strike out "$1,194,114,000 and insert "$1,615,114,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

$975,114,000, to remain available until expended, and, in addition, $640,000,000, to remain available until expended, to be used only to orderly terminate the Superconducting Super Collider (SSC) project under terms and conditions as follows:

(1) to the extent provided by guidelines of the Secretary of Energy, full-time employees of contractors and designated subcontractors whose employment is terminated by reason of the termination of the SSC may receive (A) up to 90 days termination pay dating from the date of termination notice, and (B) reasonable relocation expenses and assistance;

(2) the Secretary of Energy shall prepare and submit a report with recommendations to the President and the Congress containing:

(a) a plan to maximize the value of the investment that has been made in the project and minimizing the loss to the United States and involved states and persons, including recommendations as to the feasibility of utilizing SSC assets in whole or in part in pursuit of an international high energy physics endeavor;

(b) the Secretary is authorized to consult with and use Universities Research Association and/or other contractors and/or recognized experts in preparing this report and recommendations and is authorized to contract with such parties as may be appropriate in carrying out such duties; and

(c) the Secretary shall release any recommendations from time to time as available, but the final report shall be submitted by July 1, 1994; and

(3) nothing herein or any action taken under this authority shall be construed to change the Memorandum of Understanding between the Secretary of Energy and the State of Texas dated November 9, 1990, regarding the project.

, and on page 21, line 17, of the House engrossed bill (H.R. 2445) strike all after "$1,194,114,000" down to and including "expended" on line 18.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I reserve my time.

The SPEAKER pro tempore. Is the gentleman from Indiana [Mr. BURTON] opposed to the motion?

Mr. BURTON of Indiana. Mr. Speaker, I am opposed.

The SPEAKER pro tempore. The gentleman from Indiana is recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last year we spent approximately $900 million for functions in the general science and research activities in the Department of Energy for things other than the superconducting super collider.

I understand that there is $640 million that has been allocated to terminate the SSC by the conference committee. I think most Members of the body support that. But I have a question I would like to ask the chairman, the gentleman from Alabama [Mr. BEVILL], if I might engage him in a brief colloquy.

Mr. Speaker, I would ask the chairman, this is about 35 percent above the House-passed bill for this section, and it is 13 percent above last year. If you take out the amount of money for closing down the superconducting super collider, $640 million, that leaves about $975 million for the other functions of this department. That is about $75 million above last year.

Mr. Speaker, I would ask the gentleman from Alabama [Mr. BEVILL], can he tell me what that extra $75 million is being spent for?

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

Mr. BURTON of Indiana. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, it is mostly for the termination of the superconducting super collider, as well as the B-factory.

Mr. BURTON of Indiana. I am sorry, I just said that the $640 million I am taking out of this. We know the $640 million is for the SSC closure. We understand that. There is $975 million for other functions. That is about $75 million above last year.

Mr. BEVILL. Mr. Speaker, we had $517 million last year, $640 million this year, for the SSC.

Mr. BURTON of Indiana. I understand that.

Mr. BEVILL. Maybe I do not understand the gentleman's question.

Mr. BURTON of Indiana. Mr. Speaker, let me rephrase my question a little differently. If you take out the SSC last year and this year, total, there was $90 million last year for other functions in the general science and research area in the Department of Energy. This year it is $975 million. So it is $75 million more this year than last year.

What I am asking is what was that $75 million for?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, the increase is for high energy physics operation, and $36 million for the new facility called the B-factory.

Mr. BURTON of Indiana. B-factory?

Mr. BEVILL. B-factory.

Mr. BURTON of Indiana. Where is that located?

Mr. BEVILL. California.

Mr. BURTON of Indiana. What is the purpose of that facility?

Mr. BEVILL. Mr. Speaker, it is high energy physics research.

Mr. BURTON of Indiana. Is it a new project?

Mr. BEVILL. Yes, it is.

Mr. BURTON of Indiana. Was this authorized?

Mr. BEVILL. Yes, it is authorized.

Mr. BURTON of Indiana. It is $36 million for a new project?

Mr. BEVILL. $36 million, yes.

Mr. BURTON of Indiana. In California. Who requested that?

Mr. BEVILL. If the gentleman will continue to yield, it was requested by the Department of Energy.

Mr. BURTON of Indiana. Mr. Speaker, it just seems surprising to me if we are closing down the SSC, why we would be starting a new facility of this type down there. What is the function of that facility?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, the total cost of this project is approximately $300 million. This is for high energy research and was recommended by the U.S. Department of Energy and by the administration.

Mr. BURTON of Indiana. This is the first part, some $30 million? How much did the gentleman say it would cost this year?

Mr. BEVILL. Mr. Speaker, $36 million for construction, and another $10 million or $15 million will be used for research.

Mr. BURTON of Indiana. Where is it located in California?

Mr. BEVILL. Stanford University.

Mr. BURTON of Indiana. Mr. Speaker, reclaiming my time, I thank the gentleman for answering those questions.

Mr. Speaker, I guess the concern that I have is that at a time when we are having these fiscal problems, we need to be very, very careful about where we are spending taxpayer dollars. I doubt that anybody in the Chamber really knows where this $75 million is going to be spent. I understand now that some $30 million of it is the first part of a $300 million expenditure for an energy facility there.

Mr. Speaker, I think before I could vote for that, I would have to know a little bit more about it. I will have to oppose this because of that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, the gentleman from Indiana [Mr. BURTON] has asked a very legitimate question that all Members should have, and the chairman has answered it. Of course, $133 million is the increase in costs for termination of the SSC. The B-factory, which is to be built in California, is $36 million. We have high energy physics here, including the Fermi Lab outside of Chicago, where we are increasing the capacity of the injector.

Mr. Speaker, if we are not going to do the project in Texas, there are some high energy physics programs that will have to be done somewhere else. We will not be able to do the same work in the Fermi Lab outside of Chicago that the Texas project would have done.

Nevertheless, we have had to increase some of these projects to keep up with world competition in research.

Mr. BURTON of Indiana. If the gentleman would yield, we took out the $640 million this year and the $517 million last year for the superconducting super collider.

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That left an increase of $75 million. I checked with the staff so we have a $75 million increase. He said that $30 million was going to go for the facility in California.

Mr. MYERS of Indiana. Thirty-six million.

Mr. BURTON of Indiana. Mr. Speaker, that still leaves about $39 million. I do not think many Members of the body are really familiar with these. And with us trying to economize by cutting out the super collider, which was the latest technology in scientific research, I am sure a lot of Members would want to question why we are going to spend $36 million for another facility of a similar nature but smaller in California and for other research like this, when we are cutting out the super collider.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will look in the committee report on pages 104, 105, and on down, it tells specifically, if the gentleman wants to get the specifics, of what programs have been increased. Some were cut back. Some were already completed. But much of it is high energy physics in this general category.

Mr. BURTON of Indiana. Mr. Speaker, the one in California is a new project, a new project for $36 million.

Mr. MYERS of Indiana. Mr. Speaker, that is a new project. But the Fermilab in Chicago is not a new project. We have been working on it for quite some time. Plus we have been working on the B-factory. This is the first time that we have put construction money in for it, yes.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). All time has expired.

Pursuant to the order of the House today, the previous question is ordered on the motion.

The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 227, nays 190, not voting 16, as follows:

[Roll No. 527]

YEAS—227

Ackerman
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (LA)
Ballenger
Barlow
Barton
Bateman
Becerra
Beilenson
Bentley
Bevill
Bilbray
Bishop
Bliley
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bunning
Byrne
Callahan
Calvert
Cantwell
Cardin
Carr
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Cooper
Coyne
Cramer
Darden
DeLauro
DeLay
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
English (AZ)
English (OK)
Eshoo
Everett
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gallo
Gejdenson
Gibbons
Gilman
Gingrich
Gonzalez
Gordon
Grams
Greenwood
Gunderson
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Houghton
Hoyer
Huffington
Hughes
Hunter
Hyde
Inslee
Istook
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennelly
Kildee
Klein
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Laughlin
Lazio
Lehman
Levin
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McDade
McDermott
McNulty
Meehan
Meek
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Pelosi
Peterson (FL)
Quinn
Rahall
Reed
Richardson
Rogers
Rowland
Roybal-Allard
Rush
Sabo
Sarpalius
Sawyer
Schenk
Schiff
Schumer
Scott
Serrano
Shays
Shepherd
Shuster
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stokes
Studds
Swift
Synar
Tanner
Tauzin
Thornton
Torres
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Watt
Waxman
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NAYS—190

Allard
Andrews (ME)
Andrews (TX)
Baker (CA)
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bereuter
Bilirakis
Blute
Boehner
Bryant
Burton
Buyer
Camp
Canady
Castle
Chapman
Clay
Coble
Collins (GA)
Combest
Condit
Conyers
Coppersmith
Costello
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Evans
Ewing
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Glickman
Goodlatte
Goodling
Goss
Grandy
Green
Gutierrez
Hall (OH)
Hall (TX)
Hancock
Hastert
Hefley
Herger
Hobson
Hoke
Holden
Hutchinson
Hutto
Inglis
Inhofe
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnston
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kyl
LaRocco
Leach
Levy
Lewis (CA)
Lewis (FL)
Linder
Lipinski
Machtley
Manzullo
McCollum
McCurdy
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
Menendez
Meyers
Mfume
Mica
Miller (FL)
Minge
Moorhead
Nussle
Orton
Oxley
Packard
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Ramstad
Rangel
Ravenel
Regula
Reynolds
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Sangmeister
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Sharp
Shaw
Sisisky
Skelton
Smith (MI)
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Valentine
Walker
Washington
Waters
Weldon
Wheat
Wyden
Young (AK)
Zeliff

NOT VOTING—16

Abercrombie
Berman
Blackwell
Brown (CA)
Clement
Dingell
Dornan
Engel
Gephardt
Horn
Kennedy
Porter
Price (NC)
Ridge
Rose
Rostenkowski

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Messrs. HOBSON, CHAPMAN, KNOLLENBERG, PORTMAN, SWETT, PACKARD, and BRYANT, Mrs. SCHROEDER, Messrs. McCURDY, PAXON, WHEAT, THOMAS of Wyoming, and KIM, Ms. KAPTUR, and Messrs. ROHRABACHER, GOODLATTE, FOGLIETTA, and GUTIERREZ changed their vote from "yea" to "nay."

Mr. LIVINGSTON, Ms. MARGOLIES-MEZVINSKY, Mrs. CLAYTON, and Messrs. MURTHA, ROWLAND, SMITH of Texas, and STOKES changed their vote from "nay" to "yea."

So the motion was agreed to

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 36: Page 22, strike out lines 4 to 22, and insert:

For the nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $260,000,000 to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise her authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,500,000 may be provided to the State of Nevada, for the sole purpose of conduct of its scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $7,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That within ninety days of the completion of each Federal fiscal year, each State or local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That none of the funds herein appropriated may be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That none of the funds provided under this Act shall be made available for Phase II-B grants to study the feasibility of siting a Monitored Retrievable Storage Facility unless the Nuclear Waste Negotiator has first certified to the Secretary of Energy that there is a reasonable likelihood that agreement can be reached among all of the relevant governmental officials in the vicinity of any proposed site.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For the nuclear waste disposal activities to carry out the purposes of Public Law 97-425,

as amended, including the acquisition of real property or facility construction or expansion, $260,000,000 to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise her authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,500,000 may be provided to the State of Nevada, for the sole purpose of conduct of its scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $7,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That within ninety days of the completion of each Federal fiscal year, each State or local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That none of the funds herein appropriated may be used to support multistate effects or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That none of the funds provided under this Act shall be made available for Phase II-B grants to study the feasibility of siting a Monitored Retrievable Storage Facility.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 24, line 7, after "expended" insert ": *Provided*, That a total of $8,000,000 shall be transferred from this account to the Environmental Protection Agency for the implementation of the Waste Isolation Pilot Plan Land Withdrawal Act of 1992 and the development of cleanup standards to guide the Department of Energy's environmental restoration efforts".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recedes from its disagreement to the amendment of the Senate numbered 39, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 2403, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

Mr. HOYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 48) to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2403), entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes" the Clerk of the House of Representatives is requested to make the following correction:

In the matter under the heading:

"GENERAL SERVICES ADMINISTRATION
FEDERAL BUILDINGS FUND

"LIMITATIONS ON AVAILABILITY OF REVENUE"

under title IV under the heading "INDEPENDENT AGENCIES" strike out the following proviso: ": *Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works" and insert in lieu thereof ": *Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation or the Senate Committee on Environment and Public Works".

Mr. LIGHTFOOT (during the reading). Mr. Speaker, I ask unanimous consent that the Senate concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Iowa?

There was no objection.

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

Mr. LIGHTFOOT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Maryland [Mr. HOYER], chairman of the subcommittee, for an explanation of the resolution.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this simply changes an "and" to "or," so that either the House Committee on Public Works and Transportation or the Senate Committee on the Environment and Public Works prohibit the use of funds for the public works projects included in the Treasury-Postal Service and General Government appropriations bill for 1994.

Mr. LIGHTFOOT. Mr. Speaker, I thank the chairman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

NATIONAL BIOLOGICAL SURVEY ACT OF 1993

The SPEAKER pro tempore. Pursuant to House Resolution 262, 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. 1845.

□ 1449

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. 1845) to establish the Biological Survey in the Department of the Interior, with Mrs. MINK in the chair.

The Clerk read the title of the bill.

□ 1450

The Clerk will read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 6, 1993, the amendment offered by the gentleman from North Carolina [Mr. TAYLOR] had been disposed of and section 6 was open to certain amendments.

Are there further amendments to section 6?

Mr. STUDDS. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time solely to inform Members that with a little bit of luck we should be able to

move to the completion of this bill fairly expeditiously. We are aware of some 8 or 10 amendments, some of which we believe to be subject to a point of order, many of which, in fact most of which, we intend to support.

It is my hope, and I suspect this is shared by the other members of the committee on both sides of the aisle, that with just a modicum of self-restraint here we can move and surprise ourselves by how quickly we dispose of the bill.

Madam Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: In section 6, insert after subsection (b) the following (and redesignate the subsequent subsection accordingly):

(c) LIMITATION ON USE OF INFORMATION.—Information that is collected by the Survey from non-Federal real property may not be used by the Survey, and may not be provided by the Survey to any other person, unless—

(1) The Secretary has provided to the owner of the property—

(A) access to the information;

(B) a detailed description of the manner in which the information was collected; and

(C) an opportunity to dispute the accuracy of the information; and

(2) if the owner of the property disputes the information pursuant to subparagraph (C), the Secretary determines that the information is accurate.

Mr. TAUZIN (during the reading). Madam 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 Louisiana?

There was no objection.

Mr. TAUZIN. Madam Chairman, this amendment is important in protecting the rights of the affected landowners who do allow the surveyors to enter their land and then later find that the information gathered by the survey may be either outdated or inaccurate. The amendment simply creates a safeguard to prevent inaccurate or outdated information from later being used by the agency, other than the Survey, in a manner that would cause them harm. It does no harm to the work of the Survey. It simply gives the right of appeal to the information and an opportunity to dispute that information with the Secretary and then to insure that the Secretary later actually is required to determine that the information is either correct or incorrect before any actions may flow from that Survey.

I would urge adoption of the amendment.

Mr. STUDDS. Madam Chairman, would the gentleman yield?

Mr. TAUZIN. I yield to the chairman.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, I would like to thank the gentleman for his revision of the amendment, which makes it acceptable to us.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, on the minority side we think the amendment is well reasoned and needed, and we are happy to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS: At the end of section 6, as amended by the Taylor Amendment, insert the following new subsection:

"(f) The Director shall notify in writing the relevant State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b), or the successors to such committees, in a timely manner and prior to the Survey entering onto non-federal real property for which the State and county committee maintain records or have responsibility as provided in programs administered by the Secretary of Agriculture.

Mr. ROBERTS (during the reading). Madam 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 Kansas?

There was no objection.

Mr. ROBERTS. Madam Chairman, this amendment is relatively simple, it merely directs that the Director of the National Biological Survey shall notify the State Agricultural Stabilization and Conservation Service [ASCS] Committee and the county committee in a timely manner and prior to the survey [NBS] employees entry on non-Federal real property over which such State and county committees maintain records or have been delegated responsibilities under agricultural programs administered by the Secretary of Agriculture.

There are 15 Federal Agriculture Department plans that may be currently requested or carried out by farmers and ranchers on their lands under programs administered by the Secretary of Agriculture. Thus, farmers and ranchers and their lands are being planned, examined and studied extensively under several existing laws. The result is that these committees are extensively involved at the present time with conservation, environmental, and biological activities on farms and ranches operated by tenants and/or owners and held and maintained as non-Federal real property.

The purpose of this legislation is stated to be "to provide a national focus for research and monitoring of America's biological and natural resources on an ecosystem bases" and as noted the Secretary of Agriculture administers several programs that are directly or indirectly related to the bill's purpose through these State and county committees. Notice of survey activities in the States and counties will be beneficial to the Department of Agriculture as well as the individual farm owners and/or operators who obtain much of the data about their soil, conservation practices et cetera from these State and county committees.

The Secretary of Agriculture or his representative will serve on the National Biological Survey Science Advisory Council created by this bill and no doubt U.S. Department of Agriculture agencies will be among those who may be requested to cooperate with the Director of the National Biological Survey.

This amendment will merely give the State ASCS committees and the county ASCS committees an opportunity to be aware and informed when non-Federal real property—millions of acres—for which they administer programs, is about to be subjected to a biological survey. The National Biological Survey should also provide information to the State and county committees as to what data it seeks and how the data will be used.

I urge the Members to support my amendment.

Madam Chairman, I submit the following material for inclusion in the RECORD.

COMMON USDA CONSERVATION/ENVIRONMENTAL PLANS

The following are the primary USDA conservation or environmental plans:

1. Voluntary Conservation Plan—Resource Management System. SCS provides resource planning assistance upon request by a land owner or user. The plan is a set of landowner decisions that meet Field Office Technical Guide quality criteria for the safe use and management of soil, water, air, plant, and animal resources. The decisions reached as a result of the planning process are recorded in a conservation plan, which describes treatment needs and a schedule for implementation. A copy of this plan is provided to the customer.

2. Conservation Compliance Plan. This is a plan developed by a producer with the technical assistance of the Soil Conservation Service to meet the requirements of the Food Security Act. The plan is a record of decisions that describes treatment needs and a schedule for implementation. It is based on the Field Office technical Guide but addresses only soil erosion on highly erodible lands.

3. Conservation Reserve program plan (CRP). SCS helps CRP applicants develop specific conservation plans for acreage accepted into the program. The plan contains, as a minimum, the conservation practices required for establishment and maintenance of permanent vegetative cover over the 10–15 year contract period. Other specifics include, but are not limited to: (a) application schedule for practices, (b) cost-shared amounts, (c) a conservation plan map, (d) job sheets, (e) standards and specifications, and (f) maintenance of the vegetation. Before acceptance,

the plan must be signed by the participant, SCS technical representative, the soil conservation district, and the county ASCS committee representative.

4. Agricultural Conservation Program (ACP). Long-Term Agreement (LTA) plans are multi-year conservation plans developed by the land owner or user with technical and cost-share assistance authorized under the Agricultural Conservation Program (ACP). The participant requests planning assistance and describes the conservation and/or environmental problem occurring on the farm. SCS helps the participant determine the resource management system and practices required to bring soil loss and water quality to acceptable standards for all, or a portion, of the farm.

5. Water Quality Incentives Project (WQIP) Plan. With SCS assistance, land owners must develop Water Quality Resource Management Plans (WQRMP) to meet ASCS program requirements for achieving source reductions of agricultural pollutants for water quality purposes. This resource management plan includes an assessment of the resources and management and structural measures needed to achieve those reductions on an entire tract or tracts owned or operated by the applicant within a specified (watershed) project area. The plan typically includes management practices such as nutrient, pest, and animal waste management, conservation tillage, irrigation water management, and stripcropping. The plan is reviewed and approved by SCS and the local Conservation District, is consistent with conservation compliance goals, and becomes the basis for 3- to 5-year contracts with operators.

6. Watershed Protection and Flood Prevention Act (P.L. 566) Land Treatment Watersheds. Long-term contracts (LTCs) for P.L. 566 use the same policy and procedures as do those prepared for the Great Plans Conservation Program (see below), except that the P.L. 566 LTCs cover only the land operated by the participant and the specific problems identified in the watershed work plan. The work plan contains a list of conservation practices that address, typically, cropland problems. Treatment may or may not achieve the resource base protection level, depending on the workplan objections.

7. Great Plains Conservation Program (GPCC) Planning Principles. The GPCP Conservation Plan of Operations includes all the land in the participant's operating unit. The plan contains all the required practices, existing practices (if any) to be maintained, and new practices—some of which will be cost shared some will not. These new practices are scheduled for completion over a 3- to 10-year period. The plan, when signed by the contracting officer, becomes part of a legal and binding contract between the Federal Government and an individual farmer or rancher.

8. Wetland Reserve Program (WRP). The Wetlands Reserve Program Plan of Operations is developed by the landowner (WRP applicant) with assistance from the Soil Conservation Service, Fish and Wildlife Service, and possibly others. The plan calls for protection, restoration, and management of wetlands that are entered in the WRP. This plan of operation must be signed by the participant, FWS representative, SCS district conservationist, local conservation district, and ASCS.

9. Water Bank Program. The Water Bank Program is designed to preserve and improve the major wetlands as habitat for migratory waterfowl and other wildlife in designated areas. The Soil Conservation Service assists the land user in developing a plan that reduces and conserves surface runoff, protects the soil from wind and water erosion, improves water quality, reduces flooding, promotes water management, and enhances the natural beauty of the landscape. Land owners sign 10-year, renewable agreements.

10. Integrated Farm Management Program. The Integrated Farm Management Program Option Plan is administered by ASCS with technical assistance provided primarily by SCS. The objective of the program is to improve and conserve soil and water on farms. Plans prescribe Resource Conservation Crops (RCC) rotations, tillage systems, soil conservation practices, nutrient management strategies, integrated pest management strategies, animal waste systems, and health and safety considerations. The 3- to 5-year, renewable contracts contain elements that address (a) the specific acreage and crop bases enrolled; (b) acreage and location of the RCC per year, and (c) scheduling of practices for implementation, improvement, and maintenance of the RCC.

11. Colorado River Salinity Control Program Plans. SCS helps applications for the Colorado River Basin Salinity Control Program develop salinity control plans for eligible land. The plan specifies the salinity reduction practices that are the most cost-effective for: (1) Reducing salt loading from a unit of land; (2) reducing erosion or seepage to a degree which significantly benefits salinity control; and (3) voluntarily replacing incidental fish and wildlife values foregone. The salinity control plan also includes a schedule of completion dates for installation of the salinity reduction practices and the specifications of such practices.

12. Wetlands Restoration/Mitigation Plans. These plans are developed, generally with the assistance of the Soil Conservation Service, to restore all of a converted wetland's functions and values or to mitigate the losses of wetland's functions and values caused by a conversion activity. These plans must be approved by the SCS and the Fish and Wildlife Service and be fully implemented within 12 months for a farmer to regain eligibility for USDA benefits.

13. Rural Clean Water Program (RCWP) Plans. This ten year experimental program, initiated in 1980, was designed to address agricultural nonpoint source pollutants for the improvement of water quality. There are 21 projects nationwide where site specific RCWP plans were developed to reduce agricultural pollutant loads to surface and ground waters using both structural and non-structural practices. No new plans are being developed and an evaluation of this program is underway.

14. Rural Abandoned Mine Program (RAMP) Plans. The RAMP Plan of Operation is developed by the landowner with assistance from SCS. The plan contains all the required practices necessary to stabilize the abandoned coal mined land to agricultural uses. These practices are scheduled for completion according to a specific, 5- to 10-year period. The plan, when signed by the contracting office, becomes a part of a legal and binding contract between the Federal Government and the landowner.

15. Stewardship Incentive Program. The Stewardship program encourages and assists owners of private forest land. The stewardship plan is an action-oriented, multidisciplinary document that includes landowners objectives, records the resource management decisions, and recommends resource practices. The plan considers fish and wildlife habitat, enhancement of threatened and endangered species, soil and water resources, wetlands, recreation and esthetics, and timber management and harvesting. The stewardship plan is developed by the Division of Forestry, however, existing Voluntary Conservation Plan (SCS) and Tree Farm Plans (American Forest Foundation) are acceptable stewardship plans.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the chairman of the committee.

Mr. STUDDS. I thank the gentleman for yielding.

Madam Chairman, we are perfectly happy to accept the amendment.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, we on the minority side have had the opportunity to review the amendment. We think it is a good amendment, and I am happy to accept the amendment offered by my good friend.

Mr. ROBERTS. I thank the gentlemen for their support, and I ask for adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. ROBERTS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAYES: In section 6 insert after subsection (b) the following (and redesignate the subsequent subsection accordingly):

(c) IMMUNITY FROM CIVIL LIABILITY.—The owner of privately-owned property is not liable for any costs, fees, or damages under any State or Federal law for any injury incurred by a person in performing any activity on the property as an officer, employee, or agent of the Survey (including the performance of an activity pursuant to a contract or cooperative agreement with the Survey), other than an injury caused by the gross negligence or willful misconduct of the owner.

Mr. HAYES (during the reading). Madam 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 Louisiana?

There was no objection.

Mr. HAYES. Madam Chairman, the language of this particular amendment involving civil liability for private landowners has been shown to the chairman of the committee as well as the ranking member of the minority, and it simply says that the private landowner is not responsible for the actual missions of the persons on their property in conjunction with the taking of the biological survey with the sole exception of gross negligence or willful misconduct. That is language which we have agreed to and which I

believe the chairman is accommodating and willing to accept.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. HAYES. I yield to the chairman of the committee.

Mr. STUDDS. I thank the gentleman for yielding.

Madam Chairman, the gentleman is correct, and we are delighted to accept his amendment.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, as with the other amendments, we have had the opportunity on the minority side to review the amendment. We think the amendment has merit, and we are happy to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Assistant Secretary" means the Assistant Secretary for Fish and Wildlife of the Department of the Interior established under section 3 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742b);

(2) the term "biological resources" means plants, fish, invertebrates, and wildlife, and the terrestrial, aquatic, and marine ecosystems in which they occur;

(3) the term "Director" means the Director of the National Biological Survey appointed under section 3(b);

(4) the term "Secretary" means the Secretary of the Interior;

(5) the term "Survey" means the National Biological Survey established under this Act; and

(6) the term "Tribal government" means the government of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

The CHAIRMAN. Are there amendments to section 7?

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: Delete Section 7(2) and insert the following:

"(2) the term 'biological resources' means plants, fish, invertebrates, and wildlife inhabiting terrestrial, aquatic, and marine ecosystems."

Mr. TAUZIN. Madam Chairman, I would hope that the Members pay close attention to the definition of the term "biological resources." The term is used throughout the act. The National Biological Survey will be collecting and analyzing data about biological resources. The definition in the substitute bill is different from the definition adopted in the Merchant Marine and Fisheries Committee and the Natural Resources Committee. In the Merchant Marine and Fisheries draft, there was no definition of that term in the draft bill presented to the committee. In the Natural Resources Committee report, the term is defined as "plants, fish, invertebrates, and wildlife inhabiting terrestrial, aquatic, and marine ecosystems." The ecosystems themselves are not part of the definition of biological resources.

In the substitute that is before the House, the word "and" has been strategically placed so that biological resources now include not only the plants, fish, invertebrates, and wildlife, but also the terrestrial, aquatic, and marine ecosystems in which they occur. This means that land, water, and air are now biological resources.

I would amend the definition so that the definition adopted by the committees of jurisdiction is the controlling definition. This means that only the animals, plants, fish, and wildlife are considered to be the biological resources, and not the ecosystems in which they occur.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the chairman.

Mr. STUDDS. I thank the gentleman for yielding.

Let me say to the gentleman I am aware that the concern caused the gentleman by the original definition in the bill, and although it was not the intention, as I understand it, of the drafters of the bill to suggest anything that might legitimately raise a concern, the gentleman's concern nonetheless was real and the way he has redrafted it so far as I know is consistent with the original intent, and I am happy to support the amendment.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, as I understand this amendment, what it does is clarify what the real definition is and explains more fully what the real scope is of this legislation. Is that correct?

Mr. TAUZIN. The gentleman from Texas is abundantly correct. It clarifies and defines this bill as being true biological resources to be surveyed.

Mr. FIELDS of Texas. Well, if the gentleman will yield further, on the minority side we have no objection to this amendment and urge its passage.

Mr. TAUZIN. I thank the gentleman from Massachusetts and the gentleman from Texas.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

□ 1500

The CHAIRMAN. Are there further amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. CONFORMING AMENDMENTS.

(a) TITLE 5.—Section 5316 of title 5, United States Code, is amended by inserting after the item relating to the Director, United States Fish and Wildlife Service, Department of the Interior, the following:

"Director of the National Biological Survey, Department of the Interior.".

(b) NATIONAL WETLANDS INVENTORY.—Section 401(a) of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3931(a)) is amended—

(1) by striking "the United States Fish and Wildlife Service" and inserting "the National Biological Survey"; and

(2) in paragraph (1) by striking "the Service" and inserting "the National Biological Survey".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on the date that is 90 days after the date of the enactment of this Act, or such earlier date as is specified by the Secretary for purposes of section 3(b)(2)(H).

The CHAIRMAN. Are there any amendments to section 8?

If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. AUTHORIZATION AND REPORTS.

(a) CURRENT AUTHORIZATION.—

(1) FISCAL YEAR 1994.—For the fiscal year 1994, there are hereby authorized to be appropriated not to exceed $180,000,000 in order to carry out the purposes and provisions of this Act.

(2) FISCAL YEARS 1995, 1996, 1997.—For fiscal years 1995, 1996, and 1997, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of this Act.

(b) FUTURE AUTHORIZATIONS.—After January 1, 1998, no amounts shall be appropriated to carry out any program, function, or activity of the Survey under this or any other Act unless such amounts have been authorized to be appropriated by one or more Acts of Congress enacted after the date of enactment of this Act.

(c) PERIODIC REPORTS AND PROPOSALS.—

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Strike subsections (a) and (b) of section 9 of the amendment and insert the following:

(a) CURRENT AUTHORIZATIONS.—There are authorized to be appropriated—

(1) for Fiscal Year 1994, an amount not to exceed $170,319,000; and

(2) for Fiscal Year 1995, such sums as may be necessary to carry out the purposes of this Act.

(b) FUTURE AUTHORIZATIONS.—After September 30, 1995, no amounts shall be appropriated to carry out any program, function, or activity of the Survey unless those amounts have been authorized to be appropriated by an Act of Congress.

Mr. WALKER (during the reading). Madam 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 Pennsylvania?

There was no objection.

Mr. WALKER. Madam Chairman, I offer this amendment on behalf of myself and the gentleman from Texas [Mr. FIELDS].

The $170,319,000 authorization is based on the fiscal year 1994 appropriation for the National Biological Survey and the national wetlands inventory.

This figure represents a 20-percent increase over existing funding for these programs. There are other pressing needs in the Department of the Interior for management and stewardship of public lands which are not addressed in this legislation.

For example, the National Academy of Sciences issued a study last year expressing grave concern about the ability of the National Park Service to manage its resources effectively. Instead of addressing these needs, resources are being put into the National Biological Survey.

I am concerned that other research and management responsibilities within the Department will suffer.

Limiting the authorization to 2 years gives Congress the opportunity to assess the National Biological Survey and exercise its oversight responsibilities.

Essentially what we are doing here is cutting back a little bit of money, placing a limit on the funding, assuring that the authorization is sure enough that we can do it the right way.

I think we have agreement on this amendment. I am hopeful that we can move it quickly.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

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

Mr. FIELDS of Texas. Madam Chairman, I appreciate the gentleman yielding to me.

Madam Chairman, this amendment is very simple, yet very important. It would limit authorization for the survey to 2 fiscal years, 1994 and 1995.

I believe that we ought to take a very cautious attitude toward this survey until we have had the opportunity to review how it works, what impact it has on other agencies, and whether it really is a good idea. As we all too well know, sometimes an idea that seems to be good on paper turns out otherwise.

This amendment would allow the Survey 2 years to get organized. After that time Congress would have the opportunity to reexamine the Survey during the authorization process to determine whether the funding levels are adequate and whether the Survey deserves to be reauthorized at all. In the interim the committee will have the opportunity to conduct oversight hearings to determine the progress of the Survey.

For those who support this bill wholeheartedly my amendment does no harm. For those who are sceptical about it, my amendment will allow us the opportunity to revisit it next year.

I urge my colleagues to support the amendment.

Mr. WALKER. Madam Chairman, I want to thank the gentleman and his staff for working closely with us and helping us to craft this amendment and helping us come to the point where maybe we can be in agreement.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, I thank the gentleman for yielding to me.

Madam Chairman, I think this amendment is a reasonable one. I think it asks for us to take a look again in 2 years and it obviously reflects, as I suspect the gentleman just indicated, the amounts in the current appropriations process.

I would make one observation to my very good friend, the gentleman from Texas. In accepting this amendment of his jointly with the gentleman from Pennsylvania to reduce the sums in the bill, I must be in error here. My staff has just been given an amendment that the gentleman intends to offer later to increase the authorization again? That could not be, could it?

In any event, Madam Chairman, I support this amendment.

Mr. WALKER. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 9?

If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. RELATIONSHIP TO OTHER LAWS.

Except as provided in sections 3(b)(2)(I), 5(a), and 8, this Act shall not be construed to amend, repeal, supersede, or otherwise affect any other law.

The CHAIRMAN. Are there any amendments to section 10?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new sections:

SEC. . COMPLIANCE WITH BUY AMERICAN ACT

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known at the "Buy American Act").

SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Director of the National Biological Survey shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. . PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a fraudulent label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that was not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Madam 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 Ohio?

There was no objections.

Mr. TRAFICANT. Madam Chairman, this is a Buy American amendment. It requires notice to those individuals who receive any assistance under the act.

It also has a section that deals with prohibition of contracts whenever a product sold or shipped in the United States, but not made in the United States, was in fact given a label that would lead one to believe that it was made in America.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, surprised as we are by this amendment, we are delighted to accept it.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the ranking member, the gentleman from Texas.

Mr. FIELDS of Texas. Madam Chairman, I appreciate the gentleman yielding to me.

As always, the gentleman comes to the floor and makes a very good argument, a very strong argument.

On the minority side, we are happy to support the gentleman's amendment.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Madam Chairman, I thank the gentleman for yielding to me, and thank him for his amendment.

I would also like to suggest, these amendments are well and good, but until this country starts utilizing its manufacturing base and getting our workers back to work in our factories, until we start utilizing our resources, our minerals, our timber, and our lands and our agricultural capability like it says up above here, above the Speaker's chair, there will not be any jobs in America.

Madam Chairman, it is time for this Congress to wake up. There is only one real dollar, one new real dollar, and that comes from this Earth.

Every day I sit in the committee that I sit on, not this committee, not the Committee on Merchant Marine and Fisheries, every day I sit in the committee we take and buy more land and put it off the productive level. We take it off the tax rolls. We create parks and refuges and wilderness areas, but they create no dollars for the American worker. The man in the factory does not use those areas. He does not have a job.

I want to compliment the gentleman for the amendment, but this Congress has a responsibility to start understanding one thing. Talk does not create jobs. Mining does.

Mining creates jobs, trees create jobs, farming creates jobs, and American factories create jobs. That is what we should be addressing in this Congress.

Mr. TRAFICANT. Reclaiming my time, Madam Chairman, I would like to say, I agree with the gentleman, but there is one other thing that will create some jobs, and that is some reasonable policies and laws to give the American worker and the manufacturing infrastructure a chance.

So I agree with what the gentleman is saying and commend the gentleman for his leadership.

Madam Chairman, I yield back the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will remind all persons in the Gallery that they are here as guests of the House and that any manifestations of approval or disapproval of the proceedings is in violation of the rules of the House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 10?

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of the bill add the following:

SEC. . PRIVATE PROPERTY OWNER PROTECTION.

(a) PROHIBITION ON TAKINGS.—An action under this Act is not authorized if it constitutes a taking of private property under Article V of the Constitution.

(b) COMPENSATION FOR REDUCTION IN FAIR MARKET VALUE OF PROPERTY.—

(1) COMPENSATION REQUIRED.—The Secretary of the Interior shall, subject to subsection (c), compensate the owner of any privately-owned real property or interest in real property (including any proprietary water right, servitude, or easement) the fair market value of which is reduced 50 percent or more as a result of any limitation on use of the property resulting from any final qualified agency action, if requested by the owner of the property of interest.

(2) FORM OF COMPENSATION.—Compensation under paragraph (1) may be in the form of—

(A) payment of an amount equal to the reduction in value; or

(B) conveyance of property or an interest in property having a value equal to the reduction in value; as that form is agreed to by the Secretary and the owner.

(c) ACQUISTION OF PROPERTY BY UNITED STATES.—

(1) IN GENERAL.—In lieu of compensation required under subsection (b), the owner of any property or interest described in that subsection may request the Secretary to acquire the property or interest.

(2) CONSIDERATION.—If requested under paragraph (1) by the owner, the Secretary shall acquire the property or interest by providing to the owner consideration in the form of—

(A) payment of an amount equal to the fair market value of the property or interest on the day before the date of the final qualified agency action with respect to which the property or interest is acquired; or

(B) conveyance of real property or an interest in real property having a fair market value equal to that amount; as that form is agreed to by the Secretary and the owner.

(d) FUNDING.—

(1) REQUIREMENTS SUBJECT TO APPROPRIATIONS.—The requirements to pay compensation under subsection (b) and acquire property under subsection (c) are subject to the availability of appropriations.

(2) USE OF FUND.—Notwithstanding any other law, amounts in the Land and Water Conservation Fund may be used by the Secretary for—

(A) compensation required under subsection (b); and

(B) acquisitions of property and interests required under subsection (c).

(e) OTHER RIGHTS PRESERVED.—This section shall not be construed to preempt, alter, or limit the availability of any remedy for the taking of private property or an interest in private property that is available under the Constitution or any other law.

(f) DEFINITIONS.—In this subsection—

(1) the term "Land and Water Conservation Fund" means the fund established in section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5); and

(2) the term "qualified agency action" means an agency action (as that term is defined in section 551(13) of title 5, United States Code) that is—

(A)(i) under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(ii) under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(B) based on data, information, or research developed by the Survey.

Mr. TAUZIN (during the reading). Madam 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 Louisiana?

There was no objection.

Mr. STUDDS. Madam Chairman, I reserve a point of order against the amendment.

Mr. TAUZIN. Madam Chairman, this amendment does not specifically address the issue of takings, as it has been described by some in their communications with Members. It simply provides a new remedy where property has in fact been substantially devalued as a result of a decision under the Endangered Species Act, section 404 of the Clean Waters Act, the Wetlands Regulatory Program.

It allows in fact the use of the Land and Water Conservation Fund to compensate property owners for the loss of their property under the limited circumstances where in fact the property has been devalued by as much as 50 percent or more before this remedy could be made available.

All of the remedies would be retained, including the traditional Claims Court suits for the takings.

Under the fifth amendment the types of actions that would trigger this remedy include final agency actions to deny a section 404 wetlands permit property placed within a critical habitat designation that could not be used, and orders which restrict the use of private lands under the Endangered Species Act.

The remedy could be used for land acquisition or for the acquisition of habitat easements by the Department of the Interior.

Madam Chairman, the horrible truth is that the Land and Water Conservation Fund which is used to purchase private lands for public uses is being currently used today in a manner which gives no priority to lands which have been devalued by regulatory actions of the Federal Government.

In fact, the land and water acquisition fund in fact places no priority on those lands, in fact will buy other lands before these lands on the theory that the Government does not really need to acquire land that has been regulated to death, it already owns it in effect. That is a horrible, pernicious way to reward private property in America.

The Secretary of the Interior testifying before our committee on the issue of regulations which devalue personal private property testified that perhaps the best way to deal with this issue was to use the land and water conservation fund to actually purchase lands that are heavily burdened with Federal regulations, such as wetland laws or endangered species laws.

□ 1510

Madam Chairman, that is all this amendment does. It simply says that those lands should be given priority in Federal acquisition. It seems to me that, when the Federal Government comes along with a regulation designed

for the public good that takes away the majority of the use of a person's private property, that property ought to be a high priority for Federal acquisition. That is, in fact, the property we ought to be acquiring for the public good.

Instead, under the current criteria established by the agency, that land is the last priority because the Government knows something that my colleagues and I know, and the Government's regulations take away most of the use of the property; the public really has taken it, has actually taken it for public purposes, and, in fact, the private landowner has been denied the use of his land and, therefore, the true ownership of his land.

All we do with this amendment is say that when that occurs, that property ought to be a high priority for acquisition, not a low priority under the pernicious interpretation of the current agency decisions. All we say in this amendment is, when the Government actively takes someone's property by restricting it to death, that that property ought to be high on the list of Federal acquisition so that the landowner can get compensation as provided in the fifth amendment of our Constitution.

I will quote it for my colleagues, for the RECORD, for those who may not remember it. The fifth amendment in its last line says that private property shall not be taken for public purposes without just compensation. That is an exact quote, that is an exact quote. It does not say, "unless that property is a wetland." It does not say, "unless that property has a substantially threatened or endangered species on it." It says that when the Government comes along and takes someone's private property and converts it into public use for any good public purpose, that they are entitled to compensation in America.

Madam Chairman, all we do in this amendment is establish that the land and water conservation fund ought to be used to carry out that very important constitutional protection. All we say is that that property ought not be last on the list for acquisition; it ought to be on top of the list for acquisition.

Madam Chairman, I would urge that this amendment be adopted. I realize a point of order has been reserved against it, and the point of order will probably be made. But let me say something:

If when we survey the biological resources of America, if we cannot provide some balance here to make sure that private property rights under the fifth amendment are respected and that public funds in the land and water conservation fund are used to compensate landowners who are deprived of the use and value of their property as a result of all the public good we do in protecting wetlands and endangered species, then, my fellow Americans, we are not respecting the constitutional basis upon which that fifth amendment gives us all protection in the private protections of our private property.

Madam Chairman, I suggest that this amendment is critical to this survey, and, regardless of what the Parliamentarian may rule, it ought to be part of this survey, as it ought to be part of every Federal act that regulates private property.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

Does the gentleman from Massachusetts [Mr. STUDDS] wish to pursue his point of order?

Mr. STUDDS. I do, Madam Chairman.

POINT OF ORDER

The CHAIRMAN. The gentleman from Massachusetts is recognized on his point of order.

Mr. STUDDS. Madam Chairman, I make a point of order that under clause 7 of rule XVI the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is not germane to the bill.

Madam Chairman, the important, but very narrow, mission of the National Biological Survey has been explained repeatedly during the course of this floor debate. The amendment is clearly not germane to this bill. The National Biological Survey is not a regulatory agency and has no control whatsoever on how or even whether any agency uses the science or the data generated by the National Biological Survey. The bill does not address at all how or even whether data collected by the survey will be used.

Madam Chairman, this amendment attempts to tie the use of the biological survey science in a regulatory context to a hypothetical reduction of property value. If information generated by the survey is used for wetlands or endangered species, regulatory purposes, and if that regulatory decision causes a greater than 50 percent reduction in the fair market value of the private property, then the Secretary, according to the amendment, shall compensate the landowner.

I would simply note that the amendment establishes a standard for determining when the loss of property rights is compensable and lays out the method and process for providing such compensation, and, however fascinating and interesting those matters may be, and I agree that they are substantively important policy issues, they have nothing whatever to do with the subject matter of the fundamental purpose of H.R. 1845.

For that reason, Madam Chairman, I press the point of order.

The CHAIRMAN. Does the gentleman from Louisiana wish to be heard on the point of order?

Mr. TAUZIN. I would like to be heard on the point of order, Madam Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana.

Mr. TAUZIN. Madam Chairman, if this survey has any value at all, if we are to spend the many millions of dollars that we propose to spend on survey plants and animals across America, it is for the purpose of all of our regulatory statutes, it is for the purpose of affecting the Endangered Species Act, and it is for the purpose of affecting the wetlands regulatory programs and others that we have outlined earlier in this debate on the previous day, and it is for that reason we are going to do this survey and, if this survey does, in fact, result in taking and diminutions of property value, this bill ought to provide a mechanism by which those landowners can seek compensation from the Federal water and land conservation fund.

Now I do not think there is anything more germane than this amendment to a National Biological Survey, than the question of how that survey is going to be used and what effects are going to flow to private land property ownership in America. I would suggest that it not only is germane, but it is probably the most important language that ought to be added on to a National Biological Survey bill.

I say to my colleagues, "You would not believe, from the arguments that are being made against this amendment and against the amendment we are going to propose after this one, that the human species is not a carbon-based entity any longer, that we are not related to the biological species that occupy this planet, but the effects upon human beings are not even going to be considered when we are doing national biological surveys."

Well, let me inform this House and this Nation that, as far as I know, we have not reversed the Scopes trial. As far as I know, we are carbon-based, not silicon-based entities, we are related to the plants and animals on this planet, and the position of human beings occupying private property in this country is very important when we survey biological entities and when that survey results in important management decisions affecting that private property and the private lives of these biological species that we call human beings.

It seems to be that to rule this nongermane is to say we have no part on this planet in this country as biological entities and that our right to exist on the private property guaranteed under the Constitution to every single member of our Nation is going to be denied to us if a biological survey considers us nongermane, nonrelated, not-in-existence, if my colleagues will, in regard to the counting of biological life as it exists in our country.

The CHAIRMAN. Does the gentleman from Texas [Mr. FIELDS] wish to address the House on the point of order?

Mr. FIELDS of Texas. Yes; I do, Madam Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas.

Mr. FIELDS of Texas. Madam Chairman, I think the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is germane for many reasons.

First of all, Madam Chairman, this amendment would prohibit any action under the act if it would result in a taking of private property, directly relative to the piece of legislation we are debating. This amendment would also provide for compensation to the property owner if the fair market value of the property is diminished by 50 percent or more as a result of a limitation on property use because of action taken under section 404 of the Clean Water Act, the Endangered Species Act due to information from the Survey, which is the subject matter of the debate before the House.

The Secretary and the landowner have a variety of options to use when it comes to compensation. Also, such compensation would be funded by the land and water conservation fund.

I think the House made great strides earlier toward restoring the faith of the American people in the Government when we approved private property rights protections earlier during consideration of this legislation. This amendment builds upon the amendment already accepted by the House by assuring Americans that they will be compensated if Government regulations cause them to lose the value of their property, and, if we are to succeed in protecting and preserving the environment, we are going to need the faith and good efforts of the private property owners, and the best way to get their cooperation is to provide them with incentives and protection from loss. Again, that relates directly back to the basic and fundamental subject matter of this particular piece of legislation.

Madam Chairman, for those reasons I would urge that the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is germane, that it should be considered, that we should take a vote and let the House work its will.

□ 1520

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. EDWARDS of California. Madam Chairman, I rise to support the gentleman from Massachusetts [Mr. STUDDS] in his point of order and to speak against the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The gentleman from Louisiana eloquently expresses concern about the human species on this Earth and how we must protect it. But I think we all know that the human species is in trouble, and we had darn well better protect this Earth and this planet or we will not have an indefinite period of time in which to enjoy the wonderful things that we do.

The gentleman speaks of the fifth amendment to the Constitution. I respect the fifth amendment, and I assure the gentleman that the fifth amendment is in good shape and has been in good shape for more than 200 years.

However, I think that we should remember that in addition to the fifth amendment, it says the Government cannot take your property without due compensation, that there are also provisions in the law and in the Constitution that make us responsible for the health and welfare of the United States.

Madam Chairman, if there is a polluter, some factory, by the San Francisco Bay, spewing out poison gas and ruining thousands of acres around it, I am sure the gentleman from Louisiana [Mr. TAUZIN] would have no objection to the local government saying you cannot continue this nuisance. And that is exactly right.

What the gentleman from Louisiana fails to point out is that there is not only the property right of a landowner, but there are also property rights of other people connected with the land. We certainly learned that in the recent floods of the Mississippi River that have been so tragic. The wetlands were destroyed, thousands of acres of wetlands, perhaps thousands of miles from the mouth of the Mississippi. People in the flood plains of the Mississippi, when the levees broke, they were the ones that suffered.

So I think the gentleman is incorrect. And when he relies solely on the fifth amendment, yes, we all respect the fifth amendment of the Constitution, but we also must respect our duty, the duty of the U.S. Government, to also protect the health and welfare of the American people.

We have two conflicting principles here. We must find a balance. it is being handled very well, this taking problem, issue by issue. The courts are examining these taking claims as they come up, one after another. They go right to the Supreme Court, they go to the district courts, and to the appeals courts. Each situation is different. And that is the way to handle it, not with a formula such as the gentleman from Louisiana suggests.

Mr. TAUZIN. Madam Chairman, will the gentleman yield?

The CHAIRMAN. The gentleman from Louisiana is recognized on the point of order.

Mr. TAUZIN. Madam Chairman, let me first point out the example used by my good friend, the gentleman from California [Mr. EDWARDS], would not apply to my amendment, as it is a clean air regulation.

The CHAIRMAN. The Chair would announce that Members will address the Chair on their own time. Members may not yield when debating a point of order.

The gentleman from Louisiana [Mr. TAUZIN] may be heard again on his own time for further debate on this matter.

Are there further Members seeking recognition on the point of order?

Mr. YOUNG of Alaska. Madam Chairman, I would suggest one thing: There have been some comments made about this amendment not being germane. I believe the gentleman from Texas [Mr. FIELDS] and the gentleman from Louisiana [Mr. TAUZIN] have put it very well.

As far as the comment just made by the gentleman from California [Mr. EDWARDS], the basis of our Constitution and our democracy is privately held land, not Government-held land. If you want the Government to hold land, look what happened to the Soviet Empire and how they had their environmental degradation.

All we are saying in this amendment or any other amendments which will come before this committee at a later time on other legislation, such as wetlands legislation and endangered species legislation, it is time that this body recognizes the right of the private individual. If the Government or some agency decides that those lands or those species have a greater national value, all this amendment says is that if that is decided by an agency, then that person that loses the value of that land shall in fact be compensated first before we spend any other moneys buying other lands through action of this Congress or any other agency. That is all it says.

With all due respect to the gentleman from California [Mr. EDWARDS], you can talk about the fly down in San Bernardino that is stopping us from building a hospital. That is taking away the jobs needed in that area. Saying that that fly is all God so important, the same fly that I would swat on the corner of my arm if it was there, yet an agency says it is endangered. Or you might say to someone that their land has some type of bird or a bug or whatever it may be, or it is wetlands, the Government says it, and the value of that land decreases, that is a taking.

The agency says oh, no, we did not take your land. You do not need any compensation. While they define it as such, the value decreases and your rights are taken away from you.

Madam Chairman, you are going to rule that the amendment is not germane. I am saying to my colleagues we will have an opportunity down the line this next year to vote on other pieces of legislation that do protect the rights of the private landholder. If we lose that, and I say this to my friend, the gentleman from California [Mr. EDWARDS], if we lose the private-land concept in this country, let us all become Communists. That is what communism is all about, that in the national interest we shall do what is right. But the

basis of our democracy has been based upon the individual rights of that one person, not in the national goodness, unless he is protected and she is protected. That is the basis of our Constitution.

So I say to my colleagues, we will have an opportunity later on let us speak our mind as we should to uphold the Constitution. I compliment the gentleman for his amendment. It will be ruled ungermane, but we will go forward at a later time. We have laid the groundwork for this Congress again to speak for the people of America.

The CHAIRMAN. Are there other Members seeking recognition on the point of order?

Mr. TAUZIN. Mr. Chairman, in the debate in the committee one member pointed out that the definition of private property has changed in America. I challenge that notion. The definition of private property has never changed in America. I suggest to my friend, the gentleman from California [Mr. EDWARDS], that the definition of private property in my State, as in every State, I believe, has always been that you have the right to use and enjoy your private property, free of interference, so long as you use it in a way so as to not offend or endanger or create a nuisance for your neighbor or his property. That has always been the principle of private property ownership in America.

What is at interest here is how big the neighborhood has become. It used to be in America that your neighbor, under the law, was the guy next door. Today, under interpretations by Federal agencies, your neighbor can be someone living in Bangladesh. In order to protect some world interest in a species or wetlands, all of a sudden your rights of private ownership are subject to the needs and wishes of people who live in some sort of global community.

Madam Chairman, let me suggest to my friend that we are not suggesting that anyone ought to be able to pollute their neighbor. We are not suggesting those laws are not good. We are not suggesting that wetlands laws should not be implemented in America or that species protection should not be implemented.

To the contrary, we suggest they are good laws. Wetlands ought to be protected. That species that is threatened with extinction ought to be protected. We ought to do a lot more to keep them from becoming extinct or threatened in the first place.

All we are saying is when those good intentions deprive a person of his private property rights, the Government has to step up to the bar, as the fifth amendment compels them to, and has to compensate that private property owner. The Government cannot keep hiding under the notion that because it has not taken title to the land that it has not taken the property.

If the Government comes along and takes 5 of my 10 acres to build a hospital or a road, it has taken my property and I get compensated. But when the Government comes along and takes 50 percent of the use of my 10 acres, then the Government says, "A ha, but that is not compensable. You have to wait down the list for compensation, if in fact we ever buy your property."

All this amendment does is to say that when that occurs, when Government comes along, for all the good reasons stated by my friend, the gentleman from California [Mr. EDWARDS], that we enact species protection and clean air and wetlands protection, for all those good reasons, but when the Government comes along and takes more than 50 percent of the use of my 10 acres, or my 1 acre, or my 100 acres, that I ought to have the right to say to the American public, you have taken a real substantial part of my private property, and under the fifth amendment you ought to compensate me.

□ 1530

That is a principle, Madam Chairman, whether this amendment is ruled germane or nongermane, this floor will continue to debate. And before this session of Congress is over, we will have a chance to vote on it, I promise my colleagues. We will vote sometime in this session whether or not this Nation respects the right of private property owners in America or whether we are—as my friend, the gentleman from Alaska said—something different, something strange, something that has characterized countries in Eastern Europe, that has failed them miserably as those walls have tumbled, or are we a country that respects private enterprise and private property, or are we a country that simply tramples over those rights for whatever good cause we come upon.

That issue will be debated, Madam Chairman, whether today we identify and recognize that humans are part of this biological family or whether the Chair is obliged to rule that we are nongermane, not related, not involved in this biological process in this country.

The CHAIRMAN. Does the gentleman from California [Mr. EDWARDS] wish to be heard further on this point of order?

Mr. EDWARDS of California. Madam Chairman, I wish to respond briefly to the gentleman from Louisiana and assure him that the fifth amendment has been protected for a long time. These issues are not new that he describes. They come up in our society day after day. They are in every court of the land, and the courts are handling them pretty darn well. Maybe the gentleman disagrees with some of the decisions that are made, but each situation is different.

The courts are not stupid. They must act according to precedent, according to the precedent set by higher courts earlier in the age.

There is no problem here. The worst thing we can do is what the gentleman has in mind, is that for us, us poor mortals, to try to establish these rules by law. It will not work, I assure the gentleman. Every situation is different.

The CHAIRMAN (Mrs. MINK). The Chair is prepared to rule.

The gentleman from Massachusetts [Mr. STUDDS] makes the point of order that the amendment offered by the gentleman from Louisiana is not germane. The amendment proposes to add a new section at the end of the bill and must be germane to the bill as a whole.

The bill establishes as an office within the Department of the Interior a National Biological Survey. The mission of the Survey is to gather, analyze, and disseminate biological information. This information may relate to efforts at resource conservation, biological awareness, and ecosystem management. It may include tracking of plant and animal populations. It is confined, however, to matters biological.

The amendment ranges far beyond the ambit of the bill to address requirements of adequate and prompt compensation for takings, within the meaning of the Constitution, by reason of any final qualified agency action.

The amendment does not confine itself to actions of the Survey under this bill but extends also to actions of other regulatory agencies under other acts of Congress.

Under these circumstances, the amendment cannot be considered as involving the same subject as the pending bill. Accordingly, the point of order is sustained.

AMENDMENT OFFERED BY MR. FIELDS OF TEXAS

Mr. FIELDS of Texas. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Texas: At the end of the bill, add the following new section:

SEC. . FOUNTAIN DARTER AGREEMENT.

(a) ESTABLISHMENT.—In carrying out the functions under section 3(b)(2) of this Act, the Director of the National Biological Survey shall enter into a cooperative research agreement with the Texas A&M University to assist in collecting and maintaining data concerning the distribution, abundance, health, and status of the fountain darter.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of fiscal years 1994 and 1995, $1 million to carry out the agreement required under subsection (a) of this section.

Mr. FIELDS of Texas (during the reading). Madam 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 Texas?

There was no objection.

Mr. FIELDS of Texas. Madam Chairman, this amendment would require

the Director of the National Biological Survey to help save the fountain darter.

The amendment requires research, aimed at recovery of this species, to be undertaken cooperatively with Texas A&M University.

Madam Chairman, I do not want to take a lot of time debating the merits of saving a 1-inch fish. Nevertheless, we have discussed at great length the tremendous pressure, chaos, and economic uncertainty that the foundation darter has brought to millions of Texans in the San Antonio region.

My proposal is quite simple and noncontroversial. It requires the Biological Survey, through an agreement with Texas A&M University, to conduct research on the distribution, abundance, health, and status of fountain darters. In 1985, when the Fish and Wildlife Service published its recovery plan for the San Marcos River, it specifically called for the establishment of a captive group of fountain darters which could be reintroduced into either the San Marcos or Comal Springs should this habitat dry up in the future.

Captive propagation is an innovative technique that has been successfully used in the recovery of other endangered species such as whooping cranes, Kemp's ridley sea turtles, California condors, and, most recently, the blackfooted ferret.

Texas A&M University's fishery program is ideally suited to assist the Biological Survey in its efforts to make the fountain darter one of the most prolific species on Earth.

Madam Chairman, this amendment does not require the expenditure of any new money. In fact, the $1 million authorized by this language could easily be obtained by reprogramming funds already appropriated to the Biological Survey by H.R. 2520, the Interior appropriations bill for fiscal year 1994.

Madam Chairman, my amendment simply directs the Biological Survey through its research efforts to assist in the recovery of the fountain darter.

I urge the adoption of this important and noncontroversial amendment.

Mr. STUDDS. Madam Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Madam Chairman, I regret that this is necessary, that it is necessary for me to rise in opposition. I really regret that my very dear friend from Texas has chosen to offer this amendment.

So that Members are aware of what this does, this directs the National Biological Survey to enter into a cooperative research agreement with Texas A&M University concerning the distribution, abundance, health, and status of a particular critter, in this case the fountain darter. And it authorizes $1 million in each of the next two fiscal years to carry that out.

This is essentially an earmark under a determination by the Members of this Congress, if this amendment were adopted, that that is the way $2 million of the money authorized in this bill ought to be spent.

Let me point out a couple of things. First of all, this is unnecessary. Second, it is not wise. It is not necessary because the bill currently authorizes the Secretary to enter into contracts and cooperative agreements with any appropriate Federal, State, or local agency or private organization so that if in the judgment of the Secretary of the National Biological Survey such a program is appropriate, he or she has the authority to do so under the bill as it is currently written.

Second, this amendment has never been considered by our committee, nor has it even, to my knowledge, been introduced as legislation. It is very similar, as I am sure the gentleman knows, to another bill which is pending before our committee offered by the gentlewoman from California [Ms. PELOSI], to develop a salmon broodstock program.

The administration expressed concerns about that bill, and I am sure had they known about it, they would have the same concerns about this one.

I do not think that it is wise for the Congress to legislate the priorities for a recovery plan for a particular endangered species. That kind of a judgment should be made according to the dictates of science, not of Members of Congress.

I do not know about my friend from Texas, but I certainly would not presume to have the knowledge or the scientific ability to make a determination such as this.

I must point out, in all fairness, that the minority did, in fact, express reservations about the bill of the gentlewoman from California. And I think, in expressing those reservations, the minority may well have been wise. We are working with the administration and all other interested Members to address the concerns about the legislation currently pending before the committee. We would be happy to add the concerns of the gentleman from Texas to that.

But I really profoundly believe that it would be an error for us to take into our layman's hands the essentially scientific judgment of how $2 million of these dollars ought to be spent and to earmark them for a particular State for a particular university and for a particular critter. That, I think, is not legitimately the job or the role of the Congress.

As I say, because of the closeness of the working relationship I have enjoyed over many years with the gentleman from Texas, I do this reluctantly, but I do strongly oppose the amendment.

□ 1540

The CHAIRMAN (Mrs. MINK). The question is on the amendment offered by the gentleman from Texas [Mr. FIELDS].

The amendment was rejected.

Mr. LAROCCO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman on October 6, I spoke on the House floor in support of language contained in H.R. 1845, the National Biological Survey Act, which would have assured that States' rights were preserved with regard to private property.

I supported that language after it was reviewed by Idaho's office of the attorney general. While time did not permit the preparation of a formal opinion by the Attorney General, the A.G.'s office indicated the language contained in the bill, as it was amended by the committees and brought to the House floor, would have given the States more discretion in the enforcement of property rights than would the Taylor amendment, which establishes a uniform Federal law.

As Members know, the Taylor amendment was adopted, so today I would like to enter into a colloquy with the chairman of the committee about States' rights.

Madam Chairman, is it your understanding that the language now included in the bill would protect States' current authority on private property rights and not override the complex property laws of all 50 States with a uniform Federal requirement?

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. LAROCCO. I yield to the gentleman from Massachusetts.

Mr. STUDDS. While I support the protection of private property rights, I, too, am concerned that the Taylor amendment establishes an exception to the private property law in Idaho, North Carolina, and in all of the other 48 States. We attempted in the language contained in the bill to walk the narrow line between private property law that is within the jurisdiction of the State and regulating the conduct of those gathering data for NBS. I am concerned that the so-called Taylor amendment does not keep to this narrow line.

Mr. LAROCCO. Mr. Chairman, among other things, I am concerned about the affect of the National Biological Survey Act on the rights of tenants as well as those of property owners. Under the bill, written permission is required from the owner. What permission, if any, is required from the tenant to allow entry on private property?

Mr. STUDDS. If the gentleman will continue to yield, I believe the gentleman's concern may be well-founded. The general rule of State landlord-tenant law as stated in American Jurisprudence 2d is that where premises are leased, the right to use them during the term is transferred from the landlord to the tenant. The general rule

goes on to state that the tenant is the absolute owner of the premises for the term of the lease, and the owner of the property has no more than a reversionary interest.

Under the bill as amended, no permission of any kind is required from the tenant. Since the general rule of all State landlord-tenant law is that the landlord has, and I quote, "no authority during the term to enter or otherwise disturb the tenant in his occupancy or in any manner interfere with his rights to the control of the property," the Taylor amendment will subject the owner and the NBS employee to an action by the tenant.

In fact, the general rule of State landlord-tenant law is that "an unauthorized entry or intrusion by the landlord during the existence of the lease is as much a trespass as an entry or intrusion by a stranger."

Mr. LAROCCO. Mr. Chairman, is it the gentleman's understanding that the States would retain their ability to enact private property laws which could be more stringent than those in this bill?

Mr. STUDDS. It is my understanding that States would retain their ability to enact private property laws which could be more stringent than those in this bill. The real problem, as the gentleman from Idaho has indicated, and as we have been discussing, is that State law is inconsistent with this bill. I am very concerned that property owners who lease their property will, relying in good faith on the so-called Taylor amendment, consent to an entry and find themselves in difficulty with their tenant who under State law is the only party able to give legal consent. I hope, obviously, that we can deal with this inconsistency in conference in a way that protects property owner rights without subjecting them to State trespass charges.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: Add a new section as follows:

"SEC. . FISH AND WILDLIFE MANAGEMENT

(a) The establishment and operations of the National Biological Survey shall not be construed to enlarge or diminish the authorities or responsibilities of the States, territories, or possessions of the United States, for the management of fish and wildlife and their habitats; (b) the establishment and operations of the National Biological Survey shall maintain the scientific research programs on fish and wildlife and their habitats conducted by States, colleges, and universities with appropriate funds or personnel provided, in whole or in part, by the Department of the Interior; (c) the National Biological Survey shall provide adequate support for research and related efforts necessary for the proper management of wildlife, fish, and their habitats, including the provision of data and information from the Migratory Bird Banding Laboratory that is necessary for the United States Fish and Wildlife Service to fulfill its responsibilities for the management of migratory birds, including hunting programs.

Mr. HANSEN (during the reading). Madam 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 Utah?

There was no objection.

Mr. HANSEN. Madam Chairman, I, along with my colleagues, Mr. DINGELL, Ms. LAMBERT, and Mr. JEFFERSON, offer an amendment that will preserve the traditional roles of the States in the management and research of State fish and wildlife resources and will preserve the continuation of the Migratory Bird Program.

Congress has a long tradition of preserving the role of the States to manage fish and wildlife populations within their borders. Because the States are interested in preserving and enhancing these resources, they have done excellent jobs of managing and building up populations of fish and wildlife. For example, in my home State of Utah, elk populations are currently higher than they have been for decades. We have seen these types of increases almost across the board with populations of both game and nongame species. Our amendment will ensure that the States retain the jurisdiction to manage these resources. Although the National Biological Survey could serve as a data bank on which the State management agencies could draw, it should not lead to mandates upon State management agencies.

Colleges, universities and States in cooperation with Federal agencies conduct research that is both unique to their needs and vital to proper management. Federal dollars and personnel help support this research and it is important that these cooperative programs continue. Without these programs, colleges and universities across the country will suffer greatly and the research will not be completed. Our amendment will ensure that these cooperative programs continue and are supported by the National Biological Survey.

The final section of the amendment will preserve the Migratory Bird Program conducted by the Fish and Wildlife Service. Migratory bird seasons are established each year by the Fish and Wildlife Service. Extensive annual research is required in order to support the hunting seasons and proper management. I am concerned that the National Biological Survey may strip these basic research functions from the Fish and Wildlife Service and threaten the continuation of these management and hunting programs. Hunting and other waterfowl groups in cooperation with the Fish and Wildlife Service play a critical role in preserving healthy populations of migratory birds and our amendment ensures that these successful programs continue.

This straight forward amendment will protect cooperative wildlife research programs in our States and will preserve the heritage of migratory bird hunting. I urge your support of the Hansen-Dingell-Lambert amendment. I thank my colleagues, the gentleman from Michigan, Mr. DINGELL and the gentlewoman from Arkansas Ms. LAMBERT for their cosponsorship, and I thank the chairman, the gentleman from Massachusetts [Mr. STUDDS] for his willingness to work with us on this amendment.

Mr. FIELDS of Texas. Madam Chairman, if the gentleman will yield the language that the gentleman from Utah has offered concerning the relationship that the National Biological Survey has with State fish and wildlife agencies in the management of State fish and wildlife is indeed needed.

His amendment also identifies the need to maintain a strong level of cooperation between Federal agencies, State agencies and academia in conducting research on our natural resources.

Finally, his language provides assurances that the Fish and Wildlife Service will be able to meet its full responsibilities for the management of migratory birds as required under the Migratory Bird Treaty Act with data supplied by the Biological Survey.

Mr. Chairman, the amendment offered by my good friend Congressman HANSEN is indeed needed and I support its adoption.

Mr. HANSEN. Madam Chairman, I thank the gentleman from Texas for his remarks.

Ms. LAMBERT. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to start first by congratulating the chairman and his staff for doing such a wonderful job in working on this bill.

"If it ain't broke, don't fix it." How many times have we heard this ditty, especially with Vice President GORE's mission to reinvent Government? With the reinvent Government argument, the Vice President has found more things broke than not. However, what we are talking about today is maintaining a program that is healthy and working properly.

Today, my colleagues, Mr. DINGELL and Mr. HANSEN, and I have introduced an amendment to the National Biological Survey Act to preserve the integrity of a program with a well-established track record. Our amendment ensures that the U.S. Fish and Wildlife Service preserves its ability to work with the States and educational institutions to monitor and manage the wildlife resources within each State border.

While I support the purpose and goals behind the National Biological Survey

to employ scientifically sound methods to map and identify the ecological landscape in this country to avoid future train wrecks between development and the environment, I also believe that passage of this amendment assures the Fish and Wildlife Service and 50 State fish and game commissions that the NBS will not infringe on traditional State oversight over the management and hunting of wildlife.

Under the Migratory Bird Program, the Fish and Wildlife Service researches the health of the bird population and other statistics to determine the hunting seasons and the daily quota for each hunter. The Fish and Wildlife Service must justify its hunting guidelines through extensive research before implementing them. We are concerned that the research arm of the Fish and Wildlife Service will be transferred to the NBS, leaving the Service without the resources to conduct its research. Without this research capacity, the Fish and Wildlife Service will have insufficient information to justify the annual hunting criteria.

While I know that many of the Members of this body do not hunt, it is a basic fact that hunting, that is strictly regulated and monitored, stabilizes the population of migratory birds such as ducks, and promotes a healthy breed. We want to guarantee that the Fish and Wildlife Service will continue to work closely with the States and universities in its research and that the Service will foster new research alliances with the NBS. We seek to protect migratory bird hunting and cooperative wildlife research.

I urge you to support this noncontroversial measure and vote yes on the Hansen-Dingell-Lambert amendment.

Mr. WELDON. Mr. Chairman, I rise in support of both H.R. 1845, the National Biological Survey Act of 1993 and the Hansen-Dingell-Lambert amendment. As a member of the Migratory Bird Conservation Commission, I am a strong supporter of the Fish and Wildlife Service's migratory bird management programs. While I support the concept of coordinating the Department of the Interior's sciences resources through the National Biological Survey [NBS], I want to ensure that the crucial work of the Migratory Bird Banding Laboratory, as well as the other critical responsibilities of the Fish and Wildlife Service, continues.

Mr. Chairman, without the biological research conducted by the Fish and Wildlife Service, annual waterfowl harvest levels could not be established. This eventually would devastate critical wildlife habitat protection efforts funded by the U.S. Duck Stamp Program. The Duck Stamp Program has brought roughly $400 million to migratory bird conservation initiatives since its inception in 1934. The program has contributed to the acquisition of over 4 million acres of wetlands for addition to our National Wildlife Refuge System.

Mr. Chairman, we can ill afford to lose this vital program. The Hansen-Dingell-Lambert amendment will ensure that migratory bird research does not suffer when the National Biological Survey is established. The Hansen-Dingell-Lambert amendment strengthens H.R. 1845, and I compliment my colleagues from Utah, Michigan, and Arkansas on their initiative.

Mr. STUDDS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I commend the gentleman from Utah [Mr. HANSEN] and the gentlewoman from Arkansas [Ms. LAMBERT]. We are delighted to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. HANSEN].

The amendment was agreed to.

Mr. VALENTINE. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to engage the chairman of the Committee on Merchant Marine and Fisheries in a brief colloquy.

First, let me say that I agree with my distinguished colleague that the legislation before us authorizing the creation of a National Biological Survey is a scientific endeavor. I believe the Survey is intended to ensure that we have scientifically credible information on which to make management decisions. I agree that this bill is not an appropriate forum for debating private property concerns.

Having said that, however, the issue of takings is important to every Member of this body and I believe that when we begin to make management decisions under the Endangered Species Act or section 404 of the Clean Water Act dealing with wetlands, that appropriate attention must be paid to the impact of those regulatory and management decisions on private property rights, specifically those related to takings and compensation.

Chairman STUDDS, you have stated publicly on numerous occasions, including your recent testimony before the Committee on Rules on H.R. 1845, that "legitimate and serious questions, [have been raised on] the takings of private property." You also said "Those are important questions, they are real questions. There is a forum in which they are appropriately debated."

Can the gentleman assure the House that he will do what he can to ensure that issues regarding takings and compensation will be debated and considered when the appropriate management legislation is considered on the floor of the House?

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, I would say to the gentleman, he has quoted me correctly. I assure the gentleman that as my committee considers environmental protection and natural resources management issues, as it will during the remainder of this Congress, I will support serious and legitimate debate and consideration of whether and how to compensate people whose property interests may be adversely affected by regulation. We may, at that time, disagree on where the balance appropriately lies, but we will not disagree that the issue is a proper one for debate.

However, as the gentleman has stated correctly, H.R. 1845 is not the proper context for this debate. This bill is designed to provide us with the best information available on our Nation's biological resources. It does not in any way restrict personal liberties, including any person's ability to use and enjoy their property.

I share the gentleman's desire to find the appropriate balance between private rights and public interests. I will work to bring this issue to the House floor prior to the end of the 103d Congress. I appreciate the steps he has taken to assure that whatever course we take is consistent with that science tells us about the difficult task of managing the Nation's biological resources.

Mr. VALENTINE. Madam Chairman, I thank the gentleman, and urge my colleagues to vote "aye" on final passage of this legislation.

□ 1550

Mr. DINGELL. Madam Chairman, I move to strike the last word.

Madam Chairman, years ago, in a happier time, I was a member of the Committee on Merchant Marine and Fisheries. I had the privilege of working with the distinguished gentleman, Mr. Studds who is now the chairman of that committee. And I want to express great affection and respect for him. He is a fine man, a fine Member, a dear friend of mine, and served with great distinction on that committee during those days.

I had the privilege of being the chairman of the Subcommittee on Fish and Wildlife Conservation during the years I was there, and we wrote a lot of great legislation. We wrote the Fish and Wildlife Coordination Act, the Endangered Species Act, Marine Mammal Protection Act, the ocean dumping legislation, National Environmental Policy Act, and a lot of other legislation. One of the things which we did was to create a national wildlife refuge system and the fish and wildlife and the precious resources that America treasures and cherishes.

I want my colleagues to know that I approach this legislation with a genuine sympathy for the Interior Department and for what is stands for, because it guards some of the greatest treasures that are owned and held by and for the American people. But this legislation, in spite of the great affection that I hold for my good friend from Massachusetts, is bad legislation. I ought not pass.

Why? Because it takes all of the technical and scientific expertise and skill in the Interior Department,particularly the Fish and Wildlife Service, and it moves it into one place. And where is that one place? Entirely under the thumb of the Secretary of the Interior.

Now, one of the things that we have struggled with during the years that I served in this Congress has been to see to it that the Congress gets adequate information from Federal agencies, information which is true, which is factual, and which is sound. This became a matter of special concern to me in the days when there was a fellow by the name of Douglas McKay as the Secretary of the Interior. He was an evil man. He plundered the refuges. He defiled the public lands. He gave away treasures that belonged to all of the people to every special interest in sight.

But one way which we were able to find out what policy was being made at the Department of the Interior was the fact that there were a few scientists, biologists, and experts who were able to come up and inform the Congress about what was going on. As a result, we were able to stop McKay's raids on the refugees, we were able to protect them, and we were able to protect the public lands. The committee of this Congress, in a bipartisan fashion, unanimously denounced the misbehavior of this evil man.

The treasures that are held by the Interior Department are protected in good part by the scientific knowledge and the scientists that are there to see to it that fish and wildlife and natural resources are protected and cherished as they indeed should be. The real sadness, however, is that not only is this legislation going to serve to blind the Congress by putting the entire handling of the Survey information and science in the hands of one man, the Secretary, it is also going to do something else. It is going to isolate refuge managers and reduce their available resources. It will dilute the ability of resource managers to know what is going on in these areas, because all of these Survey people are going to be concentrated directly within the handhold and the arm-reach of one man, the Secretary of Interior.

Now it may be that Mr. Babbitt is going to be, in the passage of time, the greatest Secretary of Interior we are ever going to see. I personally have some doubts. But the hard fact of the matter is that whether he is good or bad, trusting one man with this kind of control over information on science, on management of wildlife, on protection of wildlife resources is unwise, because it may well be that some evil man will come by and want to despoil these resources, was we have seen happen in the past, because Interior is an agency which has a rich history of scandal. The legacies of Teapot Dome, the McKay machinations and others are information that we should bear with us as we address this legislation right here.

If Members want to deny the administrators in the Department of Interior the information they need to properly address the management of the greatest natural treasures and resources this country has, support this bill. If they want to see to it that they are not able to get the information they need to make the necessary, wise and proper judgment with regard to natural resources, then by all means support this bill.

If they want to see to it that they have full access, and that the administrators, and that the refuge managers and the others who are in charge in the field of protecting the resources that we are talking about here have full access to that information, then by all means vote against this legislation. There is no benefit to be achieved by this legislation.

I urge my colleagues to defeat this legislation. It is in the public interest to do so. It is bad legislation. It serves no wholesome purpose.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of the bill add the following:

SEC. . ENSURING ECONOMIC COMPETITIVENESS AND THE FULFILLMENT OF HUMAN NEEDS.

(a) REQUIREMENTS FOR RESEARCH AND ECOSYSTEM MANAGEMENT MONITORING.—Notwithstanding any other provision of this Act, the Director shall—

(1) conduct research on biological resources otherwise authorized by this Act in a manner that permits the United States to remain economically competitive while protecting natural resources; and

(2) conduct monitoring of methods by which ecosystems are managed that is otherwise authorized by this Act in order to improve the capability of the Nation to conserve biological resources and diversity with minimum adverse economic impacts on the fulfillment of human needs.

(b) ENSURING CONSIDERATION OF HUMAN NEEDS.—The Director shall—

(1) In any research conducted with respect to a particular management action, include research (including by collecting and analyzing data and information) regarding—

(A) the impacts of the action on the fulfillment of human needs, including impacts on the use and enjoyment of private property, employment opportunities, and State and local government revenues; and

(B) alternative ways in which the management action may be carried out so as to reconcile the goal of minimizing those impacts with the goal of protecting biological resources;

(2) in evaluating and monitoring any ecosystem management method, evaluate and monitor—

(A) impacts referred to in paragraph (2)(A) resulting from the method; and

(B) alternative methods that can better reconcile the goals referred to in paragraph (1)(B); and

(3) in disseminating information to any person with respect to a particular management action, ecosystem management method, or resources management decision, include all information in the possession of the Survey regarding research under paragraph (1) and evaluation and monitoring under paragraph (2) that relates to the action, method, or decision.

Mr. TAUZIN (during the reading). Madam 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 Louisiana?

There was no objection.

Mr. STUDDS. Madam Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order has been reserved by the gentleman from Massachusetts [Mr. STUDDS].

Mr. TAUZIN. Madam Chairman, this amendment would add a new section that authorizes the Director of the National Biological Survey, when gathering information in conjunction with a particular management action, to consider human impacts and human needs when conducting that research and monitoring activity. It says in effect that it should examine the impacts on the use and enjoyment of private property, employment opportunities, and State and local government revenues, and that it ought to examine alternative ways in which the management action in question might be carried out so as to reconcile the goal of minimizing those impacts with the goal of protecting the biological resources inventoried or analyzed in that activity.

In effect, it says that in conducting this biological survey, when it is conducted in relation to a proposed management action, that human needs, effects on people, their private property and their jobs ought to be considered at the front end of the business rather than at the very tail end when we end up having to convene God squads to handle a horrible conflict that develops in these so-called train wrecks, as we have seen in the Pacific Northwest, and in the Gulf of Mexico, when endangered species laws run headlong into the rights of people to be employed, and to carry out their livelihood, very often on their own private property.

Madam Chairman, we often hear that people want balance in these laws, that they want us to make sure that when environmental laws are carried out in America that they are carried out and accomplished in a way that respects human needs, human requirements for jobs, for income, human rights in the private property that people hold and enjoy in America. And yet, when we pass a law creating a biological survey, we are told well, that is not germane. When, in fact, the endangered species law was passed years ago, and I hope we get a chance to look at this again

this year, the American public was told that is not germane.

□ 1600

In fact, the law cannot consider human impacts and economic damage when recovery plans are affected by the Endangered Species Act under current law unless and until a God squad is convened. It is the position of this Member, and I hope many Members of this House and this Congress, that at some point in this debate, whether it is in biological surveys laws, endangered species reenactments, wetlands laws examined when we do the Clean Water Act, that this body ought to speak to that balance, that we ought to compel the agencies of our Government who do biological surveys, who do management actions in consequence of the information that is derived from these surveys, that human impacts, human jobs, private property be considered in the alternative methods by which we choose to accomplish the good goals of wetlands protection, endangered species protection.

There are many ways to recover an endangered species; some put a lot of people out of work, some may not. Under current law you cannot consider those alternatives. There are many ways to protect wetlands, many ways to define wetlands, many ways in which to insure that wetlands are preserved and created in America, and yet under current law human impacts, damage done to human lives, to jobs, to private properties, that cannot even be considered when those alternatives are discussed.

It seems to me that if we are going to do a biological national survey of all the plants and animals that inhabit this country, that not to consider the impact upon the management decisions that will flow from the survey on the lives of people is, again, to say we are irrelevant, that we are not germane, that we are not related to this issue.

Ladies and gentleman of the House, I submit that is an improper, improper conclusion. If we are to protect plants and animals properly in America, we ought to do it with the support of landowners, we ought to do it with the encouragement of people who want to have a good job in America, we ought to do it with every citizen of this country as partners in that protection. And if you want the partnership of America in good environmental protection, you ought to respect the lives of the people in this country, you ought to respect their private property, you ought to respect their right to have a good job when you go about protecting plants and animals and wetlands in our society.

Is it so horrible to ask that those economic considerations be started at the front end when we do the biological survey? It is so nongermane for us to ask that they be considered at the front end of this process rather than at the back end when these other train wrecks occur, people are thrown out of work, economies are lost, State and local governments lose money, and people's private property, their lives and their jobs are destroyed in the process?

It seems to me if we really believe in balance, this is where it starts. We ought to have this amendment, it ought to be part of this bill; it ought to be germane, Madam Chairman, even though you may be required to rule that it is not. It ought to be germane. Before this debate is settled in this House, we will have a chance to vote on this.

One final word on this, Madam Chairman: To those who would say, "Let the courts handle this business," have you ever been to court lately? Have you listed the laws under which our citizens are required to go to court to protect against adverse economic impacts and loss of private property? Have you hired any lawyer lately? Do you know what they cost? About a half of a million dollars to take these cases to the Supreme Court.

Do you want to tell every citizen in America that we are not willing to make a law they can live with, that we are going to let them go to court instead to satisfy their rights to jobs and private property?

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. I thank the chairman.

Madam Chairman, I suggest we ought not to tell our citizens that we are so incapable of settling those issues here in the Congress, that they all have to go to court whether they own one-half acre or 100 acres, they all have to hire attorneys and spend a half of a million dollars and we have to subject the Treasury of the United States of America to defend every one of those cases.

It seems to me we ought to have the good common sense to put some balance in our laws now and to give people the right to settle those economic impact decisions early in the process. And when it goes wrong, we ought to establish a clear and easy way for them to seek and receive compensation from the American public for the harm we do to people and the good we do to protect plants and animals and wetland systems in America.

POINT OF ORDER

Mr. STUDDS. Madam Chairman, I make a point of order that under clause 7, rule XVI, the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is not germane.

The gentleman has armed himself with his usual eloquence and vigor and passion, but unfortunately he has charged once again onto the wrong battlefield.

This amendment introduces an entirely new and unrelated concept to the bill; in fact, two of them at least: human impact analysis, and economic competitiveness.

H.R. 1845 is a bill that establishes the National Biological Survey by pulling together in the Department of Interior the biological research and inventory functions from a number of the Department's bureaus. It involves only those biological research and inventory functions that are not related to the day-to-day management responsibilities of the departmental agencies.

In essence, this bill is not about management or supporting regulatory decisions in any way at all; nor is it about assessing human impacts. Rather it is about, and it is only about, gathering the best scientific information available on biological resources.

As I argued in an earlier point of order, there is nothing whatsoever in this bill about how or even whether any agency will use the data gathered by the National Biological Survey.

The gentleman's amendment attempts to alter the mission of the survey by including within its functions a new, additional mandate, collecting and analyzing data on the human impacts of decisions made by Federal agencies, presumably all Federal agencies, not just the Department of the Interior. This bill, Madam Chairman, is about science, not about economics.

Furthermore, the amendment would insert the requirement that an analysis of management decisions include an assessment of impacts on private property, on employment opportunities, and on State and local government revenues. This clearly goes beyond the mission of the survey as contemplated in this bill and, in fact, well beyond the mission of the Department of Interior.

Therefore, Madam Chairman, with all respect to the passion and eloquence of the gentleman, which I know we will hear again in future fora, I would urge sustaining the point or order.

The CHAIRMAN. The gentleman from Louisiana [Mr. TAUZIN] is recognized on the point of order.

Mr. TAUZIN. Madam Chairman, why are we collecting these data? Is it to put it away in the canceled superconducting super collider tunnel? Are we going to hide it from the American public?

I suggest to you we are gathering this data under this bill for one purpose, and that is to participate that data into the management actions and decisions of Government agencies who are going to regulate private property in America. That is what it is all about. If you do not believe that is what this data collection is all about, then I suggest you should not have appropriated the tax dollars we have appropriated behind this survey.

Let me concede a point to my friend, the eloquent chairman of our committee. That is what we ought to have

good scientific data. I am going to vote for this bill, even though, Madam Chairman, I think you are going to rule this amendment is not germane, as I have been told you would.

□ 1610

The reason I am going to vote for it is that I think we ought to have good data. I think it serves us all to have better data in the management of these very important regulatory laws that we pass in America.

In fact, so bad is our data base, believe it or not, the endangered species laws now are based upon a standard of data known as best available data, the acronym for which is BAD; so bad is the base upon which regulatory decisions are made today that we get some awful consequences as a result across America.

But to say that this data is somehow going to be collected and then forgotten is entirely wrong. This data will be used, you and I know it. It will be used to affect management decisions. It will be used to regulate people's private property. It will used in some cases in ways that will deprive people of their jobs and deprive people of the value of their property. You and I know that. Regardless of what our friend, the chairman says, you know that is what the data will be used for, and if it is going to be used for that, why not have the agencies examine in the beginning of the process that impact, and examine the alternatives in which we can avoid those impacts.

Why not make this a germane part of this bill?

I understand what is about to happen, and I understand that most Members know this amendment is going to be ruled nongermane; but Madam Chairman, this debate will continue.

I hope we have put the gauntlet down. I hope we have laid it down squarely in front of those in America who talk about but never want to have human impacts considered, never want to have property rights debated, never want to consider the fact that in doing the public good, we sometimes very seriously damage individuals in our society who are entitled to the protection of our Constitution and certainly are entitled to the protection of our votes in this Chamber.

We will have this debate again, Madam Chairman. We will have it over and over again until this House recognizes that every citizen of this country is entitled to the same protection we give to plants and animals and wet environments.

The CHAIRMAN (Mrs. MINK). The Chair is prepared to rule on the point of order.

The gentleman from Massachusetts [Mr. STUDDS] makes the point of order that the amendment offered by the gentleman from Louisiana is not germane. The amendment proposed to add a new section at the end of the bill and must be germane to the bill as a whole.

The bill establishes as an office within the Department of the Interior a National Biological Survey. The mission of the Survey is to gather, analyze, and disseminate biological information. This information may relate to efforts at resource conservation, biological awareness, and ecosystems management. It may include tracking of plant and animal populations. It is confined, however, to matters biological.

The amendment offered by the gentleman from Louisiana, however, addresses not only biological information, but also such socioeconomic matters as employment opportunities and governmental revenues.

The argument that regulatory or policymaking actions of the Federal Government should not pursue the protection of biological resources in derogation of broader cost-benefit considerations does not make such broader concerns germane to a bill that only addresses biological concerns. Similarly, the argument that human beings are animals who dwell in habitats within our ecosystems does not make matters socioeconomic germane to a bill confined to matters biologic.

As ably pointed out by the gentleman from Massachusetts, the amendment cannot be considered as involving the same subject as the pending bill.

Accordingly, the point of order is sustained.

Mr. TAYLOR of North Carolina. Madam Chairman, I move to strike the last word.

Madam Chairman, I am going to vote for this legislation.

I am not at all happy with the legislation and the intent and what I think will come from it.

I think the gentleman from Louisiana [Mr. TAUZIN] is exactly right. This will be used in ways or may be used in ways that will deteriorate private property rights. I think what he was saying, even though his amendments have been ruled not germane, he certainly is aiming in the direction that we must go in this country to protect private property rights, to restore respect for trying to take care of legitimate environmental needs.

When I go home, people talk to me about endangered species. They say, Are you crazy as a loon for what you folks are doing out there.

They cannot understand what we are doing with many of the acts we pass in the name of the environment.

We are getting ready to spend $163 million for the National Biological Survey and some constituents who live next to the Great Smokey Mountain Park which is in my district brought me photographs of the conditions of a number of the picnic tables. I know we cannot see these, but here is a picnic table that is falling apart. It is one of three on the north shore of the park that is totally deteriorating.

There are two portojohns to take care of all the people who are over in that section. In fact, at the top of the Great Smokey Mountain Park at Queens Dome, sewage is running from the facility that has been put there because it is totally inadequate to take care of the number of people who come there.

What I am saying to you is that all across our Nation we have needs in our National Park System that would be better served with this $163 million than would be the $163 million we are spending on the National Biological Survey.

But we are not voting today to create the National Biological Survey. We did that the other day in the Appropriations bill. I voted against it at that time.

Secretary Babbitt has said that when the money passed the appropriations process in this House, and if it passes the Senate, he plans to install the National Biological Survey no matter what happens to the authorization bill. No matter what Congress says about the authorization power, he is going ahead and will conduct the National Biological Survey.

So that bill, having passed this House, what we are doing today with an authorization bill and the amendments that have passed, we are trying to put some standards and some controls behind it. I believe that is worth doing.

I hope we will have an opportunity in the future to address private property rights and to make a fight in that area.

Now, we are going to vote again on the Taylor-Pombo-Condit amendment, I believe, here today. I know there was some talk that tenant rights had been abused by that legislation, that in some States where the tenant has a right to the property, by going to the property owner for permission to come on to that land, as our amendment does, we bypass the tenant. That is entirely false. That is a smokescreen. That is trying to defeat the bill as it is.

What happens in most of those States is that the property owner will be asked for his permission to come on the land, and then if there are tenants, according to most State laws, his permission will also have to be had.

Now, we have no objection if anywhere along the process people want to amend our amendment to say that tenants are also protected, if that is a real concern; but we should not try to defeat the right of private property owners to protect their land under the guise of a tenant law.

So you can see my position. We have passed the creation of the National Biological Survey with the appropriations that we passed last week. What we are doing today is to try to put some control in an authorization bill that will protect private property owners and make this legislation more

in the public interest, and I intend to support it for that reason and that reason only.

Mr. VENTO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to take this time briefly to again enunciate my support for the National Biological Survey which has been so misunderstood, and to some extent, I think, misrepresented on the floor these past weeks over which this debate has stretched.

Clearly, the issues that many Members are raising with regard to private property are rights that are important issues. Nobody on this floor is denying or repealing or modifying or amending the fifth amendment to the Constitution which protects such rights.

The fact is that various regulatory structures at the State level, at the national level, have addressed and do limit the use of private lands and define what constitutes a property right.

In fact, on the question of property rights, as one of the Justices pointed out, regards individual rights, "Your rights to swing your arms around end where the other person's nose begins." Property rights are not much different and as we get in more information on wetlands, on various types of species, we find that the impacts that they have are far and wide. The varied utilization of land and property may well have a profound impact on other people's rights. Fill in a wetland and you destroy a habitat or excess pumping of water from an aquifer may have the same result. Property rights don't exist in a vacuum; they exist in a dynamic context and are interrelated to others property rights.

□ 1620

To represent that by having better information, that that somehow affects an individual's property rights, I think is inappropriate. We may decide that we want to change a policy, change what a regulator does, but to imply that we should do so with a poorer quality of information I think is a real step backwards.

There has been an effort, I think, a misunderstanding, throughout this debate to visit upon the National Biological Survey [NBS] other responsibilities. First of all, there is the expression that many Members are uneasy because of the role that the NBS will have to do surveys of various fauna and flora, but then all of a sudden, out of the blue, come amendments that somehow they are going to measure the economic impact, the human impact. Some are proposing to give the NBS responsibilities which would involve the great uncertainty and endless heated debate of almost any decisions that would be made.

In fact, of course, such task would be a grave mistake. It is not something for the physical scientist, the natural scientist. I think it is a task that is very difficult for economists and political sciences at the national or State level.

Madam Chairman, one point I wanted to make is that we have heard much in the past, and again today, about the Endangered Species Act and the associated problems of this act and wetland delineation, and the classification and conservation of various land management techniques. Recently I picked up a briefing paper of the Office of Technology Assessment which report elaborated upon nonindigenous species. Nonindigenous species, of course, are exotic species which do not occur naturally in certain types of environments, and the OTA did a survey of just 79 nonindigenous species from 1906 to 1991, and they learned from this particular survey and work that the Office of Technology Assessment did that within the United States the cost of these 79 nonindigenous species over this period of 85 years in this century cost an estimated $97 billion of damage. Cost and damage by vectors, by insects like Med flies, nonindigenous species, 79 life forms that became problems in environments where they didn't occur naturally.

Types of plants and animals that have caused serious difficulties, and of course the reason that this becomes important is, if we can plot and find out what is happening with various types of plants, various types of animals, the vectors that carry various diseases, it would be very, very useful to all of us to have proper information.

Again, Madam Chairman, this points out a purpose and a use of the National Biological Survey, not just on those particular laws that are controversial here today in terms of the Endangered Species Act, and I understand that that is controversial, and the wetlands delineation or Clean Water Act, but on many subjects and law that would be noncontroversial such as issues that deal with the medical health and well-being of the people that we represent that may be a subject of disease-carrying types of pests or various types of challenges in terms of nonindigenous species that are growing across the lands and destroying virtually native environments competing with crops.

So, Madam Chairman, what I am trying to point out here is that here we got a 100 billion dollars' worth of cost, just in this century, on 79 species that are not where they are supposed to be. They do not belong there. As my colleagues know, Hawaii has an example, as the gentlewoman in the chair knows. It has only about half of its native species remaining. They have lost the rest because they have been invaded by these nonindigenous species, and the same is true today on the tip of Florida where the Melaleuca and the Brazilian pepper are causing so much damage to the natural environments there.

I wanted to point out, for the benefit of the Members, why we need the National Biological Survey, not just the concerns that relate to other controversial or nonrelated subjects. We do not want the NBS to regulate; we just want the information—better data. After that, I am perfectly willing to stand in the well of this House, or to serve, and make decisions that affect people. But we should have sufficient and accurate data on which to base such decisions.

Madam Chairman, that happens to be the job that we are expected to do. We write the laws that affect people, but we have got to have it based on good information, and we should find no differences on that point.

OFFICE OF TECHNOLOGY ASSESSMENT REPORT BRIEF

Harmful "non-indigenous species" (NIS)—those plants, animals, and microbes that are found beyond their natural geographical range—annually cost the Nation millions to billions of dollars and cause significant and growing environmental problems, says a new report from the Office of Technology Assessment, Harmful Non-Indigenous Species in the United States. At the same time, beneficial NIS form the backbone of American agriculture and are important in horticulture, fish and wildlife management, biological control, and the pet industry. OTA's work takes a comprehensive look at the damaging species.

WHAT'S WHERE

The movement of plants, animals, and microbes is much like biological roulette. Once in a new environment, an organism may die. Or it may take hold and reproduce with little noticeable effect. But sometimes a new species spreads, with devastating results.

Almost every part of the country faces at least one highly damaging NIS—like the zebra mussel, gypsy moth, or leafy spurge (a weed). They affect many national interests: agriculture, industry, the protection of natural areas, and human health. The melaleuca tree, for example, is rapidly degrading the Florida Everglades system by replacing sawgrass marshes, forests, and other natural habitats with single species stands. In Hawaii, NIS are responsible for extinctions and replacements of indigenous species; they now make up at least 50 percent of the State's wild plants and animals.

Naturally occurring movements of species into the United States are rare. Most organisms arrive with human help. Numerous NIS entered the country as unintended contaminants of commodities, packing materials, shipping containers, or ships' ballast. Others were intentionally imported as crops, ornamental plants, livestock, pets, or aquaculture species—and later escaped. For example, at least "36 of the West's 300 weeds" escaped from horticulture or agriculture. A number of NIS were imported to improve soil conservation, fishing and hunting, or biological control but caused unexpected harm.

THE GOOD, THE BAD, THE "WHO KNOWS?"

Some NIS (like soybeans and most pets) are clearly beneficial; some (like gypsy moths, Russian wheat aphids, and crabgrass) are clearly harmful. Some are both, depending on location. And value is in the eye of the beholder. Purple loosestrife, for example,

is an attractive garden plant and a major wetland weed.

At least 4,500 NIS of foreign origin have established free-living populations in the United States, a much larger number than were present 100 years ago. Approximately 15% of the total species trigger severe harm. Most species' economic impact is not recorded. However, from 1906–1991, just 79 NIS caused documented losses of $97 billion, mostly in control costs and losses of marketable goods. A worst case scenario for 15 potentially high-impact NIS adds another $134 billion in future economic losses. This figure likely represents only a fraction of the total costs because many species and kinds of effects are uncounted. Harmful NIS also have exacted a significant toll on U.S. natural areas, ranging from wholesale changes in ecosystems to more subtle ecological alterations.

The rate of harmful introductions fluctuates in response to social, political, and technological factors. This rate does not appear to be increasing, although it is far higher than the natural rate of introductions. The cumulative number of foreign NIS in the United States, however, is climbing steadily and swiftly—creating an ever greater economic and environmental burden. Just since 1980, over 200 foreign species were first introduced or detected and at least 59 of these are expected to be harmful.

Uncertainty in predicting types and levels of risk remains a problem. Past intentional and accidental fish and wildlife introductions, for instance, have had about equal chances of turning out badly. Uncertainty can be reduced, or at least be made explicit, using methods such as risk analysis, benefit/cost analysis, environmental impact assessment, and decisionmaking protocols. The central issues for NIS and genetically engineered organisms, a special subset of this group, are the same: how to match an organism's potential for harm to pre-release scrutiny, how to treat high-risk species, and how to anticipate effects in new environments.

AN OUNCE OF PREVENTION?

For some species, prevention is the best strategy. However, port inspection and quarantine are fallible, with diminishing returns above a certain point. Also, some organisms are more easily controlled than intercepted. So aiming for a standard of "zero entry" is unrealistic, especially if prevention comes at the expense of control. When prevention fails, rapid response is essential. So far, such quick action has prevented establishment of the Asian gypsy moth, a major threat to Pacific Northwest forests. Managing non-indigenous pests presents hard choices because funds, technology, and other resources are often limited. Sometimes this means not controlling already widespread organisms, or those for which control is very expensive, or those having lower impacts.

Chemical pesticides play the largest role now in containing, suppressing, or eradicating NIS and they will remain important. An increased number of biologically based technologies can be predicted. Genetic engineering will increase the efficacy of some. Those who develop biological and chemical pesticides face the same difficulties—ensuring species specificity, slowing the development of pest resistance, preventing harm to nontarget organisms, clearing regulatory hurdles, and providing profits for manufacturers.

A PATCHWORK OF POLICY

The Federal Government has responded to harmful NIS with a largely uncoordinated patchwork of laws, regulations, policies and programs. Many only peripherally address NIS, while others address the more narrowly drawn problems of the past. At least 20 Federal agencies are involved, with the U.S. Departments of Agriculture and Interior playing the largest roles. Federal laws leave both obvious and subtle gaps that most States do not fill adequately. Significant gaps exist for fish, wildlife, animal diseases, weeds, species in non-agricultural areas, and vectors of human diseases. Many of these gaps also apply to genetically engineered organisms because they are commonly regulated under the same laws.

Federal agencies manage about 30% of the Nation's lands, many with grim NIS problems. Yet management policies are often inconsistent or inadequate. Even the National Park Service, with fairly strict rules, finds invasions threatening the very characteristics for which some parks were founded.

Federal and State agencies cooperate on many programs related to agricultural pests, but their policies can also conflict, e.g., when agencies manage adjacent lands. Sometimes Federal law preempts State law, more often regarding agriculture than fish and wildlife. Conflicts between States also occur, often without forums for resolving disputes.

State laws are relatively complete for agricultural pests but spotty for invertebrate and plant pests of nonagricultural areas. The State role is most critical for the import and release of fish and wildlife. These laws use a variety of approaches and vary from lax to exacting. While many fish and wildlife laws are weak and inadequately implemented, others present exemplary approaches. Harmful NIS have hit Hawaii and Florida particularly hard because of their distinctive geography, climate, history, and economy. Cooperative efforts have sprung up in both places. Increasingly, State and Federal agencies nongovernmental organizations, agricultural interests, and universities see harmful NIS as a unifying threat and public education as an important tool to alleviate it.

CONGRESSIONAL CHOICES

Congress can select many ways to better protect U.S. resources. Specific actions might include amendments to the Lacey Act and the Federal Noxious Weed Act. Congress might require stricter screening for invasiveness for federally funded efforts using NIS. Congress could direct more funds to weed management on public lands and to resource management in the national parks. Congress could expand environmental education and provide Federal agencies with adequate authority for emergencies.

Imposing new responsibilities without providing money for them does not work. Entrance or user fees could fund more rigorous and scientific decisionmaking and additional control. Fines, levied on those who bring harmful NIS into the country or spread them to new States, could more closely match the real costs of publicly funded management. Federal policy cannot succeed without State help. Model State laws or national minimum standards could ensure that all States have authority to regulate harmful NIS adequately.

NIS are here to stay and many of them are welcome. Problems due to harmful ones are likely to worsen, however. Human migration and population growth, increasing trade and travel, and, possibly, climate change propel species' movements. Countervailing trends—toward stricter screening and more sophisticated control—are weaker. We can envision a future in which harmful NIS are so widespread that economic costs snowball and one place looks much like another. Or we can imagine a future in which beneficial NIS contribute much to human well-being, harmful ones are effectively limited, and indigenous species are preserved. Choosing this vision, rather than another, is ultimately a cultural and political choice—a choice about the kind of world we value and in which we want to live.

Mr. FIELDS of Texas. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I move to strike the last word.

We have had a lively debate on this legislation. The House has adopted a number of changes, most notably the Taylor amendment, which improve H.R. 1845. Nevertheless, I cannot support this legislation because no matter how you rewrite it, dress it up, or refine it, a National Biological Survey is still a terrible idea.

This bill creates a monster that once unleashed will never be brought under control again. And if you don't believe me, then let two other people make my case.

First, listen to my good friend from Michigan, Chairman JOHN DINGELL, the original sponsor of the Endangered Species Act. The other day on the floor of this House the chairman explained quite clearly how he felt about the Biological Survey. He said:

> It is not in the interest of the environment, it is not in the interest of conservation, and it is a bad proposal. It is not going to save money and it is not going to make for better science. Information that might flow up to this body from Fish and Wildlife or from those other agencies will no longer be coming this way because Mr. Babbitt will have his hands right around the neck and windpipe of those agencies.

Proponents of the Survey say we are using scare tactics to whip up opposition to this bill, but I can't think of anything scarier than listening to proponents express their views on the Survey. Not too long ago, Dr. Thomas Lovejoy, science adviser to the Secretary of the Interior, explained the goal of the Survey clearly and unambiguously when he said:

> The National Biological Survey will map the whole nation for all biology and determine development for the whole country and regulate it all. * * *

And, if that doesn't scare you, this should: If you vote for the National Biological Survey, you as a congressional representative will become an endangered species. Your constituents will not forget that you voted to allow the Federal Government and its horde of faceless bureaucrats to show up uninvited at their doorsteps to inventory their private property. They will not forgive you if, because of this information, they are denied the use of their property as they see fit. This onerous piece of legislation will make millions of Americans lock their doors. You can be sure—if you vote for this bill—that your constituents will remember who authorized Big Brother to

come looking over their shoulders and peering over their fences.

Think very carefully about this bill. If you vote for it, you will create thousands of new victims like Mrs. Katherine Espy of Texas. I told you about her the other day. She let the Federal Government visit her property back in 1988. To thank her for her hospitality, the Fish and Wildlife Service, based on badly flawed data, listed the little Aguja pondweed as an endangered species. Now, she can't use her property anymore. Mrs. Espy had her worst nightmare come true that day when she opened her door to a nameless stranger who said, "Hi, I'm from the Federal Government, and I'm here to help you." Unfortunately, many other Americans have had that same nightmare. If this bill passes, scores of others will join their ranks.

Madam Chairman, H.R. 1845 is seriously, fatally defective because it does not include important fundamental protections. Our colleague, the gentleman from Louisiana [Mr. TAUZIN], had two amendments that should have been incorporated in this legislation. Under his amendments, human impacts would have been considered, and taxpayers, like Mrs. Espy, would have received financial compensation for the taking of their property. If the proponents of this bill wanted a National Biological Survey that would work for all species—including humans—then they would have accepted the Tauzin amendments. Regrettably, they have chosen not to and this bill is, therefore, irreparably flawed.

Madam Chairman, this new monstrosity with 1,734 Federal agents and a budget of over $170 million will collect data that will be used to decide what lands are wet, which species are endangered, and what development, if any, will be allowed on millions of acres of private property.

If you support private property rights and do not want to become an endangerd species yourself, I urge you to join with me in voting "no" on final passage.

Mr. TAUZIN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, we have had a good debate today. I think it is rather more than just a debate, it is the open skirmish in what will be a real war in this chamber over what kind of balance we want to strike between environmental protection and the protection of human beings on their property, in their jobs, and in the value of our society. But in that regard, let me join my friend, the gentleman from North Carolina [Mr. TAYLOR], in suggesting that you vote for this legislation.

First of all, the Biological Survey has already been authorized by this House last week when we adopted the Interior appropriations bill. That bill provided the money and the authorization for the Secretary to conduct the survey. In fact, if you dial right now the office in the Secretary's Office, you will find they are answering the phone "National Biological Survey." It has already started.

Madam Chairman, in the appropriations bill we were able to obtain only one protection, and that is the point of the Taylor amendment that required consent before entering private property, consent in writing. And that is good. But without this bill, all the other important protections we have built into this survey will, unfortunately, be lost.

Madam Chairman, let me cite some of them for you. In this bill we have prohibited the use of volunteers. That vote will come up again when we rise from the Committee of the Whole, and I hope this House will sustain that very important vote.

Second, we have in this bill passed the entire Taylor amendment, the full range of protections for private landowners against the entry by individuals without the consent of that landowner.

We have passed the Hayes amendment providing that the survey should first be conducted on public lands before private lands are surveyed.

We have passed an important amendment today to make sure that this bill was addressed to true biological resources, not to the land and ecosystem itself.

We have passed the provisions of the bill that give the landowner the right of appeal and insurance that the information gathered on his property is in fact good and reliable information before management actions are taken.

I wish we could have addressed the two issues I raised that the Chairman has ruled nongermane. But those issues are going to come up again. We will have a chance to debate whether human impacts and private property compensation are going to be part of our environmental laws. Both the Clean Water Act and the Endangered Species Act are up for reauthorization this Congress. We will get a chance to debate those. This is just the first battle.

Madam Chairman, let me tell you why a good data base is essential in America if we are going to have sound and effective environmental policy for our country and why it is important in the end that we debate the issues before us of private property rights and human impacts.

In my own State of Louisiana we got some good news this week. Up until this week we were losing about 50 square miles of our precious lands along the coast of Louisiana to the natural forces of erosion and land sinking and geodetic syncline as the Delta of the great Mississippi River continues to sink. Fifty square miles.

This year they reported to us the news is a littlebetter; we are down to 35 square miles a year. And, guess what? Most of it is private property. Most of it is owned by individuals who cannot even get permits to protect their own private property against erosion under the restrictive environmental laws that are currently on the books.

Data is so bad, the laws are so miswritten, that property owners and American citizens are fighting the good goals of environmental protection, are not doing the things they ought to be doing to protect plants, animals, and land, because they cannot get permits to do it and because they feel that to cooperate with Federal authorities means further losses of their individual rights in America.

Madam Chairman, these laws need badly to be revisited. When we revisit them, hopefully we will do it on a good scientific basis, with peer review and the right of appeal. Hopefully before we are through, this Congress will recognize the right of compensation without going to the Supreme Court, and hopefully this Congress will recognize that environmental laws ought to be enacted and ought to be implemented with respect for human beings, rather than simply running over them, irrespective of their rights to jobs and property.

Madam Chairman, I will vote for this legislation, because without it the good restrictions we have adopted on this floor are lost, and we ought to have them. I will work with the chairman of our committee to see to it that hopefully in conference we perfect some of the language we enacted today.

Madam Chairman, this fight has just begun. The battle for balance has just started today. Stay in close touch with this debate. It is one that I think is going to affect dramatically the fabric of our society, our real commitment to environmental concerns, and balances, as we consider human impacts, human jobs, and private property rights in America.

Mr. VENTO. Madam Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized.

There was no objection.

Mr. VENTO. Madam Chairman, I rise in favor of the proposition before us.

Madam Chairman, I rise to put in the RECORD a correction to the statement of the gentleman from Texas [Mr. FIELDS] and in past statements made by other Members that attributed statements to Dr. Thomas Lovejoy, a science adviser to the Secretary of the Interior. On September 14, 1993, at a hearing before the Subcommittee on Technology, Environment, and Aviation of the House Committee on Science, Space, and Technology, the gentleman from California [Mr. CALVERT] introduced a quote attributed to Dr. Thomas Lovejoy, science adviser to

the Secretary of the Interior and member of the National Biological Survey steering committee, pages 54 and 55 of the hearing transcript.

At that same hearing, Secretary of the Interior Babbitt repudiated the quote attributed to Dr. Lovejoy in Dr. Lovejoy's absence.

On October 6, 1993, the gentleman from Texas [Mr. FIELDS] and others on this floor and again in debate today introduced the same quote on the floor of the House during debate on this measure, the National Biological Survey.

On October 20, Dr. Lovejoy submitted a transcribed copy of his remarks from which the quote was reportedly taken, with a letter indicating that attributing this quote to him was not simply a gross misstatement of what he said, but rather it turns out to be a fabrication.

Additional material in the form of a notarized letter from the transcriber of this material at the event indicates that the transcript sent to us by Dr. Lovejoy represents an accurate and complete account of his statement at this conference. And, further, that the transcript represents only the deletion of informal greetings and closings and punctuation as interpreted by the transcriber.

Based on this record, it would appear that Dr. Lovejoy has had attributed to him a gross misstatement of his remarks and views.

It is my opinion that our RECORD should reflect in Dr. Lovejoy's interest a proper correction for attributing false statements to him. I submit the appropriate pages from the Science Committee transcript, the letter from Dr. Lovejoy, and the notarized letter from the transcriber as a correction to the RECORD.

Madam Chairman, I also have a letter that he has sent to me concerning this matter. I think that it would be appropriate for Members to correct the RECORD and to qualify their prior comments and mistaken quotes and views of Dr. Lovejoy in this matter.

OCTOBER 20, 1993.

Hon. BRUCE F. VENTO,
Chairman, Committee on Natural Resources, O'Neill House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I would like to respond directly to comments made during recent debate on legislation to authorize the National Biological Survey. I can say without hesitation that I never made the statement attributed to me during debate on Wednesday, October 6, 1993. I have reviewed a transcript of my remarks at the "From Rio To The Capitols" Conference on May 26, 1993, in Louisville, Kentucky. Enclosed is a copy of the transcript.

What I did discuss is the need for better biological information, both as a basis for new economic growth and to help avoid some of the wrenching economic and ecological dislocations that occur when we find out about conservation problems too late. Better information, which the National Biological Survey can provide, enables government and private decisionmakers to respond before conditions deteriorate, and flexibility is lessened. Such early solutions can help reduce the need for regulatory controls. This is quite different from both the spirit and the letter of the statements attributed to me.

Thank you for helping me set the record straight. Please feel free to contact me if you have any additional questions.

Sincerely,

THOMAS E. LOVEJOY.

Enclosure.

OCTOBER 22, 1993.

TO WHOM IT MAY CONCERN: The attached document represents the remarks of Dr. Thomas Lovejoy of the Smithsonian Institution as transcribed from tapes which were recorded during the "From Rio to the Capitols: State Strategies for Sustainable Development" Conference which was held in Louisville, Kentucky, May 25–28, 1993. Dr. Lovejoy spoke on the second day of the conference, May 26, 1993.

Note that we have only deleted informal greetings and closing, as well as a portion of an extemporaneous story that did not add to the substance of the presentation. Dr. Lovejoy did not provide written material, therefore the transcript style (i.e. punctuation) was interpreted by the listener.

This presentation is available on video and audio tape from Rebecca Stutsman in the Office of Governor Brereton C. Jones. She can be reached at (502) 564–2042.

Sincerely,

ANN JAMES,
Conference Coordinator.

Enclosure.

FROM RIO TO THE CAPITOLS: STATE STRATEGIES FOR SUSTAINABLE DEVELOPMENT

The point I want to dwell on this morning is the role of biology and living resources in our quest for sustainability. On the one hand, most environmental problems simply are not environmental problems unless they affect living systems such as human health and biological diversity in ecosystems. On the other hand, biological resources have an innate capacity to renew themselves so that if managed wisely they can be resources in support of human society for indefinite lengths of time.

About two years ago, just before Memorial Day weekend, I was contemplating a leisurely trip from Washington, D.C. to Seattle for a hike in the Olympic National Forest when my weekend plans had to be severely modified. Instead on a Thursday night I flew to London; Friday I went to Cambridge, delivered a eulogy and Saturday I found myself flying from London to Seattle arriving like a limp rag. In the late afternoon I made my way to the ferry and took it across Puget Sound and arrived on Bainbridge Island. I then had to be driven to my original destination for the weekend. I was able to shower and change in time for guests and dinner. When we sat down at the dinner table, you can imagine I was looking forward to not doing too much, listening and relaxing until such time as I could steal away and go to bed.

Three minutes into dinner, in this sort of mood, a noted educator at the table asks me, "And what about the owl?"

Being tired enough at this point, I simply shot back, "Well, how do you feel about libraries?"

At that point my hostess thought I was losing my mind. But, I went on to explain that each species represents a package of solutions to a unique set of biological problems. And, that in fact, biological diversity represents the fundamental library on which the life sciences—arguably the branch of sciences most important in support of ourselves as living organisms—can be built.

If you think about it, we have learned some extraordinary things in the last 20 years about living systems and what they are capable of because of biological diversity that nobody had looked at before.

Consider, for example the discovery of the biological communities clustered around the rifts in the bottom of the ocean out of which heat and mineral nutrients pour. We have discovered that it is possible for living organisms to live not only at those pressures at the bottom of the sea, notonly at temperatures in excess of the boiling point of water, but they are able to do so depending not on sunlight as the fundamental source of energy driving those biological systems, but on the primal energy of the earth.

One can go on and point out rather simple minded examples, but powerful ones, such as how a moldy cantaloupe led to the whole notion of antibiotics; how a cow-pox virus led to the whole notion of vaccinations—concepts that are extremely powerful in support of human society.

The point I want to make goes beyond the library concept.

The point I want to make is that although we already depend a great degree in our society on biological resources, whether it be in the form of food or medicines or timber, we are in fact just at the moment of entering an age of biotechnology where we will be able to extract benefit from biological diversity—from nature—at the level of the molecule. It will be possible to create wealth from biological diversity at the level of the molecule.

The best example I have encountered so far involves a biochemical reaction with a name you will soon find surprising numbers of people are familiar: the polymeric chain reaction. Why will people know this name? Because the reaction is at the heart of the movie, "Jurassic Park," about creating dinosaurs from the DNA in the blood sucked by mosquitoes tens of millions of years ago. A lot about the movie is fanciful, but the actual reaction of being able to multiply the genetic material through this reaction is very real and it is a fundamental part of the world economy already.

This reaction involves the application of heat which unravels the two strands of the chromosome and then an enzyme which causes the two strands to replicate at the end of which you have two chromosomes. The chain reaction allows you to do this over and over again. In fact, if you go to the doctor today with a suspected strep throat, you no longer have to wait around for two or three days for the offending organism to be grown in culture until there was enough that you could identify it properly for the diagnosis and prescription. Today, you can get this information in the space of a few hours.

For years, people working in molecular biology knew about the possibility of this reaction but they couldn't find an enzyme that was resistant to heat. Finally, somebody had the bright idea that somewhere in nature there must exist enzymes which would do the trick to convert this into a chain reaction. This is precisely what happened. Somebody went out to Yellowstone National Park and there they found a bacteria which has just such an enzyme. So, today, a major portion of diagnostic medicine is possible because of that enzyme. A major portion of forensic medicine is possible because of that enzyme. A major portion of the biotechnology depends on that enzyme. We are literally talking about billions and billions of dollars of economic activity driven by this single molecule.

That is why I can make the statement that we are on the verge of being able to create new wealth based on biological systems at the level of the molecule.

That, of course, is happening at just the time when significant amounts of biological diversity are being lost. Some of it is being lost in very obvious ways. But, a lot of it is being lost simply because we don't even know about it. It is likely that science has only described one out of ten species of plants and animals and microorganisms with which we share this planet. Yes, the majority of that ignorance lies in the tropical forests along the equatorial regions of the globe—the "Fort Knox of biology" as Mike Robinson would call it. Some of it lies in the sea, but some of that ignorance is right here at home. Sometimes it is because nobody has studied the microorganisms enough so they do not have names. Other times it's because we have not been systematic about doing the basic chore of inventorying our biological resources.

Agenda 21 addresses this issue and urges all nations to set up national biological surveys. As you heard from the introduction, it is an exciting opportunity for me to serve as science advisor to the Secretary of Interior at a time when the national biological survey is being created.

I should point out that the department is being re-created. There was a United States Biological Survey founded in 1895. It was in the Department of Agriculture. It was brought over to the Fish and Wildlife Service in 1939 and as priorities shifted and funding dwindled away.

Today, if you study the Department of Interior as an evolutionary biologist would, you can find the surviving scientists in the national fish and wildlife laboratories housed in the Smithsonian's National Museum of Natural History.

Today's survey is an extraordinary challenge. If you stop to think about it, there is a spectrum of kinds of surveys. On one end of things there is a survey of non-changing resources. At the other end of that spectrum is a survey of instantaneously changing phenomenon—that's the weather service. Somewhere in between those two lies the biological survey. The point I want to make here is that biological systems are dynamic. Basically, when you set up a biological survey you are setting up a permanent agency. There is no way a job can be done once and for all.

The other major complication about setting up a national biological survey is that there already is survey activity in bits and pieces across this nation. There are states which have formal biological surveys like the state of Illinois. Forty-four of the 50 states have a state heritage program, perhaps overly weighted from this point of view towards endangered species, which have been set up through The Nature Conservancy. And, there are repositories of data through museums and botanical gardens, and various agencies throughout the federal government. There is no way that you can create a biological survey without it being a collaborative mosaic which invites everybody to the table. There is quite a challenge here.

What I am delighted to tell you is that in my lifetime as a biological scientist, I have never seen so much excitement in the scientific community. In fact, our biggest problem is that there will not be tremendous amounts of resources to devote to this initially. It would be wonderful to be able to harness all that enthusiasm to the fullest extent.

The notion is to have a national biological survey in place by October 1. This will be done primarily through a budget amendment through the Department of Interior. We are talking about a $180 million package within Interior. It would basically cobble together in a single biological research agency all the existing research in biology in eight different bureaus within the Department of Interior.

I fully anticipate that on October 1st, Bruce Babbitt will go down one of those long halls in the Interior Department and come to a door that will say "National Biological Survey" and there will actually be somebody inside who is starting to take charge of building this organization.

There is a lot to be done. In particular we have to be careful that the customers who have been dependent on research being carried out by those field scientists who will be transferred into this unit will not be shortchanged. A very important part of this exercise is not to spoil those relationships. In my view, if we do it right it will turn out not only to be undamaging to those customers—within them I include the state fish and game agencies—but it will also provide a wonderful opportunities for better information about our biological resources and management.

In the end, the goal here as Bruce Babbitt has set it forth, is to find ways in which we can live within our ecosystems without destroying them. Let's face it—we are already there. You cannot protect biological diversity just by putting fences around it. Our relationship to the land is far more complex than that. And, if we can provide the kind of information that a survey is all about, map the nation biologically and then get proactive about how development proceeds at the local level. By tight collaboration among the federal, state and local governments we should be able to get way ahead of those "national train wrecks" as the Secretary of Interior likes to call them.

It is my own personal opinion that had all of this been in place 30 years ago, that is, wilderness areas were created in the Northwest, more of them would have had old-growth forests in them and we might never have come to the point of having a spotted owl problem. The owl is merely a symptom of the old-growth forests under stress.

We have a very interesting case we are trying to work on right now in southern California involving the California Gnat-catcher which is one many species that occurs in the coastal scrub which has been under a great deal of pressure. As I understand it, there is very good collaboration between the three counties—Los Angeles County, Orange County and San Diego County—and the State of California and scientists from the Interior Department to develop a plan for economic development proceed in that part of California in a way that doesn't destroy the basic ecosystem.

What I really want to leave you with is that if we are really going to take advantage of the tremendous power of biology in our quest for sustainability, we need to do it in a very practical, on-the-ground kind of way nurtured by the right kind of science.

Thank you very much.

TESTIMONY FROM HEARING

Mr. VALENTINE. Thank you, sir.

The gentleman from California, Mr. Calvert.

Mr. CALVERT. Thank you, Mr. Chairman.

Let me apologize in advance, Mr. Secretary. We probably need to leave in a few minutes to vote. But I also have some very large concerns about the National Biological Survey.

I am from Riverside County, California, the home of—of course, our Chairman of our committee is also from that area. We have several species of fly, of course the famous Stephens kangaroo rat, the blacktailed gnatcatcher and others. And it has caused great consternation under the Endangered Species Act. In fact, we have a person, when you mentioned small landowners, who has a home on a quarter-acre lot, whose home burned down in my district and cannot now get a permit to rebuild their home, unfortunately. We found that small landowners are in fact very much impacted by the Endangered Species Act.

I have a quote here apparently from a member of the National Biological Survey's steering committee and one of your advisors, and that quote is what he believes his obligation is under the National Biological Survey. And that is: "To map the whole Nation for all biology and determine development for the whole country and regulate it all, because that is our obligation as set forth in the Endangered Species." Dr. Thomas Lovejoy.

From my perspective, and I am sure from many others, that creates—causes great concern as far as local land use issues in California and certainly throughout the West. And we are concerned about maintaining habitat areas and building ecosystems, which we have done a lot of in Riverside County, which I know you are aware of, but this type of comment certainly causes some concern. Would you like to comment on that?

Secretary BABBITT. Certainly. I have the greatest respect and admiration for Tom Lovejoy. I proceed then to disavow those remarks as not reflecting the policy of the Interior Department. I think those remarks kind of skip, you know, an enormous amount of territory. And if I could relate it to your experience in California, land use planning is not a national function, it is not an Interior Department function, it is not a Federal function. In my judgment, it should not be.

Mrs. MORELLA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, once again I speak in support of the National Biological Survey Act. Consolidating biological research, which is now handled by eight different agencies, makes good management and economic sense. By monitoring the Nation's natural resources, it is hoped that we will be altered to potential threatened and endangered species and take early action to avoid the spotted owl crisis of the Pacific Northwest.

Resource managers, both public and private, will have access to sound biological information over a period of time, which will enable them to identify important trends. For example, a long-term study of species living in rivers can provide valuable information about water quality trends to State and local water quality agencies and private industries. It can also lead to a better understanding of the relationships between species' survival and habitat preservation.

Madam Chairman, I support private property rights. I believe that property

owners must be compensated when their property is taken for public use under the fifth amendment. Under the National Biological Survey, property rights are already protected through existing State and local trespass laws. The NBS will have no regulatory authority and it cannot be used to take private property.

The NBS is preventive medicine. By giving us a picture of our biological diversity, it will alert us to potential problems before they develop. I urge a "yes" vote for the National Biological Survey Act.

Ms. SCHENK. Madam Chairman, I rise today in strong support of H.R. 1845, the Biological Survey Act. The establishment of a Biological Survey in the Department of the Interior will provide the good science necessary to make good policy decisions. It is not a mechanism for imposing Federal land management planning, but rather, a tool which will be available to aid everyone involved in land use decisions from the individual property owner to the multinational corporation—from the Federal Government to the local zoning board. Its aim is to collect and disseminate scientific data more effectively—to provide a base of information on which all decisionmakers can rely.

Madam Chairman, I was quite disturbed at the tone taken by opponents of this legislation when it was last discussed on this floor. This legislation does not threaten anyone's property rights, and to characterize it as such misses the basic point and does this debate a disservice. Good information is essential to good policy. the Biological Survey will provide our Nation with reliable, peer-reviewed, scientific data necessary for sound public and private policy.

Another untenable argument raised against H.R. 1845 is that more information will inevitably lead to more regulation. There is no reason to assume that a better understanding of our biological resources will result in increased regulation.

Data from the Survey will generate information that will help us sitedevelopment projects intelligently and allow them to proceed without the environmental pitfalls they now face.

Far from working against economic interests, the Survey can help us work for them. The National Biological Survey is a critical scientific tool, one that we cannot afford to be without. I urge my colleagues to support his bill.

Recently, John Sawhill, president of the Nature Conservancy and a former official in the Nixon and Ford administrations, wrote an op-ed piece for the Washington Post. Mr. Sawhill dispels some of the misleading arguments offered by opponents to this legislation. For instance, he notes that all current laws protecting property will remain in force and the bill includes safeguards against unauthorized trespass—safeguards that have been strengthened by amendments in the House.

Mr. Sawhill also points out that H.R. 1845 will save money because we will be able to take appropriate and less expensive action in regard to ecosystem protection. Species will be identified before they become threatened or endangered and protection efforts require radical and expensive intervention. By helping to determine what areas need to be included in a nature preserve—as well as what doesn't need to be included—we can avoid costly errors.

In addition, Mr. Sawhill's article shows how the Survey can help us achieve both economic and environmental goals. He cites the example of Duke Power which sought to build a power line across the ecologically sensitive Panthertown Valley. The company was able to draw on a detailed biological survey of the valley, and by doing so, Duke located its power line in a way that did not disturb the area's rare species. The project was completed promptly and without the potential expensive litigation. Duke Power's experience should illustrate to all of us how good environmental information can lead to both development and the protection of ecosystems.

I submit the full text of Mr. Sawhill's article:

[From the Washington Post, Oct. 7, 1993]

ECOLOGICAL SCARE TALK

(By John C. Sawhill)

Sobered by the decade-long spotted owl controversy in the Pacific Northwest and determined to avoid such costly conflicts in the future—what Interior Secretary Bruce Babbitt calls "national train wrecks"—the Clinton administration wants to switch endangered species conservation onto a different, less controversial track.

Unfortunately, that has not stopped anti-environmental activists from gearing up to derail this new effort. Employing classic scare tactics, these opponents are trying to paint the administration's plans as an assault on private property rights.

In fact, this new direction in conservation—called the ecosystem approach—threatens no one's property rights. To the contrary, it makes eminent sense for business, individuals and the country. Ecosystems are the support systems for species. Instead of waiting for a plant or animal species to reach the brink of extinction and then involving the Endangered Species Act, the new philosophy would encourage preventive measures across entire ecosystems to keep species from becoming endangered in the first place.

Right now, though, our knowledge of the distribution, location and health of our country's native plants, animals and ecosystems is incomplete at best. To implement the ecosystem approach without a systematic national scientific inventory of those resources would be like setting off on a cross-country journey without a road map.

There is a proposal in the works to create just such a map. The National Biological Survey, an ecological equivalent of the U.S. Geological Survey, would develop a comprehensive catalogue of the nation's biological resources. This is a proposal that deserves the support of Americans interested not only in preserving our natural heritage but also in saving money. In conservation, as in all things, good information drives good management decisions and generates cost-effective results.

Not coincidentally, it's the information that the National Biological Survey will generate that has the anti-environmental crowd so exercised. Surely, they argue, the survey will locate all kinds of new endangered species, and thereby prohibit property owners from using their land in any way—and, to add insult to injury, doubtless some zealous government biologist will trespass on private land to collect the information in the first place.

The hyperbolic tone of congressional testimony by the National Inholders Association typifies anti-environmental opposition to the survey. The purpose of this legislation is to curtail or eliminate human uses of natural resources and transfer privately-owned resources into public hands without compensation," the association blustered. "The [survey] will be no more than fuel for the existing engine that is precipitating the train wrecks."

Nothing could be farther from the truth. Read the legislation establishing the National Biological Survey and you'll find that all current laws protecting property owners will remain in force. It also includes safeguards against unauthorized trespass. Moreover, the better data provided by the survey will be just as likely to provide grounds for reducing regulations as for imposing new ones.

In fact, far from halting development, biological survey data survey should generate information that will help us site development projects intelligently so that they can proceed more efficiently. In focusing on the property rights issues, the naysayers have tried to deflect attention from the many other position uses of information from the National Biological Survey.

On the scientific level, for instance, the survey will be an archive for information on the locations and populations of the plants, animals and types of natural communities found in the United States. This information will in turn enable scientists to monitor the status of various at-risk species allowing them to identify any rapid declines and take appropriate, lower-cost action before a particular species becomes endangered.

(To a significant degree, the platform for this inventory already exists—in the network of 50 state Natural Heritage Programs. The scientists working in these programs have done extraordinary work in locating biodiversity "hot spots" and helping set protection priorities.)

Information from the National Biological Survey will also improve the design and management of parks and natural areas. The sad case of the Dusky Seaside Sparrow—a small bird once native to Florida but now extinct—shows us that we can set aside land for an endangered species and still see it continue to decline and even go extinct. By helping determine what needs to be included in a nature preserve—as well as what doesn't—the survey can help avoid these tragic and expensive errors.

Perhaps most important, though, the survey could help close the growing schism between economic and environmental goals. Indeed, information from the survey has enormous potential applications for the private sector.

Four years ago, for example, Duke Power, the North Carolina utility, wanted to build a power line across the ecologically sensitive Panthertown Valley. This plan faced numerous obstacles, not the least being the presence of several endangered species. But by drawing on a detailed biological inventory of the valley, Duke was able to locate its power line without disturbing the area's rare species. The company completed its project promptly, without expensive litigation or regulator penalties.

Despite what the alarmists would have you believe, the National Biological Survey poses no threat to private property rights or landowners. It is one opportunity we can't afford to pass up.

Mr. SAXTON. Madam Chairman, I rise in support of H.R. 1845, the National Biological

Survey Act. As amended, this bill takes most people's concerns into consideration.

It provides for the full protection of private property rights and privacy. It ensures quality control of data and competitive peer review.

And, more importantly, it provides a mechanism to collect biological information while avoiding the prohibitive costs and bureaucratic quagmire currently plaguing landowners and the managers of our Nation's natural resources.

According to the Nature Conservancy, over 60 percent of all requests for biological data from the Natural Heritage Program emanate from private entities and commercial businesses seeking to avoid economic disaster before investing finances in jobs.

The current process for obtaining biological information saddles business people with prohibitive costs, bureaucratic burden, and blind mandates.

The National Biological Survey will provide the means to collect the necessary biological data, avoid most bureaucratic inconsistencies and duplication, and facilitate the cooperation and information that are essential for economic decisionmaking.

As our Nation reexamines the laws designed to protect and sustain the health of our ecosystems and natural resources, it is imperative that decisions be based on scientific information rather than political rhetoric. More importantly, the private sector must be included and rewarded for the development of cooperative partnerships. H.R. 1845 is an essential step toward achieving these goals.

I urge my colleagues to support its passage.

Mr. REED. Madam Chairman, I rise in support of H.R. 1845, the National Biological Survey Act of 1993.

A National Biological Survey will enhance our ability to make sound conservation decisions and improve our ability to handle the important challenge of conserving our Nation's biological heritage.

In Rhode Island, many organizations and State agencies rely upon the State's Natural Heritage Program for identification of the most critical sights in need of protection. Heritage data has been the key to the protection of approximately 15 acres of globally significant coastal plain pondshore in South Kingstown; nearly 10 acres of piping plover and least tern nesting habitat in Little Compton, and 150 acres of rich woodlands in Lincoln, which supports over 20 species of rare plants.

Unfortunately, this legislation is being attacked by opponents who are misrepresenting the purpose and effects of the bill. Contrary to what opponents assert, H.R. 1845 does not allow the Government to take private property. The new bureau established under the NBS will have no regulatory authority and will not make resource management decisions. The House has already passed an amendment to the bill protecting private property rights by requiring that propertyowners give written permission before a surveyor can enter their land. Property rights are further protected through existing State and local trespass laws.

Madam Chairman, scientists consider one of the most serious environmental threats to the planet and human welfare to be the loss of biological diversity. Our understanding of these resources has enormous bearing on national security, human health, food protection, biotechnology, and development of pharmaceuticals. I urge my colleagues to support the passage of H.R. 1845.

Mr. EDWARDS of California. Madam Chairman, I rise in strong support of H.R. 1845, a bill to establish a National Biological Survey within the Department of the Interior.

For most of our Nation's history, we have enjoyed an abundance of natural resources in this country, and we have been able to make use of them, even exploit them, without regard to the consequences. However, as the demand on the world's resources has grown, we are struggling to accommodate the increasingly complex needs of society at a time when our resources are dwindling.

The competing demands of resource conservation and development have led to the controversies and potential economic disruptions that surround endangered species decisions. Secretary of the Interior Bruce Babbitt developed the National Biological Survey to help put an end to the conflicts between environmental and economic interests in this country. Although no one is against protecting our natural resources, our approach toward conservation in the past has been flawed. Without proper scientific data and a full understanding of the interconnection between all the elements of an ecosystem, we have been forced to take a piecemeal approach toward habitat and species protection. This has led to the numerous environmental train wrecks that we face today, which will continue to multiply if we do not develop the proper tools to manage our ecosystems better.

The NBS will create a coordinated effort to inventory and monitor the Nation's biological resources. The scientific information gathered can be used to develop effective ecosystem management strategies. Instead of a system that allows plant and animal species to reach the brink of extinction before any action is taken to remedy the situation, the NBS will allow preventative measures to be developed on an ecosystem basis to keep species from ever becoming endangered at all.

It distresses me that this good faith attempt to seek a solution to end these bitter conflicts has been attacked so brutally by antienvironmental groups. They have resorted to scare tactics, predicting the discovery of countless new endangered species, leading to vast new areas of private property that will be subject to government control.

This thinking is narrow minded and misguided. We will accomplish nothing by burying our heads in the sand and deliberately remaining unaware of the condition of our natural resources. There is nothing to be gained from ignorance. The information provided by the NBS can be used to identify areas at risk so they can be treated before extreme tactics, such as those that may require land-use restrictions, are necessary.

I believe that we have a responsibility to be proper stewards of our planet, to ensure that the biological diversity and natural beauty of our resources are preserved for generations to come. I do not understand the reluctance of some Members of this body to adopt a program that will enable us to better understand our biological systems and the benefits they provide to society.

Not long ago, it was the Government's policy to encourage the filling and destruction of our wetlands. This was done out of ignorance over the tremendous benefits that wetlands provide. Now, however, we understand how valuable wetlands are, but already over 50 percent of the Nation's wetlands have been lost. Today, we are struggling to preserve the few wetlands that remain, in some cases at tremendous cost and effort.

The National Biological Survey will help us avoid costly mistakes like this one in the future. If nothing else, we should be seeking to learn from our mistakes, not perpetuate them.

I am also concerned that some individuals feel the NBS will be a tool with which to attack the private property rights of individuals, and I would like to address this issue.

As many of you know, I have become particularly interested in the debate over how best to protect the Nation's wetlands. I know that some individuals have begun to view the environmental regulations concerning the proper use of wetlands as an infringement on private property rights, and are seeking legislative guidelines to establish when compensation should be granted.

Yet, wetlands, like any other natural resources, must be protected because of the vast public benefits they provide. It is the undisputed duty of the government to look out for the public welfare, and thus private property rights must be balanced by public health and safety concerns. In the case of wetlands, regulations aimed at their protection exist because they serve important natural functions vital to the health and safety of the public.

Thus, the issue is not really the rights of the private property owner versus big Government. The issue is really the conflict between one individual's property rights versus the property rights of other individuals. In the case of wetlands, when they are destroyed, downstream flooding can occur, or nearby water supplies can become contaminated. That is why the courts have held that nuisancelike property uses cannot be grounds for a taking. But defenders of private property rights often ignore the damage done to these downstream propertyowners.

Proposals to legislate a definitive threshold where a taking occurs disregard the standards carefully worked out by the courts. Determining the legitimacy of a claim must not be based on rigid statutory requirements, but on the unique facts of each case, and therefore takings claims must be reviewed on a case-by-case basis.

We have nothing to fear from the National Biological Survey. It will act as an independent science bureau, and will not advocate positions on resource management issues. The data gathered from the NBS is just as likely to be used to identify the presence of endangered species as it is to demonstrate the health of a species population, and provide grounds for reducing regulation.

I urge my colleagues to resist the scare tactics being used to derail this worthy program, and vote in favor of H.R. 1845, and against any amendments which seek to weaken it.

Mr. McDERMOTT. Madam Chairman, I regret that I was unable to make a statement during the consideration of the National Biological Survey Act, H.R. 1845, when it came to

the floor yesterday, but I was suffering from the flu. Today I submit for the record my strong support for the National Biological Survey Act.

The National Biological Survey [NBS] provides an opportunity to gather comprehensive information about the Nation's biological resources, giving biologists and policymakers the tools to make better decisions about how to manage economics and biodiversity in harmony with each other. The President and Vice President understand that economics and the environment must work together; this bill provides the necessary groundwork to make that synergistic relationship a reality.

Our Nation's wealth and heritage is built on healthy ecosystems. Agriculture, manufacturing, fishing, forestry, and many other important components of our national economy are directly tied to the health of ecosystems and the species that compose them. The NBS will provide information about the well-being of sensitive species before they become listed as threatened or endangered, enabling these critical industries to proceed uninterrupted while ensuring the viability of the ecosystems upon which they depend. Businesses and environmentalists agree that sensitive species should be attended to before they are listed under the Endangered Species Act; the NBS provides a vehicle to do just that.

Under the current nonsystem, scientists do not know where sensitive species are until businesses apply for permits. With such scant knowledge about the status and location of most species, economic development is subject to last-minute changes due to uncertainty about species viability. The NBS would provide permitting agencies with enough information to make thought-out, rational decisions about economic development instead of being forced into derailing good projects because of an information deficit. The Survey will provide cost-effective results that will benefit businesses as well as our environment.

Finally, the NBS is not a threat to private property rights. On the contrary, it enhances the ability of private property owners to make long-term, reliable decisions about land use. The program adheres to all laws protecting private property owners, including those prohibiting trespass.

The NBS will provide information critical for rational economic development and protection of species upon which our ecosystems depend. I add my strong support of the program to that of the majority of the House. If this program becomes public law, it will illustrate the cooperative relationship between biodiversity and economics in our Nation.

□ 1640

The CHAIRMAN. Are there any further amendments to the bill?

The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mrs. MINK, Chairman of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1845) to establish the Biological Survey in the Department of the Interior, pursuant to House Resolution 252, she 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 amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. DREIER. Mr. Speaker, I demand a vote on the amendment offered by the gentleman from North Carolina [Mr. TAYLOR], regarding written permission of landowners.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

Mr. VENTO. Mr. Speaker, I demand a vote on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN], dealing with volunteers.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the Tauzin amendment on which a separate vote is demanded.

The Clerk read as follows:

Amendment: In section 3(c)—

(1) strike paragraph (2); and

(2) in paragraph (1)—

(A) strike "(1) IN GENERAL.—";

(B) in subparagraph (B) insert "and" after the semicolon at the end;

(C) in subparagraph (C) strike "; and" and insert a period;

(D) strike subparagraph (D); and

(E) redesignate subparagraphs (A), (B), and (C) in order as paragraphs (1), (2), and (3).

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair announces that he may reduce to a minimum of 5 minutes the time for any subsequent votes on amendments adopted in the Committee of the Whole. This is a 15-minute vote, which may be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 194, not voting 12, as follows:

[Roll No. 528]

AYES—227

Abercrombie
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Brooks
Browder
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Fish
Flake
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Herger
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jefferson
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kyl
Lambert
Laughlin
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Michel
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Regula
Reynolds
Ridge
Roberts
Rogers
Rohrabacher
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—194

Ackerman
Andrews (ME)
Bacchus (FL)
Barca
Barrett (WI)
Becerra
Beilenson
Bilbray
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Filner
Fingerhut
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)

Johnson, E.B.
Johnston
Kanjorski
Kennelly
Kildee
Klein
Klug
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Leach
Levin
Lewis (GA)
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Mineta
Mink
Moakley
Moran
Morella
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Roemer
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Synar
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—12

Berman
Blackwell
Brewster
Brown (CA)
Gephardt
Hoekstra
Horn
Kennedy
McDade
Porter
Rose
Rostenkowski

□ 1705

Mrs. MEYERS of Kansas, Mr. SANGMEISTER, Ms. CANTWELL, and Mr. SPRATT changed their vote from "aye" to "no."

Mr. SMITH of Michigan, Mr. VOLKMER, and Mrs. SCHROEDER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The Clerk will report the other amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Strike section 6, and insert:

SEC. 6. SURVEY ACTIVITIES ON PRIVATE AND OTHER NON-FEDERAL LANDS.

(a) COMPLIANCE WITH STATE LAWS.—The Survey shall comply with applicable State and Tribal government laws, including laws relating to private property rights and privacy.

(b) CONSENT AND NOTICE REQUIREMENTS.—

(1) IN GENERAL.—The Survey shall not enter non-federal real property for the purpose of collecting information regarding the property, unless the owner of the property has—

(A) consented in writing to that entry;

(B) after providing that consent, been provided notice of that entry; and

(C) been notified that any raw data collected from the property must be made available at no cost, if requested by the land owner.

(2) LIMITATION.—Paragraph (1) does not prohibit entry of property for the purpose of obtaining consent or providing notice as required by that paragraph.

(c) REPORT TO CONGRESS.—On January 1, 1995, and January 1, 1996, and biennially thereafter, the secretary shall provide a report to the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works in the Senate. The report shall identify all activities of the Survey on non-federal lands and shall certify compliance with subsection (b)(1).

(d) SURVEY POLICY ON ACCESS TO PRIVATE AND NON-FEDERAL LANDS.—Within six months of enactment, the Director shall develop a policy for Survey employees and agents to follow in order to help ensure compliance with subsection (b)(1). The Director shall provide this policy to the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works in the Senate.

(e) SURVEY DEFINED.—In this section, the term "Survey" includes any person that is an officer, employee, or agent of the Survey, including any such person acting pursuant to a contract or cooperative agreement with or any grant from the Survey.

Mr. DREIER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DREIER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, and the Chair's prior announcement, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 325, noes 94, not voting 14, as follows:

[Roll No. 529]

AYES—325

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Everett
Ewing
Fawell
Fazio
Fields (TX)
Fingerhut
Fish
Flake
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hobson
Hochbrueckner
Hoke
Holden
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Scott
Sensenbrenner
Sharp
Shaw
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—94

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Becerra
Beilenson
Bonior
Cardin
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Dellums
Deutsch
Dixon
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fields (LA)
Filner
Foglietta
Ford (MI)
Frank (MA)
Furse
Gibbons
Gilchrest
Gonzalez
Gutierrez
Hamburg
Harman
Hastings
Hinchey
Hoagland
Jefferson
Johnston
Klein
LaFalce
Levin
Lewis (GA)
Lowey
Maloney
Mann
Markey

Matsui
McDermott
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moran
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rahall
Reed
Richardson
Roybal-Allard
Rush
Sabo
Sanders
Schumer
Serrano
Shays
Skaggs
Stark
Stokes
Studds
Synar
Torres
Torricelli
Towns
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Woolsey
Yates

NOT VOTING—14

Berman
Blackwell
Brown (CA)
Dickey
Gephardt
Hoekstra
Horn
Kennedy
McDade
Porter
Rangel
Rose
Rostenkowski
Tucker

□ 1714

Mr. ACKERMAN changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the amendment in the nature of a substitute, as amended.

The amendment, in the nature of a substitute, as amended, 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 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 noes appeared to have it.

Mr. STUDDS. 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 255, nays 165, not voting 13, as follows:

[Roll No. 530]

YEAS—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barrett (WI)
Becerra
Beilenson
Bereuter
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Coyne
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klein
Klug
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pickle
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—165

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Goss
Grams
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Kyl
Lambert
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nussle
Oxley
Packard
Parker
Paxon
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Schaefer
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Slattery
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Taylor (MS)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Berman
Blackwell
Brown (CA)
Ford (TN)
Gephardt
Hoekstra
Horn
Kennedy
Lehman
McDade
Porter
Rose
Rostenkowski

□ 1732

Mr. POMBO changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was absent from the House due to severe illness. I missed five votes during the day. Had I been present, I would have voted yea on adoption of the conference report on H.R. 2445, the fiscal year 1994 Energy and Water appropriations bill; yea on the Bevill motion to recede and concur in the Senate amendment No. 33 to H.R. 2445 with an amendment; yea on passage of H.R. 1845, the National Biological Survey Act; aye on the Taylor amendment to H.R. 1845, regarding written permission of landowners; and no on the Tauzin amendment to H.R. 1845 regarding volunteers.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Haller, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2403) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes."

HOUR OF MEETING ON TOMORROW

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow.

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-308) on the resolution (H. Res. 283) waiving points of order against the conference report to accompany the bill (H.R. 2492) 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, 1994, and for other purposes which was referred to the House Calendar and ordered to be printed.

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 205) designating the week beginning October 31, 1993, as "National Health Information Management Week" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I yield to the gentleman from Tennessee [Mr. DUNCAN] who is the chief sponsor of this bill.

Mr. DUNCAN. Mr. Speaker, as the sponsor of House Joint Resolution 205, I rise in support of this resolution which designates the week beginning October 31, 1993, as "National health Information Management Week."

The purpose of this resolution is to help bring recognition to the critical importance of the health information management professions across the Nation.

America's 35,000 health information management leaders have a tradition of commitment to and expertise in high quality information management which has become an increasingly important component of our Nation's health care delivery system.

At the heart of the profession's information responsibilities are medical records, both computer-based and paper, of individuals' health care.

The professional orchestrates the collection of many kinds of documentation from a variety of source, monitors the integrity of the information, and ensures appropriate access to the individual record.

The health information management professional also collects health care data by abstracting and encoding information, by using computer programs to interpret data, and by putting in place quality controls to ensure the data's validity.

The professional designs and improves systems, both computerized and manual, to manage large amounts of health care data. And, as with the individual patient record, the professional balances patients' privacy rights with legitimate uses of data.

Throughout the ongoing health care reform discussions, there has been a significant amount of consensus on the need to lessen the bureaucracy of our Nation's current health care delivery system and to streamline administrative operations.

During this important time in our Nation's history, health information management professionals are key players in reforming health care.

These professionals are working hard to foster advancements toward a computerized patient record—and away from a paper medical record—to reduce health care costs by decreasing the amount of paperwork confronting hospitals and other health facilities.

I encourage all Members to join me in support of House Joint Resolution 205, declaring the week beginning October 31, 1993, as "National Health Information Management Week," so that we can demonstrate our support for these dedicated Americans.

Mr. BURTON of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is the objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.R. RES. 205

Whereas accurate, timely, and complete medical records and related health information are vital in planning and providing for quality health care for the people of the United States;

Whereas such records and information are vital to providing health care to an individual beginning at the birth of the individual and continuing throughout the life of the individual;

Whereas public concern about the quality, appropriateness, and effectiveness of health care is escalating;

Whereas specific skills in evaluating and reporting the results of health care are required to provide public accountability;

Whereas equitable third-party reimbursement for health care is dependent on health information that is collected, analyzed, classified, verified, and disseminated;

Whereas public awareness of patient rights, including the right of a patient to access the patient's own medical information, is increasing;

Whereas the needs and requirements for health information of the health care industry and the use of the information by the industry are changing rapidly;

Whereas the rate of such changes will continue to increase as new health care technology is used and new health care reform policies are promulgated;

Whereas the 35,000 members of the American Health Information Management Association are the health information leaders of the United States; and

Whereas such members have demonstrated commitment to, and expertise in, health information management: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 31, 1993, is designated as "National Health Information Management Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 178) designating October 1993 and October 1994 as "National Domestic Violence Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from New York [Ms. SLAUGHTER], who is the chief sponsor of House Joint Resolution 178.

Ms. SLAUGHTER. Mr. Speaker, according to the FBI, in the next minute, four women will be battered by their husbands or boyfriends. In fact, domestic violence seriously injures more women in this country each year than car crashes, rapes, and muggings, put together.

In my own district of Rochester, NY, an organization called Alternatives for Battered Women served 2,361 new callers last year through its hotline number. In addition, the program continued working on more than 6,000 other ongoing cases.

These statistics are staggering. But, there is hopeful news on the horizon. After more than a decade of efforts to publicize this national crisis, people's attitudes are beginning to change. Now, these tragic numbers are met with angry calls to action instead of stubborn disbelief. Now, according to a study by the Family Violence PreventionFund, nearly 9 in 10 Americans believe that domestic violence is a serious problem facing many families. And more than 8 in 10 think something can be done to reduce the amount of violence women face in their homes.

This increased awareness of domestic abuse is an encouraging sign. But much more needs to be done. Many professionals who work in our emergency

rooms, our police departments, and our legal system still are not taking this epidemic as seriously as we need them to. For instance, a study of California hospitals this summer found that as few as one in five hospitals are in compliance with professional standards on dealing with domestic violence. Fewer than one-quarter have trained their emergency room doctors to spot and treat spouse or partner abuse.

Because of the continued need for increased awareness, I introduced House Joint Resolution 178, which is before us this evening. The resolution declares October 1993 and October 1994 National Domestic Violence Awareness Month. We here in Congress must stand up and acknowledge the magnitude of this national tragedy. We must voice our support for the dedicated people who devote their lives to stopping domestic violence. And we must help to educate all Americans about domestic violence.

I hope all of you will take this opportunity to help your constituents understand this problem, through events back in your districts or mailings sent back home. Only with widespread awareness of domestic violence can we move forward, toward a lasting solution. Professional intervention and tougher laws are certainly necessary tools to stop family violence. But, only with changed attitudes about appropriate behavior can we work to eradicate domestic violence for good.

I would like to thank my colleagues for their support.

□ 1740

Mr. BURTON of Indiana. Mr. Speaker, continuing my reservation, I would like to thank the gentlewoman for bringing this up. When I was about 5 years old I had a brother and sister who were both very small like myself, and I can remember my father attacking my mother and beating on her in the middle of the night. It is a terrible thing for a child to wake up at 1 o'clock in the morning hearing that kind of screaming and that violence, and your mother throwing a lamp through the window trying to get the attention of the neighbors so the police will come. If there is anything we ought to be concerned with, it is child abuse and this kind of domestic violence, because it has a tremendous impact on young people for the rest of their lives. Sometimes it causes them to, like a record player, replay that in their life and cause the same kind of thing to happen. So I congratulate the gentlewoman for bringing this to the floor. I really personally appreciate it.

Mr. Speaker, continuing my reservation, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of this domestic violence awareness resolution. For many American women, real terror is not being out alone at night on a dark street; real terror is being home alone, home alone with loved ones.

Mr. Speaker, the statistics are startling. Every 15 seconds a woman is battered by her spouse or by her special friend. Every year 4 to 6 million women, it is estimated, are battered by their spouses or by their boyfriends. Every year 4,000 women are battered to death. Every year 3.3 million children are watching this.

We worry about violence in our society. Well, for many the home is not the safe haven. Many people feel like they are hostages in their own home.

Mr. Speaker, I am pleased that the Congress, as the Nation, as law enforcement, as our judicial system, as neighbors and friends, are finally recognizing that this is a crisis of tremendous proportion and that we all can do something about it. Not look the other way, not have people be victimized in the courts that are there to help to protect them. And we in Congress have a responsibility.

Mr. Speaker, yes, I am pleased that we have been able to pass the bill to consider spousal abuse and child custody cases. I am pleased that there was a TV movie on that particular resolution which did a lot to make people aware of domestic violence's affect on children in our society. We have a domestic violence hotline bill coming up which will really help to give help and relief to people who have no relief in sight, who need the confidentiality, who need the resources to learn about the kind of help that they can get or the kind of escape that they can get.

Mr. Speaker, we have a Violence Against Women Act which I hope will be coming up soon. We have a Battered Women's Acknowledgement Act, and also the Fair Trial Act. So we do have legislation before us that we in Congress can pass. The medical profession has a responsibility in this, and all of us have a responsibility to not turn the other way.

So I hope that this resolution designating October as Domestic Violence Awareness Month will really make people aware that they have a responsibility. As Mr. Rabin said at that very historic time, "Enough violence and bloodshed." And we say enough violence and bloodshed in one's own home.

Mr. BURTON of Indiana. Mr. Speaker, continuing my reservation of objection, I wish to commend the gentlewoman from Maryland [Mrs. MORELLA] for her contributions with the hotline and other things. For anyone who has experienced this kind of trauma in their formative years and seen their mothers experience it, we all have a special place in our hearts for people like the gentlewoman for taking the time to do that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 178

Whereas it is estimated that a woman is battered every 15 seconds in America;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting 6,000,000 women;

Whereas rural and urban women of all racial, social, religious, ethnic, and economic groups of all ages, physical abilities and lifestyles are affected by domestic violence;

Whereas increasing evidence indicates that there are large numbers of immigrant women trapped in violent homes, isolated by abusive spouses who use the threat of deportation to maintain power and control over them;

Whereas violence escalates in both frequency and severity over time, becoming greatest at and after separation, when women are 75 percent more likely to be killed;

Whereas 40 percent of female homicide victims in 1991 were killed by their husbands or boyfriends;

Whereas in 1991, at least 21,000 domestic crimes against women were reported to the police each week;

Whereas one-fifth of all reported aggravated assaults—assaults where the victim suffered serious bodily injury—occur in domestic violence situations;

Whereas 74 percent of employed battered women are harassed by their abusive partners at work, causing 54 percent to miss at least 3 full days of work a month and 20 percent to lose their jobs;

Whereas 35 percent of medical emergency visits by women are the result of domestic violence, and 25–45 percent of all battered women are battered during pregnancy;

Whereas one-third of the domestic violence incidents involve felonies such as rape, robbery, and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also being abused;

Whereas some individuals in our law enforcement, medical, religious, mental health, and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1991 over 450,000 women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes;

Whereas 40 percent of women in need of shelter may be turned away due to lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the months October 1993 and October 1994 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on

national radio and television that he controls. That would be fair and that would give the Russian public a chance to assess the various parties and their leaders. But, if numerous pro-democratic political parties take to the field and spend much of their time criticizing each other and Yeltsin as well as the hard-liners, and if the hard-liners are represented by a few moderate sounding parties, this could also work in their favor and against the reformers.

There are feasible, open and relatively inexpensive actions that the Clinton Administration can and should take immediately to encourage and assist the pro-democracy movements within Russia. First, it is important to identify the five or so leading pro-democratic parties and come to understand their programs and leadership. Second, pro-democratic political parties which request it should be given practical assistance so that they can become more effective in conducting a political campaign throughout Russia. Such assistance might include training, communications equipment, funding, assistance with modern campaign and fund raising techniques, and help in preparing themselves to play a significant role in monitoring the election process and vote counting.

Every election can be unfairly rigged at any one of three stages—during the campaign, during the actual voting process, or during the vote counting and tallying. The Clinton Administration should respond to the invitation of the Russian government and immediately establish a credible monitoring group from the United States and other democracies that would have enough people, expertise, resources and mobility to support and monitor all three phases of the coming election for a new Russian legislature. The U.S. has a great deal of experience in conducting activities of this kind and this is the time for President Clinton to match his support for democracy with a rapid and competent response to the need and opportunity presented by the next phase of the dramatic competition for the future of Russia.

In December 1992 there were elections for the national legislature in Serbia. The communist dictator, Milosevic, fully intended to use the entrenched powers of his party and regime to control the outcome, but he did permit pro-democratic parties to compete. The West should have given those pro-democratic parties encouragement and practical assistance in sufficient quantity and time to have helped them campaign effectively. If that had been done, the democratic parties might well have won the election and brought about an end to the tragedy of the conflict in the former Yugoslavia. There is still time for a rapid response between now and the December 1993 Russian election is very short but with leadership by President Clinton, there could be a program of practical political assistance that could help the democratic parties in Russia turn the tide.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1993.

Hon. BILL CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to request your immediate attention to the issue of the parliamentary elections scheduled for December in Russia.

We believe that the election of a truly representative parliament through free, fair and competitive elections is absolutely critical to the future of Russian democracy. Further, we believe that such a vote would produce a Russian parliament that is far more democratic and friendly to the West than the just-disbanded Supreme Soviet. Hence, these elections have a direct bearing on our national security.

The problem, however, is that the democratic forces in Russia are poorly organized and have extremely limited means. The anti-democratic forces, on the other hand, retain much of the organizational ability of the former Communist Party and are in control of most of the local and regional legislatures in the country. There is a very real danger that they will be able to stifle competition and even rig the vote to produce another reactionary parliament. The democrats are in desperate need of outside assistance. We believe it is imperative for the West to provide as much assistance as possible to democratic candidates in Russia and to facilitate a smooth, fair electoral process through monitoring, etc.

There are of course, many organizations, such as NED, IRI, NDI and the newly-created Committee to Support Russian Democracy, that are already involved in these types of activities in Russia and which have fielded monitoring teams in the past. Also, there are several indigenous groups in Russia which are working along the same lines. We believe that immediate, direct assistance to these various groups would greatly enhance the chances of the December elections being free and fair.

We strongly urge you to make the December elections a top foreign policy priority and to divert from existing programs whatever resources necessary to achieve the objective of ensuring a free, fair and competitive process. Other foreign aid programs, both for other countries and within Russia, may indeed have merit. But ensuring democracy in Russia through truly democratic parliamentary elections is surely of the utmost urgency and should be treated as such.

We stand ready to lend our support to this process and thank you for your time and attention.

Sincerely,

GERALD B. SOLOMON,
Member of Congress.
TOM DELAY,
Member of Congress.
JAN MEYERS,
Member of Congress.

OPPOSITION TO NAFTA

HON. JACK QUINN

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 26, 1993

Mr. QUINN. Mr. Speaker, I rise today to state my serious concerns and opposition to the North American Free-Trade Agreement [NAFTA].

President Clinton has reaffirmed his administration's support for ratifying the treaty which was signed last December. Along with many of my colleagues in the House I am concerned that provisions in the agreement would encourage the migration of American manufacturing jobs to Mexico.

The Mexican labor system is vastly different from the United States system. Government control of organized labor forces wage controls and exerts pressure on the market to keep wages low, while state-of-the-art infrastructure fosters first-rate productivity.

The arguments made by NAFTA proponents are predicated upon an open market economy where Adam Smith's invisible hand guides wages. There is no invisible hand in Mexico, rather a very visible hand of governmental control over the economy, a hand that represses wages, independent labor unions, and standards of living.

Our country exports large amounts of capital goods—materials to build infrastructure to export goods back to the United States. In addition, the United States exports materials which are assembled into final products in Mexico and exported back to the United States. Large portions of these United States exports are actually materials sent to Mexico to complete finished products using cheap labor—and shipped back into our country for our consumption.

The economy of Mexico is 4 percent of the size of the United States economy—but labor costs represent only one-seventh of labor costs in the United States. How can NAFTA expect to expand United States exports to Mexico when there is such a low-paid work force, in a small economy, that is pressured by the hand of governmental control to attract international investment?

Examine the investment criteria developed by AmeriMex investors. You will find that 5.9 million U.S. manufacturing jobs are vulnerable under NAFTA. New York would be the fifth hardest hit State in the Nation in terms of job losses.

In my district in western New York you only need look at the TRICO plant in Buffalo, or IBM in Rochester or Smith-Corona in Cortland, NY. NAFTA will open the floodgates for American businesses with labor intensive aspects to expand or move to Mexico.

Furthermore, the labor side agreements do not address these concerns. These agreements exclude industrial relations issues such as the right to strike or organize independent labor unions from the possibility of fines or sanctions. The side agreements simply ensure the enforcement of domestic labor laws.

Mr. Speaker, I support free trade—but only when it's fair and on a level playing field—I call that smart trade. The United States-Canadian Free-Trade Agreement is an excellent example of how free trade can and should work on a fair and level playing field.

I support the idea that expanded trade offers considerable investment and economic opportunities for the United States—however, a trade agreement that ignores, jobs, income levels, and the environment is not the answer. To achieve true economic expansion and integration among the NAFTA countries, we need effective, independent mechanisms that address inadequate labor and environmental standards and force upward harmonization—to U.S. standards.

INTRODUCING THE FEDERAL COGENERATION ACT OF 1993

HON. DICK SWETT

OF NEW HAMPSHIRE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 26, 1993

Mr. SWETT. Mr. Speaker, today I am introducing the Federal Cogeneration Act of 1993,

would lead to a shift in investment, trade, and jobs from Asia to North America.

The report's bottom line, that NAFTA will stimulate economic growth and create jobs in America at the expense of Japan and other countries in Asia.

Closer to home, Jean Chretien, Canada's newly elected Liberal Party leader has inferred that NAFTA should be renegotiated.

I reject this suggestion. Furthermore, I believe the Canadian Government should withhold comment on this issue until the United States Congress has had the opportunity to vote up or down on NAFTA.

NAFTA, after all, was an agreement negotiated on a government-to-government basis and in good faith.

It is a good agreement, one that will benefit the economies of the United States, and Canada. It this were not the case, why is Japan so worried?

Accordingly, this Congress should not permit outside forces to dictate what is the best interest of the American people. Ultimately, we must do what is right for America and secure passage of NAFTA.

WHAT HAPPENED TO REINVENTING GOVERNMENT?

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

Mr. SENSENBRENNER. Mr. Speaker, in Vice President GORE's Reinventing Government Report, one recommendation to save tax dollars was to merge the DEA into the FBI. At least that's what we thought the report said.

Last week, I asked Deputy Attorney General Philip Heymann why Justice had backed away from this important recommendation. I was told it was a "printer's mistake" to use the term "merger" in the executive summary, and that neither Vice President GORE nor Justice intended to propose a merger.

Mr. Speaker, the word "merge,", used four times in one paragraph of the summary, is now dismissed as a printers mistake. If that's the case, why didn't someone let us know before? We were told Attorney General Reno had reservations about the proposal—but the proposal itself was never repudiated, until now.

The Justice Department does stand by the words "to transfer law enforcement functions of the DEA and the BATF to the FBI", but these apparently don't mean the same thing as a merger. Neither do the terms "integrate", "consolidate", and "combine" used elsewhere in the report.

Next time the administration sends a bunch of budget cutting proposals to Congress, I suggest they also send a copy of Justice's New Congressional Dictionary. Or Justice Department witnesses appearing before Congress could use the good old fashioned word "flip-flop."

Mr. Speaker, I include the relevant parts of the report of the National Performance Review executive summary, and the transcript of the testimony of Deputy Attorney General Philip Heymann, as follows:

Unofficial transcript of questions and answers between Representative Jim Sensenbrenner and Deputy Attorney General Philip Heymann from C-SPAN coverage

HEARING OF THE HOUSE JUDICIARY SUBCOMMITTEE ON CRIME AND CRIMINAL JUSTICE REGARDING THE 1993 CRIME BILL

FJS: Mr. Heymann, let me say that I am deeply disappointed that the Justice Department has turned its back on the Gore Commission's recommendations to merge the FBI, the DEA, and the ATF. And, in my opinion, your explanation, and while you don't add someone else at the top to umpire these interagency disputes, you set up a bureaucracy of taking people away from direct law enforcement as you've just explained to do precisely that. And I think that the lack of training between the agencies, the lack of coordination between the agencies, the fact that they don't share each other's intelligence as well as the result that one agency conducts sting operations on the other agency's informants was proof positive that the Vice President was right the first time. And I'm afraid that this is the beginning of an eroding of the recommendations the Vice President has made to make government more efficient, save some money, and give the taxpayers more for their dollar. That's not why I was here to ask a question.

P.H.: Could I say just a word about that, Mr. Sensenbrenner?

FJS: You certainly can.

P.H.: It's almost impossible for me to convince people of what the truth is here about the Vice President and the Attorney General. The truth is that there is a type. . .

FJS: Mr. Heymann, I'm having a little bit of difficulty figuring out what this administration wants. The Vice President says one thing, the Attorney General says the other thing—do we need a road map to find out where this administration is going?

P.H.: Please let me explain. As unusual as it is for anything to foul up in government, there was a printing foul-up after the Vice President and the Attorney General had discussed what they wanted to say about an FBI/DEA merger in, towards the first day of September. They agreed that they would say that there would be, that they both thought there should be major structural changes to deal with the problem that you've said, just described. Having agreed on that, an earlier version of the Vice President's recommendations was printed as the executive summary and as the heading. It said "merger" it, the Vice President, as I understand it was angry, put out, it was a mistake, a printer's mistake. The Attorney General the next day said, "No, no, I haven't made up my mind on merger." As a matter of fact, she had already talked with the Vice President, and they had agreed that anything in what I called the three and four area would be fine with them. They have never. . .

FJS: In other words, what the Congress, the press, and the public receives from the administration is not to be considered as being written on stone tablets, that, you know, it's subject to modification and reconsideration, and all of that.

P.H.: No, no, it's simply that, all I'm really trying to say is I honestly know of no occasion on which the, since late August or when I started knowing about it, where the Attorney General and Vice President have been in policy disagreement on this issue.

FJS: Perhaps that's why the Vice President has decided using a little bit more recycled paper for recycled ideas. But, the reason that I wanted to ask you some questions was not this particular issue, Mr. Schumer brought it up.

[From: Report of National Performance Review Executive Summary]

ACTION: TRANSFER LAW ENFORCEMENT FUNCTIONS OF THE DRUG ENFORCEMENT ADMINISTRATION AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS TO THE FEDERAL BUREAU OF INVESTIGATION

The first step will be to merge DEA into the FBI. When this merger has been successfully accomplished, we will move toward merging the enforcement functions of the BATF into the FBI and merging BATF's regulatory and revenue functions into the IRS.

[From: Report of National Performance Review]

ACTION: TRANSFER LAW ENFORCEMENT FUNCTIONS OF THE DRUG ENFORCEMENT ADMINISTRATION AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS TO THE FEDERAL BUREAU OF INVESTIGATION

More than 140 federal agencies are responsible for enforcing 4,100 federal criminal laws. Most federal crimes involve violations of several laws and fall under the jurisdiction of several agencies; a drug case may involve violations of financial, firearms, immigration and customs laws, as well as drug statutes. Unfortunately, too many cooks spoil the broth. Agencies squabble over turf, fail to cooperate, or delay matters while attempting to agree on common policies.

The first step in consolidating law enforcement efforts will be major structural changes to integrate drug enforcement efforts of the DEA and FBI. This will create savings in administrative and support functions such as laboratories, legal services, training facilities, and administration. Most important, the federal government will get a much more powerful weapon in its fight against crime.

When this has been successfully accomplished, we will move toward combining the enforcement functions of the Bureau of Alcohol, Tobacco and Firearms (BATF) into the FBI and merge BATF's regulatory and revenue functions into the IRS. BATF was originally created as a revenue collection agency but, as the war on drugs escalated, it was drafted into the law enforcement business. We believe that war would be waged most successfully under the auspices of a single federal agency.

IN SUPPORT OF CALLING OUT THE NATIONAL GUARD

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

Mr. MICA. Mr. Speaker, this morning the Statue of Freedom that we replaced Saturday atop the dome of the U.S. Capitol must have wept when she learned that President Clinton turned his back on our Nation's Capital.

As Commander in Chief, he turned his back on permitting Mayor Kelly's request to use the National Guard to stem the murder, violence, and genocide taking place in our streets.

He turned his back on the scores of District mothers and fathers who have buried their slain sons and daughters.

He turned his back on the thousands of hard-working and law-abiding citizens who struggle each day to survive in this crime-infested jungle.

How can the President spend billions to send our military to separate warring factions in Somalia and Macedonia and not act now to save the dying youth in the streets of our Nation's Capital?

Today I am placing in the CONGRESSIONAL RECORD the 1,286 names of those tragically murdered in the District in just 3 years. Not included in this list is Debra McManus, 39, Kalvin Adams, 23, and George Hill, 16, listed in this morning's news as the latest District murder victims.

President Clinton has turned his back on Mayor Kelly and the people—this Congress cannot do the same.

Mr. Speaker, I include the following list of victims killed in Washington in 3 years, 1988 through 1990, as follows:

[From the Washington Post, Oct. 24, 1993]

OF 1,286 SLAYING CASES, 1 IN 4 Ends in Conviction

THE VICTIMS

1,286 people were killed in Washington in three years: Jan. 1, 1988, to Dec. 30, 1990. Their names are below, in chronological order.

Michael Saunders Jr., Tommy Brown, Osahon S. Emovon, Gwendolyn Scott, Duane S. Barnes, Jerome C. Barnes, Thomas E. Arnold, Curtis Brisco, Levee Cannady, Ricardo Washington, John Clem, Judson Boyd, Clifford E. Jackson, Tell Rudolph Maninat, Unknown (male), Bernard E. Smith, Joseph Williams, Reginald A. Adams, Steven Davis, Benton Johnson, Beverly Thompson, Richard C. Cole, Horrace L. Pinnock, George Pringle, Harold E. Alvaranga, Larry D. Elliott, Elijah Carter, William F. Caffee, Jarrett Jones, Ralph W. Bailey, William L. Goins Rafael Mena-Alfra, Kermit Hutchins, Trever Stephenson, unknown (female), John Parris, Reginald Smalls, unknown (male) Leroy Simms Jr., Antonio K. Askew, Antonio J. Campos, Ivan Evans, Arturo Clair Garvin Ian Smith, Bobby L. Parker, Charles E. Russell, Walter Thompson.

William L. Miller, Charles Perry, Janice D. Spain, Shardeen Britt, Urcella O'Connor, James Singleton, Alton E. Wilkinson, Leon Ray Wright, Leon Hanston, Maude Brooks, David James Dickerson, Herbert R. Purdie, Lonnie Watkins, Marco A. Guerreio, Silas E. Davis, Harold G. Williams, Gao Bao Zhou, William J. Graham, Lionel R. Harris, Calvin B. Heath, Darlene Jenkins, Clayton Gray Jr., Warren Burns, Norman Gross, Robert Ellis Ronald Jackson Lionell K. Jackson, unknow (male), Shavon Mayo, Joel Mays, Kenneth R. Taylor, Gary A. Frank, Michael L. King, Donald Hill, Rufus McDowney, Keith Bennett, Griffin D. Smith, Jeffery Truesdale, Cornell R. Twilley, Wayne K. Harris, Larry Mathis, Kristina Caine, Daniel E. Dent, Eric R. Hill, Thomas A. Williams, Charles Mansfield, Larry Hicks, Ronald C. Proctor.

Joyce A. Haywood, Milton L. Ball, Jose D. Chicas, Ernest Workman, Beverly J. Harris Jacqueline Dyson, Darrell A. Carson, Kevin Spriggs, Frank Tyler, James A. Hall Michael W. McMillian, Robert E. Bishop, Alrfreda E. Miller, Charles Whittington, Norman V. James Vernon Greene, Kridikorn Satamarn, Preston Bankhead, Douglas L. Vaughn, Robert Lee Rogers, Osborn W. Williams, Dawn D. Fest, Milton Mills Jr., Janelle Hughes, Anthony Mozee Curtis Wilson, Allan Lufsey, Keith A. Price, Cherly A. Dykes, Jerry Pickens, James Hewlin, unknown (male), Anthony L. Roney, Anthony Warner, James Crawford, Ian Harris, Leonard Scoggins Jr., Ralph Aiken, Anthony D. Thomas, Leslie Wheeler, Robert N. Thompson, Rickey Railey, Gui Chao Zhang, Sean D. Shorts, Dryck Whitney, Hilton Gordon, Carrie Williams, Keith Anderson.

Neil A. Bess, Vernon Montgomery, Terry Moore, Brandon Jerrell, Hee Young Yoo, Marion Bethel, Sandy P. Carey, Reginald Childs, Ella Starks, Patrick Cook, Von McKinnley, James Clements, Annie Mai Frierson, Ricky Melson, Michael Young, Avadis Jones, Roy Lee Moore, Gwendolyn Sumpter, James Fludd Jr., Cyrus Gray, Woo C. Song, Devon Darden, William Hines, Kenneth E. Washington, Andrew K. Atkinson, Marguerite Edmonds, Leroy A. Ferrell, Louis H. Knight, Timothy A. Bright, Gregory Gibson, Roosevelt Roberts, Maurice Matthews, Anthony T. McRae, Tony Evans, John Wayne, Leroy W. Bolden, Christopher Southerlin, Joyce Gale Brame, Johnnie F. Person, Robert Miller, Jr., Willie R. Wilson, Derrick Clark, Susan S. Evans, Edward L. Hancock, Gregory Queen, Deborah A. Parson, Gary S. Stanley.

Elmer H. Thompson, Gerald K. Curry, Kathryn DeParman, Patricia A. Jones, Marvin J. Alston, Gary C. Brown, Brian Grant, Casper Grant, Alvin Jetter, Thomas Edward Kaufman, Lawanda Scott, Herbert Stevens, Darren Taylor, Debra White, Wallace Monroe, Wendell Simmons, Reginald Bennett, unknown (male), Samuel Zackery, Gary Harrison, Jerry Lee Thomas, George Broadnax Jr., Douglas Baker, Eric Lee Carter, Anthony Nash, Walter M. Mabry, Darrell B. Young, Morris Brown, Robert Dent, Robert Shingler, Tawanda Wicker, Richard A. Garcia, Sinyieu Wondong, Charlton Smith, Larry Roberts, Ronald E. Boulware, unknown (female), Victor Garcia, Anthony S. Thompson, Raymond Cobb, Samuel Brisbon, Clarence E. Guy, Desmond E. Ray, Thomas Stevenson, Calvin Bradley, Leon E. Broadus, Lonnie Colter.

Said Ashab, Stanley W. Carter, Calvin G. Resper, Charles P. Forde, Griffin Murphy Jr., Reginald L. Simpson, Kenneth Wilson, Charles Younger, Odarryl Mace, Myron S. Riley, Jose Benitez-Rios, unknown (male), Robert M. Melton, Brian K. Workeman, Gloria J. Carter, Benjamin H. Williams, Gregory W. Cain, Ronald Curry, George W. Harris, Floyd Perkins, Rashid K. Hembah, Rocky Peters, James A. Bell, Tahnee M. Clark, Michael E. Johnson, Gene Autry Leak, Michael A. McGirt, Dianne Arthur, Jacqueline Gaut, Loretta P. Finch, Patrick A. Richards, Charles Jackson, Alan D. Williams, Kenneth Duvall, Vincent E. Bell, Clarence Brooks, Stewart A. Brown, Garlon J. Baucom, Argray W. Newsome, Donald R. Birdine, David E. Golden, Nathaniel Smith, Moses M. Tate, Antonio Williams, Riveryone Marbley, Eugene A. Ware.

Barbara G. Johnson, Joesph B. Queen, Barbara Byars, Richard E. Davis, Aaron Settles, Vondalia R. Robinson, Oscar D. Romero, Kevin O. Curtis, Anthony Smith, Basil C. Dorsey, Andre R. Stewart, Terence D. Banks, John Stokes Jr., Luis Francis Jimenez, Brian K. Bell, Donnell Birdine, Damon Blango, Ernestine Pannell, Langston S. Wright, Carl Louis Cooper, William Johnson, Rex W. Brown, Antonio Jacobs, Devon Morris, Gregory Sligh, Steven M. Bazemore, Lawrence Marshall, Keith C. Wasmus, Deanna B. Pannell, Adrian Fleming, Andre Anderson, John Tate, Curtis Coates, Fred Sellers, Ary Jasmin, Daniel Perez, Fleming Anderson, Avery B. Bourn, Rosemary Stevens, Sean Herbert, David McBride, Ricardo Clifford, Harold L. Carter, John Haggins, Vincent Shaw, Marvin Dove Jr., unknown (female), Chitrenda Eades.

Samson Hunter, Xavier Johnson, Linda Ray, Johnathan Allen, Andre Johnson, Patrick Marshall, Melvin Anderson Jr., Louis McDonald, unknown (female), Michele T. Niem, Mark D. Smoots, Theodore Taylor, Herman R. Washington, Raymond Bridges, Farrell R. Gardner, Gilbert T. Brown, Antonne Luna, Ricky Earl Richardson, Sadie E. Murphy, Shirley A. Hazel, Leroy A. Jackson, Robert A. West, unknown (male), Audry V. Lawrence, Eric Price, Yero Dorsey, Tyrone G. Greenwell, Tony King, Henry Hunter, Clarence Mitchell, unknown (male), Kevin Bennett, Lawrence Woodland, Robert Steptoe, Kevin D. Neal, Willard E. Jones, Louis W. Geiman, Donnie Michaels, John Arnosti, Christopher Jones, Errnest P. McQueen, Mattie Dorsey, Paul M. Berg, Jimmy Blade, Anthony E. Wright, Wesley S. Gorham, James A. Mingo, Darryl Johnson, Mary Arseneault, Thomas W. Moore, Larry A. Rawles, Anthony L. Slappy, Tanya D. Barnes.

Paul A. Frazier, Robert Lee Hill, Anne Bueford, Norman Oakcrum, Julio Perryman, Reginald K. Peters, Michael R. Robinson, Joseph Tyron Sams, Norman Brown, Robin L. Coleman, William Craig Haley, Floyd Payne, Linden S. Ault, Thomas Brown Jr., Terrance Sealey, Jamie Banker, Eric N. Butler, Bob Gerald Trever, Kenneth Jones, Raymond Campbell, Raymond C. Davidson, Corinne W. Sweet, Demitrus Coleman, David Williams, Maurice W. Crutchfield, Eugene M. Artis, Cassius C. Keys, Michael A. Olds, Mawu Robinson, Mona Shiferaw, Tesfay Shiferaw, Anthony T. Tate, Vernon A. Mitchell, Steven West, unknown (male), Robert E. Lewis, Keith Mayo, Thomas Winniefred, Kevin A. Clements, Christopher Conley.

Lawrence Monroe, Franklin Smith, Lonnie O. Hutchinson, Warren Harris, Carmen Del Cotten, Ronald K. Thompson, Sheila Lynn Green, William C. Johnson, William A. Best, Frederick Glenn, Rene C. Sanchez, Julian Timberlake, Anthony F. Bailey, Derrick W. Bell, Habib Mathis, Darnell Wells, Richard Lewis Clark, Julius Robinson, Derrick Chase, Cecil R. Curry, Carlton Earl Dickens, Lee Oliver Williams, Gary Hickman, Donald Bolton, Leonard Allen Morrison, Zachery J. Ray, Dwight George, Judith Crunkilin, Eddie Neil Martin, Tauchious J. Owens, Reginald Duckett, Reginald Lewis, James Harris Brooks, Lonnie Hart Jr., Warren Morgan, Stanley Whatley, Steven L. Parker, Corry Hines, Albert Thomas, Emory Lewis Trawick, Reginald Walker, Larry McCaspling, Earline Thompson, Alvin Winstock, Steven Maxwell, Melvin Douglas Brown, Anthony Paul Heslop, Darryl W. Murchison, David Lewis Hodge, Samuel A. Mack.

Michael McCurdy, Kevin Eans, William Arthur Wilson, Johnnie Lee Green, Wade Malone, Victor Osborn Tatum, Albert E. Webb, Bobby Workman, Charles Brandon Jr., Kevin Antonio Henson, Hughie Dyer, James C. Davis, Marcus Herring, Kenneth Earl Harden, Reginald Elliott, Socorro Torres, Leon Burke, Daniel Ely Jordan, Jose Miguel Lanza, Mary Ellen Sullenberger, Charles Johnson, Gerald Bailey, Derek Lee Wilson, Lesser Eugene McCoy, George Collins, Joseph Easton, Charles Hammond, Edward

Dujua Pelham, Anthony Settlers, Yusuf Belton, William Edward Howard, unknown (male), Warren Jackson, Aldolph Martino, Hector Colon, Bruce Lee Parks, Shonie Clatterbuck, Al Johnson, David Kevin Lee, Sean Raymon Martin, Denise Tyler, Gregory Jones, Francis Scrivner, Walter Alan Clinkscales, Elbert R. Crawley, John Bryson, Ralph Milton Stockhausen, Virginus Williams, Ola Shehu Ahmad, Herbert J. Dorsey, Bobby Nest.

Raymond A. Subhan, Willie Bulluck, Nathaniel Greene, Austin Neal Hiett, Tyrone Queen, Baby Girl Howard, Alvin N. Henson, Larry Eugene Hill, Reginald Durham, David Julien, Marx V. Brown, Donald Johnson, Alonzo D. Allen, Debra Bullock, David A. Stamper Jr., Stephan P. Smith, Ernest E. Young, Helen Cleo Chappelle, Johnetta McLean, Martin Freeman, Faith Selina Mobley, Neil Abble Thompson, Michael Graham, Darren A. Alston, Wayne Huff, Gary Wayne Peleger, Terry Eugene Squirrell, Donnell P. Winley, Curtis Daniels, Nisa Abdul-Samad, Edward W. Hairston, Donnell Perry, Carlos M. Cuff, Willie Dixon, Larhonda Wages, James Thomas Bryant, unknown (male), James W. Mosley, Charles J. Thomas, Ronald Cook, Percy Lee Davis, Randall N. Sloane, Nathanel Thomas Jr., Fitzalbert Thompson.

Holly Janet Kincaide, Kristian Kincaide, Russell Goins, James E. Smith, Lawrence L. Nunn, Jessie David Miser, Karen Booker, Milford Best, Kermit E. Ferguson, Carlton B. Allen, Jose Landaverde, Jerry Mack, Angela B. Jones, James McKinnon, Thomas A. Wooden, Larry Wright, Daryl Dixon, Eugene Larry Anderson, Calvin Moore, Charles Tilghman, Dilante T. Cuette, Aaron Newman, Jimmy Parker, Darrell, Artis, Lewis Ford, Clifton Wooden, Devon Lykes, Tyrone White, Oscar Graham, Alvin Lee Howard, Won Bin Lee, Anthony J. Reed, Rhonda Lynn Anthony, Shirley Gaskin Agustus Logan Jr., Brenda Y. Taylor, Paul Wills, Manuel Flores-Romer, Oscar Holmes Jr., Daniel Hotz, Charles D. Carr, Derrick L. Conner, Aaron Johnson Jr., Lawrence Harris, Anthony Robinson, Henry Robert Huggans, Ronnie Johnson, Gipson F. Woolfolk, Rafeal Parra, Kenneth Ray Lee, Anthony T. Eason, Leonard R. Obrey, Todd Craig Johnson.

Leon A. Lipford, Theodore Williams, Cooper Gibson III, Kelvin F. Moore, William A. Smith, Jim Coy, Melvin L. Henderson, Eddie L. Sunders, Cheryl R. Fantroy, Eric Demond King, Winston L. Staton, Robert Gamlden, Johnny Small, Benston W. Wright, Ronald R. Nivens, Charles A. Brooks, Woodrow Cureton Jr., Cori Louise Jones, Antonio M. Watson, Franklin A. Ball, Charlos E. Yates, Jerry Butler, Donald M. Lee, Gerald P. Barnes, David A. Muschetta, Wallace Gunther, Gregory Jackson, William E. Brown, Michael A. Coach, Darnell Sears, Chester Blevins, Anthony D. Thompson, Waveland Starkes, Cranston L. Colbert, Turner Monk, Michael Nelson, Tawana Sams, John Wayne Tucker, Anthony Stewart, David Lee Simmons, David Lewis, Knowle Watkins, John Woodland, Chung Su Im, Ronald Johnson, Tyrone McKay.

Loveron M. Harris, Harvey Brewton, Tyrone R. Carrington, Lee Jackson Jordan, Clifford Smith, Lisa Candace Carter, Lamar A. Jenkins, Keith Mason, Linwood Booker, Kenneth A. Charles, Earl S. Manning, Kenneth W. Robinson, Eugene Banks, Kenneth McSwain, Jesse Wade, James R. Fielding Jr., Craig Allen Williams, James Shunk, Theodore Washington, Basil A. French, Larry Mercer, Darryl A. Banner, Anthony Funderburk, Kevin Butler, Marlon J. Robinson, Xavier R. McGill, William A. Fletcher, Paul Jones, David Pettaway, Edgar Fleming, Eddie Archie, unknown (male), Roxanne L. Johnson, Benjamin Saxton, Alfred Fields, George Myrant, Ray Clay Coppock, Calvin Lee Logan, Errel I. Roberts, Carol Whitfield, Derrick Julian, Desi F. Avery, Michael Durant, Michael Lee Dejarnett, Wanda R. Hampton, William Moore Jr.

Odell Thomas, Taza Taylor, Timothy Finklea, Benjamin T. Corbett, Nathaniel Davis, Leroy Johnson, Jose Trejo Pineda, Neal Digiovanni, Sheldon Grayson, Billy Faison, Alfred C. Jordan, Victor J. Walker, Larry Dale Dunston, Michael A. Brown, Jose Ortiz, Wiliam L. Broome, Brenda Sams, Keaena S. Sams, Timothy S. Divers, "Oliver, first name unknown", Aaron E. Walker, Alton D. Wynne, Antonio D. Dinkins, Timothy Johnson, Keith J. Swepton, Nicole L. Wilkerson, Marvin Lee Harper, Stanley Lewis, Kimberly Hunter, William E. Smith, Harrison Thompson, Troy Weaks, Juan N. Chavarria, Herman Coleman Jr., Christopher Johnson, Leroy A. Williams, Sherry E. Wheeler, Roger Abrams, Tyrone W. Sutton, Lloyd W. Thomas III.

Morris E. Dixon, Ernest C. Roach, Stephen A. Briscoe, unknown (male), Gregory Matthews, Darrell Banks, Milton McCoy Squire, Darrick E. Vincent, Luther Garvin, Henderson D. Holiday, Terry A. Johnson, Barrett S. Paige, Rene Rosales, Cynthia Fitts, Eddie Scarborough, Dorothy A. Blanton, Matthew N. Blake, Robert Harris, Vernon L. Smith, Ridgley C. Ballard, Dionne Taylor, Taushar Allen, Ricardo Hayes, Frank Lewis Payne, James McCallum, Fred Birikorahg, Gary Diggins, Maurice Hallman, Leonard Hyson, Milton C. Lewis, Tucson Gray, Ephraim O. Nelson, Martin B. Wolfe, Richard Lee Becton, "Chase, first name unknown", Nelson L. Hernadez, Nathan D. Jackson, Malcom L. Stewart, Rojs Pelay, John Nelson Coleman, John Coppedge, Leon Dawes, Deneatress Seaburry, David Rowel, Lashaun Davis.

Ronald Seabrook, Charles Brunson, unknown (female), Jeffrey J. Anderson, Reginald A. Fenwick, James C. Jordon, Jr., Albert N. Norman, Richard Rhoden, Charles Carey, Melvin Gonzales, Keith B. Jacobs, Tony Moseby, Gerald Thompson, Michael Broome, Melvin Knight, Anne Synder, James Lee Coates, Mustofa Fereshevadi, George Lindsay, Maurice Glenmore, Chet Harrison, Melvin D. Newkirk, Samuel H. Unger, Wendell Wilkerson, Archie Adams, William B. Brigmon, Ricky Magnus, Michael Warren, Charles Wheeler, Michael D. Bryant, William Gavins, Sammuel C. Glen, William T. Holmes, William R. Nelson, Robert J. Taylor, Deborah A. Jones, Joyce Marie Jones, Frank Green, Coretta C. Logan, Michael K. Branch, Derrick L. Steele, William A. Kemp, Luis A. Alvarado, Rafael Martinez, Evelyn Spanos, Paula Adams, Henry L. Finch, Magaret Brown, James Clay Davis, Herbert Potter, Darnell E. Christian, Leroy Johnson, Gary Mosely, Kim Javon Wilson, Sadiqa Bay, unknown (male), Lawrence Burnell, Linda Rodgers.

Robert Williams, Marshalleck Ellis, Jamie Ferguson, Michael Harris, Richard Jackson, Nathaniel Wright, Stanley E. Hamlet, Paul L. Hogue, III, George Leon Adams, Reginald J. Francis, Treavor Thomas, Anthony Coates, Gregory Johnson, Morris I. Shelton, Arlton D. Clark, Bernard Ferrell, Linda Milliner, John Alexander Jr., Victor Burton, Damoni White, Russell Baits, James D. Etheredge, Michael T. Lee, Carlita L. Lewis, Robert Lee Posey, Ricky V. Jett, Michael Jones, George Miller, Robert Lee Walker, George A. Young, Daniel Byam, Ivory Brevard, Darreyl D. Hubbard, Christopher Taylor, Waverly S. Washington, Kenneth Adams, Walter Jones, Paul McFadden, Raul Velazques, Ethel Mae Boyd, Antreau D. Bryant.

Vernice A. Douglas, Neda Hill, Donnell Smith, Howard Choate, Gene McFarland, Renaldo Padre Platter, Steven James Crawford, Terry Gray, Angel Santos, Fedor Diaz Sotolongo, Lamont Simms, Marvin A. Kearney, Clarence L. Bailey, Nelson G. Shackleford, Fredrick Smith, Ricardo Tejada, Joseph Thompson, Pamela Washington, Reginald Watson, Robert Flowers, James Carter Lane, Ernest Sheppard, Grace Daniel, Daryle Kevin Edwards, Homer Bryant, Avis Tyrone Jones, Charles C. Haupt, Norman L. Rich, Antonio B. Griffin, Darren Ford, Vance McIlwain, Kenneth E. Murray, Alan Simon Gray, Marvin D. Holton, Augusta Galbreath, Kenneth A. Hull, Lakeysha Small, James Ali, David Ellis Burkett, Mohamed Ahed Rage, Annis Williams, Willie Hunter, Kevin Beynum, Herby C. Warfield, Stella D. Covington, Rhosu Griner, William A. Hall, Danny Steppe Perdo, Stanley Washington, Seth B. Wilder, Ulysses Orr Jr., Ellis R. Smith, Leondos Wilkins, Bobby Blumfield, Ernest G. Stover, Agustas Thomas, Michael A. Agnew.

Charles B. Coates, James O. Spruill, Vincent E. Dash, Kevin G. Hunt, Tyrone D. Bush, William L. Ware, Horace Gary, Joseph D. Gwynn, Michael Wilson, Wendell A. Brooks, James Hinson, Gary Endicot Gaylor, Jacqueline James, Keith Otis, James Thomas Brawner, Michael English, Ghirmai R. Tessema, Albert O. Thompson, Antonio D. Brady, Ronald E. Elus, Thomas Jackson, Onas A. Orestes, Leonard Blytner, Pyzon Wade, Quintin D. Williams, Willie Buckmon Jr., Anthony J. Lowery, Curtis I. Marshall, Timothy Brandon, Alvin Breland, James Thomas Fields, Tito Pullen, Ricky Murphy, Lloyd Nathan Copeland, Franklin D. Monroe, unknown (male), William Harris, Anthony M. Anderson, Clarence Washington, Eric Ashely, Darnell J. Monroe, Lester L. Presson, Keith Barnes, Ron Coleman, Bernard E. Johnson, Timothy E. Lewis.

William Tyson, Mark Murphy Jr., Nathaniel Williams, Cedric Francis, Sinclair Green, Eric B. Jones, Derrick Ben McKnight, Nguyen Tran, Michael Campbell, Billy Everett, Mahandeo Persaud, Leroy Scott, Jose A. Cruz, Larry Fuller, Anthony Butler, Cornelius Hill, Cornell L. Thomas, George Hemphill, Troy Bush, Richard A. Taylor, Michelle Logan, Sean Maurice Kornegay, Russell Savoy, Michael Tuck, Michael T. Harvey, Kevin Percel McNair, Doulgas Jay Linder, Erika L. Riggins, Philip Barocas, Patricia Drew, Tamonthy Johnson, Norman G. Price, Ethel Simmons, Albert King, John Smith, Larry Glenn, Terry Eugene Owens, Ronald A. Robinson, Roberto Lopez, Lisa Marie Ward, Katherine P. Russell, Alvin Cummings.

Marcus Lee, Paul Anthony Moore, Anthony E. Morrisey, John Edwards, Cary Jackson, Ronald Jones, Orlando Stinson, Sylvia Howard, Antoine Ruffin, James Frazier, Michael McQueen, Clayton Montgomery, James Dukes, Arnaz Rubio Mitchell, John W. Shields, Nathan Canada, Jose Jenero, Abarham Holmes, Cory Nelson, unknown (male), Dexter Fields, Curtis Pugh, Chamel Williams, Warren Kingsbury, Bamitale Williams, Robert Earl Johnson, Charles Williams Jr., Varron K. Carter, Deborah Ann Davis, Kevin Koonce, Leon Anthony Porter, Lina Sanchez, Bernard Anderson, Tony Maurice Dublin, Curtis C. Harmon.

Maxie Lamont Wright, Kiran Pandy, Norman Shields, David Henderson, Kerry Lann McLeod, Norman R. Mizzell, Donnell Luckett, George Rawlings, Ralph W. Asante, Darvis A. Dozier, William Jones, Booker T. Daniels, Calvert Davis, Donald C. Gamblin, Bernard E. Queen, Richard Smith Jr., Unknown (Female), Rinnie Stewart, Stephen E. Leight, James C. Quattrochi, Cheeri D. Rhymer, Keith A. Wiggins, Cary Cain, Lionel Harris, Robert A. Austin, Donnell Burroughs, Michael T. Crowder, Milton M. Jones, Jason Rufus, Jonah Denson, Marvin James Murphy, Coley Young, Lawrence Brown, Jeffrey D. Rowland, unknown (male), Anthony Roland, Wayne Anderson, Robert Dawson, Cedric L. Boyd, Marcus Cleo Thompkins, Jean C. Gassaway, Willie Young Jr., James Allen Long, Tommis D. Mackall, Abdul B. D. Raheem, Joseph Green.

Vernon Dale Page, George Adams White, Gregory C. Rogers, Norman K. Jackson, Kevin M. Jackson, Andre L. Lee, Jowell David Brookenberry, George Reid, Sharon Benson, Francisco Manzand, Jaqueline Garnett, Willie Spann Jr. Juan Jose Alvarez, Michael Mayo, Stanley Lee Mack, Dean Hicks, Charles West, Terrence S. Harris, Dante Kennedy, Emmett Pugh Jr., Anthony G. Robinson, Paul Washington, Sibley E. Hammonds, Dale Hegwood, Reginald Lott, Jeffery L. Wilkins, Chester T. Davis, Mildred Johns, Joan William, Ricky Eric Lewis, Augustus Frazier, Fay Sureena Murray, Stanley B. Morgan, Walter H. Thompson, Eric L. Mason, Lemuel Adam Conic, Michael J. Hall, Anthony Lee Dent, unknown (female), Tyrone Wells, Antonio R. Pigatt, Gerald Bazel, Onyribe Kingsley, Patrick E. Manning, Jose Sanchez Sr.

Vernon V. Blake, Leon L. Coachman, Billy Hopkins, Luis Roberto King, Ruel St. M. McPherson, Franklin M. Mendez, Marco White, Maurice Curtis, Charles L. Phillips, Charles L. Sanders, Beyound J.X. Edwards, Eric Michael Hunter, Ronald A. Overby, John Patrick Winston, Wanda Young, Michael T. Dozier, Carl Anthony Green, Demetrius Lake, Eric Williams, Cheryl J. Robinson, Soloman Roziner, Cleveland G. Boddie, Edward Eric Burke, John Leonard Fenwick, James Jacob Richardson, Lenard M. Payton, Norman L. Mason, James C. Murray, Henrietta Washington, Reginald B. Riley, Ronald Lee Gilliam, Billy Ray Tolbert, James Robert Wood, Michael Todd Branch, Anasdazia Neumann, Daniel B. Williams, Michael Jennifer, James Kimball, Robert W. Parks, John Parker, Sophia Jones, Billy Auvis Shelton, Darwin C. Pratt, Tyrone Mills Hamilton, Carl Dupree Sr., Douglas E. Spencer, Murphy Wright Jr., Todd Louis Allan, Terry Andre Goodwin, Keith E. Jenkins, Nikita F. Morris, Maurice A. Robinson.

Thomas Leory Gross, Eric Stanley Robinson, Ronald Jay Shelby, David N. Vick, Ricardo C. Minnis, Leonard A. Phelps, Dwayne C. Taylor, Angela White, Sameer P. Bhatt, Andre Hinkle, Mary M. Smith, Darryl D. Waldrop, Michael Barnwell, Frederick Beavers, Phillip A. Parks, Reginald J. Cobb, unknown (male), Tanya McKnight, Walter C. Veney, Derrick B. Crestwell, Clarine M. Collier, Nevel James, Felman M. Hampton, Frank Seth Gibson, Andre Reese Jr., Michael J. Porter, Robert S. Webb, Catherine Kirksey, Gwendolyn Allen, John Eugene Dunkin, Keith Winters, unknown (male), Herman Allen Guy, Verlee Jackson, Derrick N. Willams, Margrett M. Smith, George Wright, Okeyia S. Kelly, Lawrence W. Anderson, unknown (male), Arthur Tate, Vincent S. Parker, Khan Anthony Daley, Vincent Green.

Muhammad A. Rabbani, Leyvonne Hickman, Eric Wendell Noland, Andrea Alston, unknown (male) Donna Bigesby, Timothy Borum, Keith Willie Brandon, Corey Lamont Johnson, Jamil Milton Thrash, Rahsaan Folks, Michael J. Gathers, Janet Lynn Dixon, Timothy L. Paire Jr., Steven Ray Sturgis, Andre James Jennings, Sun Sop Sung, Edgar Edward Barnes, Edwin Merino, Michael A. Charles, Darryl T. Morgan.

□ 1750

TRANSPOSITION OF SPECIAL ORDER TIME

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent that the special order on October 26, 1993, for the gentleman from Michigan [Mr. BONIOR] be transposed with the special order for the gentlewoman from Hawaii [Mrs. MINK].

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentlewoman from California?

There was no objection.

ILLINOIS REMEMBERS ZEKE GIORGI, DEAN OF THE GENERAL ASSEMBLY

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

Mr. MANZULLO. Mr. Speaker, Illinois is mourning the loss of Edolo "Zeke" Giorgi, the dean of the Illinois General Assembly, who served Rockford and his State for nearly 30 years, and who died on Sunday morning, October 24, 1993.

This was truly a public servant.

Zeke's main objective in life—personally and legislatively—was to help people. Party labels mattered not to Zeke: Whenever a person had a problem, it was not a party issue; it was a person issue.

A young lady called upon Zeke one day and told him she could not afford to buy her kidney medicine without quitting her job and going on public aid. Zeke called the pharmaceutical company and arranged to have her placed on its indigent program. She never had to go on public aid. Zeke helped her keep her self-esteem.

On another occasion, Zeke paid the motel room for a homeless, legless man. Zeke raised money for an airline ticket to fly a constituent to Seattle for the funeral of the man's brother. He also arranged other flights for constituents and somehow raised the money.

Zeke walked the extra mile that serves as the example of how a legislator should act. Zeke helped several seniors—in fact, at one time a total of eight—kept their checkbooks and served as their designated payees so that their Social Security money would stretch.

A family had its furniture in storage and had no place to live. Zeke found them housing, personally paid for the storage rent and truck, and then personally helped move their furniture.

Mr. Speaker, there are very few Zeke Giorgis in this world. If there were, it would be a better place. I am sure Zeke's name will be inscribed on some public building, and that is most appropriate, but his legend has already been inscribed on the hearts of the people he loved and served. Very few people can leave that legacy—Zeke did.

Well done, good and faithful servant. We will all miss you.

ESCALATING VIOLENCE BY THE IRA AND PROTESTANT EXTREMIST GROUPS

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

Mr. MCCLOSKEY. Mr. Speaker, it is a dire day again when escalating violence by the IRA and Protestant extremist groups threatens to extinguish the strand of hope radiating from the Hume/Adams peace initiative.

As chairman of the Friends of Ireland, I rise to absolutely condemn the Irish Republican Army bombing in Belfast which killed 10 and wounded over 50.

In response, Protestant extremist groups have struck against the Catholic community in Northern Ireland, killing four thus far.

Innocent victims range from a 7-year-old Protestant girl, killed by the IRA bomb, to an elderly Catholic man who was killed after being brutally beaten.

Protestant extremist groups like the Ulster Freedom Fighters and the Ulster Volunteer Force have vowed more retaliatory killings. This unfortunately threatens to encourage yet another cycle in the spiral of sectarian violence in Northern Ireland which has claimed close to 3,100 lives in almost a quarter century.

Catholic and Protestant extremists are clearly attempting to scuttle the Hume/Adams initiative. The true tragedy is that they may have succeeded. It is crucial, however, threat efforts to find a lasting peace continue.

John Hume and Gerry Adams both have demonstrated personal courage in developing their initiative. I am not saying it was perfect or even that ultimately it would have necessarily succeeded.

However, it did represent a possible peaceful resolution to the troubles. Now terrorists who profit from the violence and instability are indiscriminately killing innocent Protestants and Catholics.

Yet again, a flickering flame of hope in Northern Ireland may be extinguished by bombs and a hail of bullets.

The Friends of Ireland includes almost a quarterof the Members of Congress, representing Irish-American constituencies of both Catholic and Protestant heritage.

In the last decade, great strides have been made in bringing together political leaders in Northern Ireland, England, and Ireland. From the Anglo-Irish Accord, to the Three Strand Talks, to the latest Hume/Adams initiative, imaginative and daring proposals have come forth in the name of peace in that troubled region.

Now, in this time of renewed violence, I urge that the small tentative steps toward a lasting peace not be obliterated by senseless violence by thugs. As chairman of the Friends, I believe the United States stands willing to facilitate genuine reconciliation.

But outside concern will not end the violence. True reconciliation and peace must come from the communities in Northern Ireland.

I urge the political leaders in Northern Ireland, the British Government, and the Irish Government not to give in to the brutal killers of 7-year-old girls and old men. I urge them to continue their dialogs and not abandon the hope of peace.

RESOLUTION REGARDING POLLY KLAAS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, today I am introducing a resolution of great importance that could mean the difference in the search for a missing child.

As many people throughout the Nation already know, Polly Klaas was kidnaped at knifepoint from her home In Petaluma, CA, the night of October 1, 1993, while her mother slept in a nearby room. Since the night of Polly's disappearance, her family, the Petaluma Police Department, the FBI, and hundreds of volunteers have been working nonstop to find Polly. Despite their tireless efforts, Polly Klaas has not yet been found.

The resolution that I am introducing today, will provide much needed, additional support to the search for Polly. It will urge the Attorney General and the Director of the FBI to cooperate with the U.S. Postal Service and the Polly Klaas Search Center to disseminate information nationwide about the abduction of Polly Klaas. And, it will emphasize doing so as quickly as possible.

The widespread distribution of Polly's picture and the sketch of her suspected abductor could mean the difference, Mr. Speaker, in the search for Polly, because kidnaped children oftentimes are recovered as a direct result of the circulation of photographs. With additional information distributed nationwide, someone may recognize Polly, from her picture, and be able to provide the information that leads to her safe return.

This resolution also commends the numerous volunteers for all of their hard work to help locate Polly. Practically overnight, the people of Petaluma transformed an empty storefront into a sophisticated search operation. The Polly Klaas Search Center has been run by hundreds of generous volunteers who have donated their time, energy, and funds. As a result of their kind donations, over 7 million flyers with Polly's picture, and the picture of her suspected abductor, have been distributed around the country.

The major problem, however, for the Polly Klaas Search Center and the Klaas family, as they work to find Polly, has been the high cost of postage. The U.S. Postal Service is prohibited by law from offering free postage, except to military personnel in times of war. Well, Mr. Speaker, I believe that this is a war—a war against our children, and one that we cannot afford to lose.

Polly's parents, Eve Nichol and Mark Klaas, told me that they believe this resolution is important to their battle to bring Polly home. Mark and Eve have sent a letter to all the Members of Congress asking them support this resolution for the sake of their daughter. I would like to read part of this letter. And, I quote:

> From the moment the town heard about this unspeakable horror, they mounted an unprecedented volunteer effort. A Polly Klaas Center was set up, and thousands of people from all over have joined the effort to search for her and distribute fliers throughout the country. Local companies have donated $1 million dollars worth of paper, printing, and supplies. But to date, we have spent in excess of $200,000 for stamps, and we continue to spend thousands more each day, just for postage * * * Our ultimate goal is that families in this situation in thefuture won't have to lose precious time raising funds for postage * * * Today, we ask you to help in our effort to find Polly now. Please help us.

Mr. Speaker, this tragedy has grabbed the attention of the national media. Stories about Polly have appeared on "America's Most Wanted," "CBS This Morning," and "CNN," as well as, in the Washington Post, the New York Times, and People Magazine. It is clear that this real life nightmare has sent shock waves throughout America. Parents in every community are wondering how such a thing could have happened, and if it could happen to them.

Mr. Speaker, we cannot sit idly by and watch our Nation's families be consumed by fear. We must act, and we must act now.

I urge my colleagues to show American families that they won't let their concerns go unnoticed. By cosponsoring this important resolution we show that the Federal Government can, and will, mobilize and do its part to help a family, and an entire community, fight back against one of the most hurtful and tragic crimes imaginable—the kidnapping of a young child.

Mr. Speaker, I would like to once again call on my colleagues to include information about Polly, as I have done, in the newsletters that they send to their districts. This could also make a crucial difference in the battle to find Polly. We all must do our part to aid in the search. My office has the necessary information available, and will assist any Member of Congress who wishes to participate in this effort.

Mr. Speaker, I ask my colleagues to please join me to help bring Polly Klaas home.

Thank you, Mr. Speaker, I yield back the remainder of my time.

□ 1800

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DORNAN. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order and to be granted a 5-minute special order.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 166

Mr. DORNAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 166.

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

There was no objection.

A VISIT WITH RANGERS AND SPECIAL OPERATIONS FORCES AT WALTER REED ARMY MEDICAL CENTER

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

Mr. DORNAN. Mr. Speaker, I spent a couple of hours this afternoon up at Walter Reed visiting with some of the Rangers and Special Ops men who were wounded on the night of October 3 and October 4 in Mogadishu, or the afternoon of the 3d. What they told me was not a 7-hour fire fight or a 9-hour fire fight, or now it is up in some journals to an 11-hour fire fight. They said it was 15 hours.

What they described to me in their own words I have no argument with. They said it was the hottest, the most

ferocious fire fight since World War II. That is saying something, from experienced senior sergeants and one officer.

The impression that our men were sniped off during the night is not exactly correct. Most of the fire was AK-47's on automatic, constantly, and hundreds of them, a staccato, they said, that went on for the first 3 or 4 hours that was deafening. One young Ranger with bad leg wounds said his humvee, which is a light wheeled vehicle, the same one that Nieman Marcus has, a red color, for sale, the one Arnold Schwarzenegger drives around, they said it was like cardboard, even though it was described as an armored humvee. His was hit with three RPG's and a hand mine at the same time.

I turned to the colonel who was with me from liaison and I said, "Did you know that, Colonel?" He said, "No, I didn't. I am learning something here."

The President went to see these people on Sunday. The Secretary of Defense went to see them on Monday. We are all going over to see them, but what are we going to learn from this? I told them I would like to come back. They said, "Absolutely." They want to talk about Haiti, about Bosnia, about using our military as an instrument of foreign policy under the United Nations, or sending Rangers in August after we had already lost a dozen men, to use as the sheriff's posse to go after Aideed.

Now we do not know if Aideed, Mohamed Farah Aideed, is part of a negotiating process. There is the smell in the air that a deal was cut: "Get the Rangers out of town, and we will give you back Warrant Officer Michael Durant." No proof of that, it is just a strange juxtaposition of events.

We are going to put 3,600 Marines in there, some of them on the ground in tents, 10 years younger than the average age of the Rangers, and some other special ops guys from Fort Bragg, to do a job that they almost came close to doing in six or seven raids, and then were jerked out.

The whole thing makes me focus on Haiti. I will do a special order, ask for one later in the week, on Haiti, Bosnia, and bring in some color blown-up photographs, 3 by 2 feet, that I took from the skies, over the skies of Mogadishu.

Then I will do another special order later in the week or the first of next week on why I believe Morton Halperin, as a created position under Secretary of State for Peacekeeping and Democratic Affairs, why he should not be approved by the Senate as a civilian overseer of our excellent military forces.

All the general forces, officers, all the field grade officers, company grade, and all the enlisted men I have seen in the Air Force, Marines, and particularly in the Army and our Rangers and others specially trained men that have been fighting in Somalia, I just cannot conceive of better people ever being in uniform at any time in the history of our Nation.

Ronald Reagan confused a great fiction film from James Michener's book, "The Bridges of Toko-Ri" with a real story that he had heard somewhere. The fictitious ending, with Frederick March playing Admiral Tarrant in that great story, "The Bridges of Toko-Ri," came out a long time ago, in 1954.

At the end of that film, the admiral is on the bridge. He says:

> Where do we get such men? Where do we get such men? They go out, they do their job, they come back and they find this pitching deck on these rough seas. How is America lucky enough to have such men?

Even though it is fiction, it certainly applies to these tough, handsome young guys with their bodies being put back together up there at Walter Reed, and at the hospital at Fort Benning and Fort Campbell and Fort Bragg and all of the Marines that came back with wounds. This is a tough story, Somalia. I do not think yet in this Congress or in the executive mansion we have the answers to their sons, daughters, wives, fathers, and mothers, many of the fathers veterans of Korea and Vietnam, and in one case a survivor of both wars, we today do not have stories for their brothers or sisters, uncles, aunts, all the people who love them as close family, to explain to them precisely what our foreign policy is, what our use of the military is, how we are going to put 25,000 people into Bosnia or why we are defending a crazed, defrocked, drugged-up priest to be inserted back into Haiti.

□ 1810

RUSSIAN OCEAN DUMPING OF NUCLEAR WASTE

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

Mr. WELDON. Mr. Speaker, I rise today to extend some further information on a 1-minute speech I did this morning on the floor regarding the terrible condition in our oceans relative to the Soviet Union dumping radioactive waste from its nuclear-powered submarines and ships, as well as from its nuclear installations.

It was just several weeks ago that I asked the Subcommittee on Oceanography, on which I am the ranking member, to convene a hearing on the practices that the Soviet Union has undertaken for the last 20 years in illegally dumping nuclear waste in our oceans, and especially in the Arctic Ocean. I want to put things into perspective, Mr. Speaker, and relate the amount of dumping to the one major incident we see in this country involving nuclear contamination. Three Mile Island was a nuclear accident that occurred at a powerplant in my home State several years ago, which received international notoriety. During the entire duration of the Three Mile Island there was a total of 15 curies of radioactivity released into the atmosphere, 15 curies. In a study that was released this past spring called the Avlakov report, by a commission under Boris Yeltsin, the Russians now admitted that over 2½ million curies of radioactive contamination have been discharged into the oceans of the world.

Following up on that in hearings we held September 30 we have now found out there is currently 10 million curies of radioactive waste sitting in ships in Murmansk harbor because the Russians do not know what to do with this waste. They do not know how to dispose of it, they do not know whether to sink these ships, as they have done in the past, or whether to make some other efforts.

Mr. Speaker, this is becoming a scary situation nationwide. I was very cautious during the hearings that I not sound like an alarmist, and I said that during the hearings to which Dr. Ned Ostenso, Assistant Administrator for NOAA responded to me:

> Congressman, I am not sure what the difference is between an alarmist and a realist, because what you are saying is in fact reality.

In fact, we have this terrible problem worldwide of totally uncontrolled dumping of nuclear waste, primarily by the former Soviet Union, by Russia.

The most recent incident was the sinking 4 years ago of the Russian submarine, the Komsomolets, which sank in the Arctic Ocean. Dr. Tengig Borisov, chairman of the Russian commission that was recently established to deal with radioactive pollution in the seas, was asked what would happen if this submarine somehow broke apart and the contamination then impacted the waterways, and here is what he said: "If there is a leak, fishing will be impossible in the Norwegian Sea for between 600 and 700 years."

Now this is from one ship. The Russians, as we now are finding out through the efforts of Boris Yeltsin, have literally hundreds of ships that have both been deliberately and accidentally sunk in the oceans of the world.

Mr. Speaker, we have a real global tragedy on our hands, and unfortunately we are not doing enough about it.

I recently wrote to President Clinton and asked him in upcoming discussions that are going to take place at the International Maritime Organization meetings in London, that we support the effort of the Danish Government to put into place a complete ban on the illegal dumping of both low-level and other nuclear waste in the oceans of the world. I would urge my colleagues

to join in this effort, and to also use whatever resources we have available to use to assist the Russian Government in attempting to deal with this problem of the 10 million curies currently sitting in ships in Murmansk harbors, as well as the nuclear-powered installations they have throughout the former Soviet Union. As a matter of fact, Mr. Speaker, the same problem exists whether with their nuclear reactor plants, and there is a terrible problem waiting in the wings for us in terms of Russia doing away with these plants.

As a matter of fact, the Navy disclosed to us that entire nuclear reactor plants have been disposed of in both the Kara and the Barents Seas. In fact, they list 18 nuclear reactor plants, 7 of them fueled, dumped in those seas, 13 submarine reactor plants, 4 of them fueled, 3 reactor plants from the icebreaker Lenin, one of them fueled, and one entire submarine with 2 reactor plants, both of them fueled. All of these were dumped in the Kara and Barents Seas.

Mr. Speaker, we must as a nation ignite the interest of the world community in coming to grips with this problem. It is severe, it is real, and it requires the attention of this country and all nations because of the potential damage this will do environmentally to the waters and seas, especially the Arctic seas that have been impacted by the illegal dumping by the former Soviet regime.

Fortunately, President Boris Yeltsin has been very cooperative in attempting to establish a relationship with us and the other nations of the world to deal with this problem. We must follow through and assist him in these efforts.

COMMERCE SECRETARY BROWN'S INVOLVEMENT IN NORMALIZATION OF RELATIONS WITH VIETNAM

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

Mr. BURTON of Indiana. Mr. Speaker, some time ago my colleagues were informed about possibility that our Secretary of Commerce, Mr. Brown, received a $700,000 bribe from the Vietnamese Government in order to assist them in having relations with our Government normalized. There had been a longstanding commitment to the families of the POW-MIA's in this country that until there was a full accounting of those who were missing in Vietnam, the 2,200, until that was completed, there would be no normalization of relationships with that country.

Well, Mr. Brown allegedly, before he became Secretary of Commerce, met with a gentleman named Mr. Hao, who was a representative of the Vietnamese Government, and he met with Mr. Hao not once but three times, the third time being after he was confirmed as Commerce Secretary, and in his office at the Commerce Department. And Mr. Hao was the conduit between the Vietnamese Government and Mr. Brown, and allegedly arranged a $700,000 downpayment to Mr. Brown to try to get relations between our two countries normalized.

The Clinton administration in July and in September took two giant steps toward normalizing relations with Vietnam, and that has caused a lot of consternation and concern among a number of Members of the Congress of the United States, especially in view of the fact that the man who has made these accusations, a man named Mr. Binh Ly, successfully passed a lie-detector test that was 6 hours long, given to him by the FBI. Since Mr. Binh Ly took this lie-detector test, there has been a grand jury paneled in Miami, FL, and the grand jury is currently conducting an investigation to find out whether or not Mr. Brown should be indicted.

I just found out that the FBI has intensified their investigation at the request of the grand jury in Miami over the last 2 weeks to try to expedite this as quickly as possible. I also found out today that although Mr. Brown said he had never met Mr. Hao, and he said this I understand to the chief political correspondent, Mr. Howard Fineman, of Newsweek, personally he told him he never met Mr. Hao, he then later recanted, and his press secretary and his attorney said that he not only met with Mr. Hao once, but three times, the third time being after he was confirmed, as I said before, as Secretary of Commerce, at the Commerce Department.

We also found out today that Mr. Hao met with Mr. Brown in Miami the first time, and there was an associate from the DNC, the Democrat National Committee, with Mr. Brown at that first meeting. The man's name is Mr. Bill Morton, and he is now an official of some type at the Commerce Department.

All of this needs to be investigated very thoroughly, and that is the reason why on September 30 I wrote a letter to the President of the United States, Mr. Clinton asking him to give us any information he could about the problems involving Mr. Brown, and he try to freeze the normalization process with Vietnam until the whole issue had been resolved. Specifically I requested that because the POW-MIA families are very concerned about not having a full accounting about their loved ones who were left behind.

Second, on October 13 I wrote a letter to the President also asking that there not be any steps taken to lift this embargo. And we have not yet heard from the President on either one of these two letters.

On October 19 we wrote a letter to Janet Reno. She had said publicly that she was concerned, and I quote: "If I appoint a person or select a person to be special prosecutor you, meaning the press, are still going to question the conflict of interest as long as I'm involved in that process."

Again she went on to say, "For me to appoint somebody who will be asking me, well, that person has a conflict too because you appointed them."

□ 1820

Both quotes are taken from the Washington Post of October 1.

The Republican leadership of the House, the gentleman from Illinois [Mr. MICHEL], the gentleman from Georgia [Mr. GINGRICH], the gentleman from Texas [Mr. ARMEY], and the gentleman from Illinois [Mr. HYDE], and myself wrote a letter to the Attorney General, Janet Reno, giving her a list of eight former attorneys general and prosecutors, special prosecutors, from which to pick a special prosecutor to investigate this case. All of these people have impeccable credentials and are above reproach.

We have not yet heard from her. We are hoping to hear in the not too near future that she has decided to select one of these to be a special prosecutor to investigate this case.

Finally, today we have written a letter to the President once again, signed by about 25 Members of the House, asking that Secretary Brown recuse himself from any involvement or any negotiations with the administration involving possible normalization of relations with Vietnam. We do not believe while he is under investigation by a grand jury in Miami or while he is under investigation by Members of the Congress of the United States he should be involved in any way in any possible activities involving the normalization of relations with Vietnam. We have not yet heard back from the administration or Ms. Reno on any of these issues or any of these letters that have been written.

I understand also today that the ranking Republican on the Committee on Government Operations, the gentleman from Pennsylvania [Mr. CLINGER] sent a letter to the White House asking for logs, telephone logs, travel documents, and other things that would give us a better handle on this, so that we could as a Congress find out what happened and possibly avoid a full-fledged investigation.

Today or yesterday he got a letter, which was totally inadequate, from the Secretary of Commerce. They called down to the Commerce Department to ask a spokesman for Mr. Brown if Mr. Brown had in fact recused himself from any involvement in Vietnam, and the answer was "no."

So Mr. Brown is still involved as Secretary of Commerce in possible negotiations with them. I think that is

wholly inappropriate, since that investigation is taking place not only in Miami with the grand jury down there but also by the Committee on Government Operations in this House.

If we do not hear from the President, Mr. Brown, or Ms. Reno in the relatively near future, we will have no choice but to have a motion of inquiry, a resolution of inquiry filed here in the House to try to force the issue.

I think it is extremely important because there are clouds hanging over the Clinton administration right now that these questions be answered very, very quickly; it is extremely important. We do not have a complete count of the POW-MIA's, in fact we do not even have a cursory accounting of the POW-MIA's. Two thousand two hundred of their families are still concerned about that, No. 1; No. 2, the Clinton administration took two giant steps toward normalizing relations with them by asking the World Bank and the IMF to go ahead with loan agreements with the Government of Vietnam. The second step was taken in September to allow American industry and businesses to go over there and, where World Bank or IMF loans have been approved, to allow them to bid on that business.

This created all kinds of questions. I would just like to say, Mr. Speaker, that the President ought to answer these questions as quickly as possible, give us a complete accounting; Ms. Reno should appoint a special prosecutor as quickly as possible; and Mr. Brown should recuse himself from any involvement in the negotiations on Vietnam until this issue is resolved.

With that, Mr. Speaker, I will conclude my remarks on this issue.

SITUATION RE: ILLEGAL ALIENS IN CALIFORNIA IN PARTICULAR AND IN THE UNITED STATES IN GENERAL

Mr. Speaker, I would like to talk about one other issue along with my colleague, the gentleman from California [Mr. GALLEGLY], who has been working for some time on the immigration problem, the illegal immigration problem that we face with Mexico and other countries.

Right now we have before this body and the other body what is called NAFTA. The NAFTA agreement will have a tremendous impact on the people of this country and the economy of this country one way or the other, depending on your point of view.

One of the big problems or stumbling blocks with NAFTA is the problem of illegal aliens or illegal immigrants. I would like to tell my colleagues that the estimated cost to the taxpayers of this country from illegal aliens coming into the United States is at least $11.9 billion a year. To give you some breakdown of that, we have a gentleman named Huddle of Rice University, who did an analysis of the overall costs. My colleague from California who compiled this information will want to participate in a moment or two. He said it costs, Mr. Huddle said it costs $11.9 billion to the taxpayers, net, in 1992. In California the estimates of net direct costs, including job displacement, range from $3 billion to $5 billion. Over the next decade, if nothing is done, Mr. Huddle estimates that the total net cost will be an incredible $186.4 billion a year.

Now here are some specific areas: He estimates that last year for welfare we spent $819.9 million in AFDC payments; $290 million in housing assistance; $2 billion in uncompensated medical care and other county health/welfare programs nationwide.

Next year MediCal—that is, California's version of Medicaid—expects to pay $1 billion for illegal aliens' health care. Four years ago it was only $187 million. So it has gone up over four times in just the last 4 years.

California counties spend millions of dollars in addition to this every year.

L.A. County reports 25 percent of the patients in its public hospital beds, 25 percent of the patients are illegal aliens. Illegal aliens in California alone receive $278 million per year in AFDC payments. The gentleman from California told me that last year there were 37,000 or 39,000 illegal alien babies born in that county alone. Is that correct? I yield to the gentleman.

Mr. GALLEGLY. In Los Angeles County last year, according to the chief administrative officer for the county of Los Angeles, over two-thirds of all the births in L.A. County-operated hospitals, the mother did not have a legal right to be in the United States. That number was right around 37,300. In fact, the Los Angeles County-operated hospitals could not handle the total demand, and we are subcontracting out to private hospitals at, of course, a much higher cost to the taxpayer.

Mr. BURTON of Indiana. I think the gentleman also told me that the AFDC payments alone, not including health care costs or education costs or anything else, AFDC payments alone were running around $25 million alone per month just for that county.

Mr. GALLEGLY. Just for Los Angeles County alone.

Mr. BURTON of Indiana. These costs nationwide are unbelievable. Just to give you a few more facts that the gentleman supplied to me—and I appreciate this: The Immigration and Naturalization Service reports its verification system detected 10,837 illegals who applied for food stamps during 1991 and 1992, which I guess will cost the taxpayers $14.5 million just for that.

Mr. GALLEGLY. If the gentleman will yield, the interesting part about that is that just the few that they caught who had actually applied in that almost 11,000, and we have very little or no policing in that area. That is one of the problems that we have with the fraud in welfare and public assistance, public housing, so on and so forth; almost no policing at all.

Mr. BURTON of Indiana. Then you get into education, and you find Mr. Huddle estimates the total nationwide cost for kindergarten through 12, college and special-education programs for illegal aliens was $5.32 billion last year, and in California there are as many as 300,000 illegal aliens in the public schools, costing $2 billion a year to that educational system.

With respect to crime, nationwide he estimates the cost is $1 billion a year for illegals. In our Federal prisons, 25 percent of the total Federal prison population are illegal aliens.

By next year—this is not the Federal prisons, as I understand it—but by next year in California the State prisons, in addition to the 25 percent that are in the Federal prisons, there is going to be 16,392 in your State prisons over and above the costs we just talked about.

Mr. GALLEGLY. The gentleman is correct. At issue, the number is closer to 27 percent, which was provided to us by Janet Reno, the Attorney General of the United States. At a time when we are faced with tremendous overcrowding in our prisons, at a time we are letting people out on the street who are absolutely a threat to society, this is an issue that is absolutely beyond belief when we take a look at those numbers.

Mr. BURTON of Indiana. Did the gentleman not tell me that there were 741,000 Americans who have lost their jobs or have been displaced because of the illegal aliens coming in and taking their jobs?

Mr. GALLEGLY. According to Professor Huddle at Rice University, who did a very comprehensive study which took a couple of years to put together, in his survey he has determined in a most conservative estimate 741,000 Americans have been displaced in jobs taken by those who have no legal right to be in the country.

I think it is very important to point out the fact that we all too often hear an argument that illegal immigrants in this country take only the jobs of those that American citizens or legal residents would not otherwise take.

□ 1830

That is absolutely untrue. In fact, in my own district in Oxnard, CA, recently we had an INS raid at a local manufacturer that made plumbing fixtures, a company that was employing people at $10 or $12 an hour. They arrested 52 individuals and deported them.

The interesting thing about it, within 2 days when the story hit the paper, there were over 250 citizens or legal residents of the city of Oxnard who were in line waiting to apply for those jobs that they had read about in the paper.

Mr. BURTON of Indiana. I was reading here that it said some of the people where they found illegal aliens had the job were getting $15 an hour, or about $31,200 a year. I think a lot of Americans would like to have that kind of a wage.

Mr. GALLEGLY. That was an incident I believe in the State of Nevada where they found working in casinos or some related business in the State of Nevada.

I think it is important to point out, the issue we are talking about here is not immigration. The issue we are talking about here is illegal immigration. I know my good friend, the gentleman from Indiana, is a strong supporter of immigration. We all recognize that immigration is the thing that has made this country the great country that it is. In fact, there are probably not many folks in this Chamber who cannot track their immigration roots back more than three or four generations, some even less than that; but the issue we are talking about is illegal immigration.

We every year allow more people to legally immigrate to this country than all the rest of the countries in the world combined, about 800,000 who legally immigrate to this country.

This is not only something that we have the right to do, we have a responsibility to control our borders.

In southern California, we have over 1,200,000 people illegally entering our country at the international border at San Diego, a 12-mile stretch from Otay Mesa to the Pacific Ocean. That is about 4,000 who illegally cross that border every night of the week, 365 days out of the year.

Mr. BURTON of Indiana. The gentleman might tell our colleagues what it looks like down on the border. It is kind of a big party, is it not, every night?

Mr. GALLEGLY. Well, you know, it is interesting because they have staging areas where they have vendors who come and sell food and other products during the day.

Mr. BURTON of Indiana. T-shirts and other products.

Mr. GALLEGLY. It looks kind of like a tailgate party, and they prepare for the sunset for their crossings.

Some of the interesting ways they will do it, they will send a group across that will draw the attention of the Border Patrol, and then two other groups in other positions will strategically run across.

On a best case basis, the Border Patrol—and I certainly have nothing but praise for the young men and women who are serving in our U.S. Border Patrol; they are doing an incredible job—but with the odds that they have against them by sheer numbers, solving illegal immigration with the number of people that we have on the border would be like trying to catch a B-1 bomber with a butterfly net. You just are not going to do it.

On a best case basis, they are interdicting maybe 25 percent. They stop them and interdict them. They take them across the border and before they get the papers out, they are back in the United States.

Mr. BURTON of Indiana. Before we get into this issue of how we think this ought to be handled and what kind of a bearing it has on NAFTA, I would like to give my colleagues just a few more of the gentleman's statistics that he compiled.

The total criminal justice cost in California is almost $500 million a year. That is State funds; is that correct?

Mr. GALLEGLY. That is State prisons, right.

Mr. BURTON of Indiana. And many illegals who serve time and are deported, returned quickly, as the gentleman just alluded to.

There was a study that said 40 percent of those who were rearrested in the United States within 12 months—in other words, they are arrested and deported and they are back here in 12 months and rearrested.

Mr. GALLEGLY. Mr. Speaker, if the gentleman will yield further, actually that was from the Los Angeles County Sheriff's Department. The L.A. County sheriff runs the county jail in Los Angeles.

In 1992, of all those who had been convicted of a crime—I am talking about a crime against personal property, not an immigration violation—but who have been convicted of a crime, served their time, that were in the country illegally and after they had served their time, they were deported, of all those who were deported 44 percent of them were back in jail after a conviction of another crime in less than 12 months. That shows you that deportation in and of itself is not working at all.

Mr. BURTON of Indiana. Something else that is very interesting along that line is that I understand there were 1,000 illegals who were arrested during the L.A. riots. I mean, my gosh, that was a tremendous part of the problem. I mean, billions of dollars were destroyed in that city that taxpayers around the country are going to be paying for, and 1,000 of those rioters were illegal aliens.

Mr. GALLEGLY. You know, this is an issue that really hits close to home for me as a kid who grew up in south central Los Angeles, who lived in the middle of the curfew zone in the 1965 Watts riots and what a tragic event that was. My job was inside the curfew zone. My home was there.

What happened in 1965 and what happened last year was not the same situation. During these riots, over 1,100 of those arrested for looting, rioting, burning, and so on and so forth, were illegal aliens.

I submit to you, and I have yet to hear anyone who really challenges this, these people who were arrested, very few of them were out defending the honor of Rodney King. In fact, I doubt seriously if they even knew who Rodney King was.

Mr. BURTON of Indiana. I hope our colleagues at least have some flavor for this and I hope that the gentleman and I can go into this in more detail at some point in the future, but what I would like to dwell on for the remainder of the time we have here is solutions to these problems.

The gentleman and I have written a letter to the President, along with about 22 other Members, talking to him about some things that ought to be added to the NAFTA agreement to help solve these problems.

One of those things was to send illegal aliens who are in our Federal penitentiaries and State penitentiaries back for executive of sentence.

The gentleman has some information on that.

Mr. GALLEGLY. There are a couple things that we were doing. One of the issues—it is not limited to Mexico and the NAFTA agreement, for instance. We are dealing with our friends to the north as well as our friends to the south, but it would be that anyone convicted of a crime in our country—that would be a part of this agreement—this is obviously something we cannot do unilaterally from a legislative standpoint, legislating the laws of other countries, but from a collective-bargaining standpoint during the course of the NAFTA negotiations, it is something that we could do and probably one of the few opportunities that we would have to have an agreement with Mexico and with Canada that anyone incarcerated in our country for a crime against another person or property, the other Government would agree to incarcerate them in their jails in their country and, of course, that is something we are working very aggressively on, and I still have not received a response back on that or the other elements from the President.

Mr. BURTON of Indiana. When you think that it is going to cost anywhere from $25,000 to $30,000 a year for each inmate, and you have over 16,000 in your California State institutions, not to mention the 25 percent in our Federal penitentiaries.

Mr. GALLEGLY. And that does not include those incarcerated in county jails.

Mr. BURTON of Indiana. Which is another few thousand probably, you are talking about hundreds of millions of dollars nationwide, or I think it was billions that we are paying for that.

It seems to me—and I know the gentleman concurs with this—that there are a number of steps that need to be taken. We need to do something in this body to try to help beef up our Border

Patrol people and the people in DEA who are dealing with these problems on a regular basis down there on the border.

I also have felt, I do not know how the gentleman feels about this, that with the closure of our military bases it might be a good idea to try to figure out some way as an adjunct to our Border Patrol guards to use our military to assist them in patroling those borders, because we are having such a tremendous amount.

The gentleman said that in that 12-mile stretch, you are getting what, over a million a year?

Mr. GALLEGLY. Over 4,000 per day.

Mr. BURTON of Indiana. If you look at the whole border, the 1,980-mile border between us and Mexico, the Embassy down there told me and the gentleman from Tennessee [Mr. DUNCAN] that there are 2.3 million coming across the border and about 1.3 million stay here. So this is something we have to address. We need the assistance not only of our Government in giving more support to our border guards down there—that is, the military—but also the military side.

Mr. GALLEGLY. I think beefing up our Border Patrol is absolutely essential.

In fact, I have a bill that would provide for increasing the Border Patrol by an additional 2,500 members, giving first priority to the young men and women who are being mustered out of the military. You know, we are having tremendous cutbacks in our military today and we have a lot of young men and women who have served their country well, and for those who would meet the profile of a Border Patrol agent, No. 1 to reward them for having served their country with a job and a job that is much needed in this country and, of course, much of that training has already been borne by the taxpayers, but I think that we really have to look at this issue beyond the Border Patrol, because you could have the greatest increase in the Border Patrol humanly possible, and as far as I am concerned that in itself is not going to stop the flow of illegal immigration.

□ 1840

I think it is also important to point out that I do not blame those that are coming into this country. They are not the ones to blame that are, for the most part, economically depressed, trying to either survive or provide a better lifestyle for their families. But I blame the United States of America, this body, the Congress, for providing the incentives, the carrots, the magnets, if my colleagues will, to encourage them to come here illegally by the welfare that we are providing, public housing, and more important than that are the jobs.

Mr. BURTON of Indiana. I wish that our colleagues were all down here to see that that is a forged ID card that they are able to get, that illegal aliens are getting to show that they are——

Mr. GALLEGLY. For about $35 to $40, on almost any street corner in many of the cities, certainly Los Angeles and many other cities in southern California, San Diego, they can purchase a card with their picture that is so perfect from detection that 90 percent of immigration experts cannot detect it. This complies the employer sanctions, IRCA, the 1986 Immigration Reform Act, and I have a bill that would eliminate this, along with the 28 other types of cards more commonly referred to as green cards, with 1 card that would be virtually counterfeit-proof. If we can protect a K-Mart from a $3.20 charge with a Master Card, or Visa or whatever, we certainly ought to be able to do the same as it relates to millions of jobs in this country, along with the other benefits. But until we stop the access to jobs and other public services there is no way we are going to be able to stop this increasingly large number of people from illegally entering this country.

Mr. BURTON of Indiana. One thing that will bring this to a conclusion here pretty quickly, but one thing that was very interesting to me, was when the gentleman gave me the pamphlet from the MediCal system in California which says that, "If you're an illegal alien, and you come in to get a child, have a child or have hospital care, you will not be reported to immigration officials," and it says that about three times in there, and they not only print that in English, they print it in Spanish and are passing them out down along the border, I understand, which is almost like an invitation saying, "Come on across the border, and you can have your baby here in the United States which will immediately become a citizen, and there will be no repercussions."

Mr. GALLEGLY. And of course the minute that takes place, then the child is, or I should say the parent, the legal guardian, is eligible for AFDC, health care, housing, and all the other benefits, and that amounts to well over a thousand dollars a month. And that incentive, we could be using that money, I think, a lot more wisely in trying to help discourage by finding areas to improve the economy, the countries that are particularly Mexico, but, as the gentleman knows, I know we are kind of short on time here, but there is one point I really want to make before we wrap up:

If we are going to really be intellectually honest on this issue, I think we have got to take a look at really who is being hurt by illegal immigration. Through the grace of God the gentleman and I, and most of the Members of this Congress and others that are probably listening that have a job, can provide for their families, and a couple of square meals a day, and buy a pair of shoes when the kids need them, but those that are dependent upon public health care, those that are dependent on public housing, those that are dependent on that entry-level job, the minorities in the ghettos that are trying to get that first job, that labored job, that unskilled job, so they can pick themselves up by the bootstraps and work their way out of the ghetto, try to strive for the American dream and the middle class, they are the ones that are being shoved to the back of the line. They are the ones that are competing for the jobs against those that do not have a legal right to.

So, if we are going to be intellectually honest, the people that are being hurt the most by illegal immigration are those that afford to be hurt the least.

Mr. BURTON of Indiana. Americans.

Mr. GALLEGLY. Right.

Mr. BURTON of Indiana. Let me ask one more question of the gentleman:

As I understand it, in California you have some hospitals where Americans have to wait to be taken care of because of the overcrowdedness created by these illegal aliens that are there.

Mr. GALLEGLY. Well, Los Angeles, L.A. County hospitals, are certainly a classic example of that, and I would welcome any and all of our colleagues that have any interest to take a visit there with me, look at it firsthand and see who is hurting, see who is hurting.

Mr. BURTON of Indiana. Well, I want to thank the gentleman from California [Mr. GALLEGLY] very much for all his work. I am a cosponsor of his bills, and I will continue to work with the gentleman to try to solve these problems.

I say to the gentleman, You are to be congratulated. If everybody in this body would take the time to research this like ELTON GALLEGLY of California, we would get this problem solved.

Mr. GALLEGLY. I say to the gentleman, DANNY, I appreciate your doing this special order tonight. I think you know we have worked together for many years. This is my fourth term, and in the four terms I have served here, this is the first special order I have done. I don't come here on a regular basis. In fact, this is the first special order I've done. I feel very firmly, strongly, that this is a very important issue affecting all Americans, not just those that live in the border States because all American taxpayers are paying the bill even though you may not have the presence in your neighborhood.

Mr. BURTON of Indiana. I hope our colleagues will take what the gentleman has said to heart, and I really appreciate his hard work.

TRIBUTE TO LEON SHULL

The SPEAKER pro tempore (Mr. GUTIERREZ). Under a previous order of

the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 60 minutes.

Mrs. MINK. Mr. Speaker, I take this time this evening in a special order in order to pay special tribute to a very dear friend and colleague with whom I have worked for a number of years, and this individual is a person of quite rare abilities, and his talents and experiences are very extensive, and we here tonight would like to pay special tribute to him, not only because he is celebrating his 80th birthday soon, but because it often does not get recognized when an individual has contributed so much.

Mr. Speaker, I came to the Congress in 1965 during my first tenure here, and this remarkable individual was director of the Americans for Democratic Action at that time. So, I have known him for a long time, and he has made a tremendous contribution toward the debate that engages this House, and I think it is quite appropriate, therefore, since he spent most of his time here in Washington engaging the Congress, and raising our level of perception and serving as the conscience of America, that we take time tonight to recognize. his service and to wish him a very hearty happy birthday on his 80th year.

I would like to at this time yield to my colleague, the gentleman from California [Mr. EDWARDS], who has some words to say about Leon particularly because he served as national president of ADA when Leon was here.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentlewoman from Hawaii [Mrs. MINK] for arranging for this special order tonight. It is really a wonderful event because Leon Shull and his wife are great people and were great people when I was so intimate with them many years ago. I was the national president of ADA from 1965 to 1967, and I was lucky because Leon had come aboard as director in 1965, although he had become the director in 1964, and these were very exciting days because they were the first part of the Great Society of Lyndon Johnson, and we made great progress in those exciting years.

For example, Mr. Speaker, the poverty rate in the United States in 3 years went from 19 percent of the population to 12 percent. We enacted programs like Medicare, Medicaid, aid to elementary and lower education, food stamps and, of course, the Voting Rights Act of 1965 where Leon and I had the partnership of that great, great civil rights lawyer and dear friend who is not with us anymore, Joe Rauh. It was a terribly exciting and creative period of time, and unfortunately it sort of ran out of gas when the Vietnam war sort of took the country by storm. It was an interesting era in other ways because Joe Rauh and Leon Shull were not the least bit shy about getting into some real exciting and controversial issues.

Mr. Speaker, in those days we were being bullied nationwide by the House Un-American Activities Committee. It would go up and down the country holding kangaroo courts that ruined the lives of a lot of people in Hollywood and elsewhere, and so Leon kind of pushed ADA, and me and others into trying to get rid of HUAC, the House Un-American Activities Committee, and I remember that the first big effort we made was in 1965, and we got 24 votes.

□ 1850

The year before that I think we had six votes. It did not bother them a bit, those of us who voted against their HUAC's appropriation, who had to go home and face another election. But we found out that we could survive, and survived to this day.

To the former chairman, Father Bob Drinan, a great Jesuit priest and national chairman of ADA, he and I were the ones in 1973 who put the nail in the coffin of HUAC by making a motion to send its jurisdiction to the Committee on the Judiciary, where it has rested ever since, I am sure very uneasily, in my subcommittee.

As I said, the Vietnam war as it escalated cast a shadow on the Great Society programs that meant so much to our country. We had a new era of red baiting and fear of communism. J. Edgar Hoover went on the air and said that any protester, college protester, should not be allowed to stay in college and was a dupe of the Communists.

We had the old ploy of people wanting to make it a felony to burn their draft card, so it became quite a thing, of course, for American young people to burn their draft cards.

They wanted to pass a bill to kick protesters out of college. Of course, that failed. Then there was a strong movement to make it a felony to burn the American flag, which, of course, failed because it was a violation of the first amendment of the U.S. Constitution.

But the war kept getting bigger and bigger. In 1965 it went from 20,000 to 40,000. Then the chairman of the Committee on Armed Services at that time, a gentleman from a very deep Southern State, called for bombing China. That created quite a sensation, because he said China and Vietnam were both Communist; therefore, they were friends; therefore, they should be bombed. That was the kind of mania we had in those days. ADA was fighting very hard against that sort of thing.

Finally, in 1967 the troops in Vietnam got up to 625,000 and Gene McCarthy came along and rode his horse into the arena to run for President. ADA backed him 100 percent. Leon Shull steered us in the right direction, and ADA endorsed Gene McCarthy, and we had a great time.

These were turbulent times. ADA was right in the midst of all of them, and Leon Shull was our executive director and one of our leaders. Joe Rauh and Leon were really a pair, and I feel very lucky to have known them both. I feel lucky to have known to this day as a dear friend Leon Shull. So I just think it is very suitable that we are here tonight to honor him on his 80th birthday. I cannot believe he is 80. He will always seem 35 to me.

Mr. Speaker, I now yield back to the gentlewoman from Hawaii [Mrs. MINK], and thank her very much for allowing me this time.

Mrs. MINK. Mr. Speaker, I thank the gentleman for reminding us about those turbulent years. I recall coming to the House in 1965 and you put us to the task very early, I believe it was my first day coming to the floor here, having to vote on a resolution on the House Un-American Activities Committee. So I fully recall those days. Certainly without the advice and direction and wisdom and philosophy and expression of principle that we got from Leon Shull, many of us would have floundered in those very, very difficult days. So I credit my survival in this institution, and really my return, to the lessons I learned from this great individual. So I am very proud to call on a very dear friend and someone who should be remembered by all the generations that he has affected.

It is my pleasure now to yield to the distinguished deputy majority whip, the Honorable JOHN LEWIS, who has served this body with great distinction. One of the ways in which he has helped us, not merely here on the floor and in the complicated business of legislating, is by serving as president of the Americans for Democratic Action. So I am really honored to have the gentleman here joining us tonight.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to pay tribute to a great American, Leon Shull. I want to take a moment to honor this man—a man to whom I and countless numbers of others are greatly indebted. For more than 50 years, Leon Shull has been in the forefront of the struggle for civil and human rights in America. Leon Shull personifies the very best in the American tradition. He has dedicated his life to fighting for social justice and equal rights.

Shull's efforts as an activist has helped to empower hundreds of thousands of people. The accomplishments of Leon Shull are many. His leadership is unequaled. His devotion to human and civil rights is complete.

I have known of this man for more than 30 years. He is a good and decent man. He is a leader in the truest sense of the word. He is a crusader for social justice.

For 20 years, he was the national director of Americans for Democratic Action. As national director of ADA, Shull presided over the organization's greatest periods of growth and influence. Under Shull's leadership, ADA

spearheaded numerous initiatives, including full employment legislation, opposition to the Vietnam war, campaign finance reform, and numerous other issues.

In the 1940's and 1950's, Shull led efforts in Philadelphia and southeastern Pennsylvania to ensure fair treatment of minority and women workers. He fought and helped defeat political corruption in the State of Pennsylvania during those years.

Leon Shull was able to organize the unorganized. He gave many hope in a time of hopelessness. His work and his cause enhanced the dignity of humanity everywhere.

Leon Shull is persistent and consistent. He has had a vision of a new America, a better America. He had had a dream of what America could become. He has kept his eyes on the prize.

Men and women such as Leon Shull, Dr. Martin Luther King, Jr., A. Phillip Randolph, Hubert Humphrey, Thurgood Marshall, Fannie Lou Hamer, Robert Kennedy, and Walter Reuther have inspired me and thousands of others with their leadership and dedication. These men and women brought us through one of the most difficult times in modern American history, the civil rights movement of the 1950's and 1960's.

I came of age during the civil rights movement. It was a period in which I found my own courage to try and make a difference in this society. I was inspired by individuals such as Shull. I drew strength from his examples of leadership, commitment, and dedication.

Tonight, Mr. Speaker, we salute and pay tribute to a great American—Leon Shull.

Mrs. MINK. I thank you very much, our leader, for those inspiring words. I know that Leon deserves every bit of your comments, and I know that he will appreciate it very, very much. I am grateful that you were here tonight to share those words.

□ 1900

I think the fact that you are the head of the organization and are leading the troops at this critical time is also a tribute to the kind of path and channels that Leon Shull created for us. To make it possible for such leading Members in the Congress of the United States to serve in the capacity as president of ADA is largely a tribute to Leon Shull. There are many others who served as national president in addition to our colleague here, the gentleman from Georgia [Mr. LEWIS]. The gentleman from California, DON EDWARDS, as I said earlier; Don Fraser, who was before my time, currently, I believe, still mayor of the Twin Cities in Minneapolis. We have our deceased member, our late colleague Ted Weiss, who also served as president of ADA, and many, many others.

I was just speaking to my colleague here from Massachusetts, and he reminded me of the service of Father Drinan in this body, who preceded him here, and Father Drinan also served as president of ADA.

Mr. Speaker, at this time I yield to my colleague, the gentleman from Massachusetts, BARNEY FRANK. To have him participate in this special order is a point of high privilege.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentlewoman from Hawaii for organizing this and giving us the chance to do this. I want to use a phrase that we often use in a negative context in what seems to me an appropriate, positive context. For many of us this is payback time. It is payback time to a man, Leon Shull, who has been as selfless and as dedicated and as committed to a logical and consistent conception of the public good as anyone I know.

The great role that Leon Shull has played during the time that I have been here and before, throughout a very active and productive life, but he continues to be, at the age of 80, a dedicated activist, the important contribution he makes is to show people how to be a very levelheaded fanatic.

We, too often in our society, oppose two different versions of political activity, one a kind of cool, almost manipulative approach, misnamed pragmatic, in which you are known for your skills at accomplishing things, your ability to read a situation and propose strategies and tactics that will carry out a goal. On the other hand, we talk about people who burn with a zeal to change things, to accomplish things. And they are the ones we call idealistic. And strangely, we often juxtapose idealism and pragmatism as if they were somehow logically contradictory.

In fact, they are, sadly, often in fact contradictory. People who care very deeply, very passionately about a set of issues often do not take the time and the trouble and show the discipline to think about how best to get those issues accomplished.

Leon Shull, in his career, demonstrates that this is a false juxtaposition, and he makes it clear, in fact, that those who are the most pragmatic, those who have the levelest head, those who are willing to do the hard work of studying political situations, understanding the forces at work and devising strategies to try and change those forces are, in fact, the supreme idealists. They are the ones who carry the ideals into action.

Leon Shull's career simply belies the argument that being knowledgeable about and skillful at political realities somehow makes you less than pure in your idealism. He has been both. He has had a career. Given Leon Shull's talents, his ability, he could have made a lot more money than he ever made, by orders of magnitude, probably, more than he has made. But because he had a commitment to a world in which social justice and fairness and compassion reigned true, because he was revolted by racial discrimination and sex discrimination, discrimination based on sexual orientation, discrimination against people on any irrelevant grounds, because he did not think children ought to be born poor and stay poor and not be given opportunities, because he cared about peace in the world, for all of those reasons he eschewed careers that could have been for him much more profitable and, instead, has been a dedicated and skillful and determined activist.

And he has done it with skill and with success. And precisely because of his willingness to become as skillful a political strategist as I have had the pleasure of working with, he, therefore, can claim more achievements on behalf of poor people, people discriminated against, peace in the world, than many, many, many others.

Personally for me, he was, when I first came to Congress, one of the people who helped me understand what the reality was and how best to take the issues that I cared about, because I shared the values that he has so well exemplified, and how to translate them through an effective assault on the reality that we felt needed changing.

If is not surprising that so many of us who have served here in the House have joined Leon Shull in ADA, because we found in him a perfect ally in our fights.

I said before that at the age of 80, he continues to be an activist. Last week I had a meeting. It was a meeting in which we were trying to embody the principle of majority rule. The principle of majority rule, we believe, is present everywhere in American Government. But in fact, it is not. There is one place in American Government where majority rule is not followed. But I cannot mention it, because of the rules of the House.

However, we had a meeting to talk about implementing majority rule in that unmentionable place. And Leon Shull was one of the first we asked to come and join us, as we strategized about how to call to the attention of the public the absence of democracy somewhere in this city where people think it ought to be there.

Leon Shull understands how that absence of democracy somewhere in this city retards our ability to carry out the basic progressive principles. And as Leon Shull has helped others destroy stereotypes from which they have suffered, stereotypes about people based on their race or their sex or their physical conditions, now at the age of 80 he is helping to destroy another very disabling sterotype, one that says that as you reach a certain age you are no longer able to be useful.

He continues to be a vibrant contributor to the coalition of people who are determined to bring social justice to

America and who understand that bringing social justice to America in no way contradicts our goal of increasing the prosperity of the country as a whole but, in fact, complements it.

I am delighted to be able to pay tribute to Leon Shull, and I am grateful to our colleague from Hawaii for giving us a chance to do so.

Mrs. MINK. Mr. Speaker, I thank our colleague for pointing out the fact that while we pay tribute to Leon tonight, on the occasion of his 80th birthday, this individual is still very vigorous and very much involved in many of the issues that we confront every day on the Hill. And as we discuss important subjects like filibuster and how to organize the Congress and how to prioritize our issues and what strategies to engage in, we always find that Leon Shull has been called upon to give us advice.

I am very pleased now to yield to my colleague, the gentleman from Hawaii [Mr. ABERCROMBIE], who is here. He and I came together in my second round to Congress. I appreciate very much his taking time to join us in this special order.

Mr. Speaker, I yield to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, next month will see the 80th birthday of one of the most distinguished Americans of our time. Leon Shull, who served for two decades as national director of the Americans for Democratic Action, has earned a place among the great men and women who have shaped this Nation.

Leon Shull sought—and still seeks—nothing less than honoring the promise of the American dream. A steadfast liberal when liberalism was in fashion and out of fashion, he has never wavered in his principles. One of the undying themes of American history is the struggle to extend the rights of full citizenship envisioned by the authors of Declaration of Independence and the Constitution.

Leon Shull has been at the forefront of that fight for close to half a century. He was an early—some would say "premature"—advocate for racial equality and human rights. He understood that change requires engagement in public life. That understanding led Leon Shull to become deeply involved in the campaigns of candidates for every level of public office: municipal, State and Federal. In 1952 he was director of volunteers for Adlai Stevenson. In 1960 he was director of John F. Kennedy's campaign in southeastern Pennsylvania.

But, more than his work for any particular candidate, we honor Leon Shull for his work as national director of Americans for Democratic Action from 1964 to 1984. These decades encompassed some of the momentous years of American history. They saw the emergence of the civil rights movement and the first concerted Federal programs designed to fight poverty. They also saw the tragedy of Vietnam. Through all of these developments, Leon Shull continued to articulate the commitment of millions of Americans who have remained steadfast in their commitment to equality and justice.

Today, Leon Shull is retired. But one uses that word advisedly when speaking of this remarkable man. He continues to speak out, to organize, to advise, to help guide the course of American liberalism. Happy birthday, Leon, and may we have the benefit of your counsel and encouragement for many years to come.

□ 1910

Mrs. MINK. Mr. Speaker, I thank my colleague, the gentleman from Hawaii, very much. I appreciate those words very, very much.

To wind up our tribute tonight to Leon, I would like to call on a colleague who has more than his own individual experiences to relate to us, but he advised me that his father was very much involved in ADA and has very, very intimate stories to tell about Leon Shull. It is my privilege now to yield to our distinguished colleague, the gentleman from California, BOB FILNER.

Mr. FILNER. Mr. Speaker, I thank the gentlewoman from Hawaii. We are so appreciative of her efforts to allow us to pay tribute to Leon Shull on his 80th birthday.

Most of us have been influenced by Leon, Mr. Speaker, because of his 20 years as national director of ADA, the Americans for Democratic Action, which he presided over for those years, which saw unprecedented growth and unmatched influence for the Nation's oldest and largest political action and lobbying organization devoted to progressive ideals. He was a pivotal figure, as the Members have heard from our previous speakers, in all the major issues of the last 30 years.

Just reading off those events and causes that he so influenced can tire one out: nuclear arms control, the fights against Carswell and Hainsworth in the Supreme Court, the creation of ADA PAC's to support the campaigns of Progressives running for Congress, campaign finance reform, the reform of political parties, civil rights, human rights, at home and abroad, the Impeach Nixon campaign, post-Watergate reform efforts, youth empowerment, realigning the Federal budget priorities, tax reform, full employment, opposition to the war in Vietnam, passage of the Humphrey-Hawkins Full Employment Act, on and on. These are the issues on which Leon gave guidance, support, and victory, many times.

As the gentlewoman from Hawaii [Mrs. MINK] mentioned, my father was involved over a long period of time with the ADA National Board. I knew long before I met Leon that he was and is the font of all knowledge when it comes to progressive issues, past, present, and future.

I first met him when I cam to Washington nearly 20 years ago, when I was a legislative assistant to Senator Hubert Humphrey and Congressman Don Fraser, both long-time members and leaders of ADA. Leon educated me, as he had so many others, in the art of a practical politics, but as the gentleman from Massachusetts [Mr. FRANK] said, a practical politics defined by a true commitment to progressive ideals.

He schooled me and others in this vision in meetings and conferences, and in enormously stimulating dinner parties hosted by he and his partner in life, Anne Shull. I went back to San Diego, and as elected members of the San Diego Board of Education and the city council, I could always call on Leon to help put a national perspective on the issues we were dealing with locally, whether they were education reform, defense spending, economic conversion, you name it.

When I returned to Congress as a freshman Member, he was still there, as he is for all those who might call, to help prepare us for the battles in this arena, to show us a road map of Capitol Hill and the pitfalls and opportunities that a Member of Congress may face.

Like everyone, I sometimes disagree with Leon, but I know I can always get an honest and incisive assessment of the issue involved. Leon and Anne, we love you, we thank you for your years of activism, your years of mentorship, your years of commitment to a world of peace and economic and social justice.

I thank the gentlewoman from Hawaii [Mrs. MINK] for allowing all of us to share our debt and our country's debt to Leon Shull.

Mrs. MINK. Mr. Speaker, I thank the gentleman for his contribution. There were many other Members who would have wished to be able to join us tonight. One of them is our colleague, the gentleman from New York [Mr. RANGEL], who was here earlier but had to leave. He also served as president of the Americans for Democratic Action.

Mr. Speaker, to sum up our feelings about Leon, I think it would be accurate to say that this individual was a remarkable person who was able to combine not only a wit and sense of humor but an enormous, incredible ability of trying to synthesize some very complicated issues and being able to, in a few words, command the attention of the people to whom the words were being directed; namely, Members of Congress, people who were in the policy arena.

□ 1920

And he had this marvelous talent of being able to provoke your intellect and your conscience to do the right

thing. And I think that his contributions have to be acclaimed, and his skill and his ability as a person who could come to the Hill, describe the content of legislation and the enormous need for this legislation in order to help the people of this country.

No matter what the issue, whether it was the environment, or consumers, or people who were ill, or in need of housing, or food, or the hungry, or whether it was a civil rights issue, or war and peace, or whatever the matter at hand, a defense appropriation for moneys he felt were being wasted on unneeded projects where the funds could be used in other areas, he was a champion of the social and economic needs of this country. And he spent his lifetime arguing and debating and formulating these issues so that we, in arenas like this in the Congress, could better focus our energies and accomplish these things in the name of what is good for our country.

Not very often do you find a national organization that almost is parallel to our political parties like the Democratic Party or the Republican Party. The ADA had its own platform. It had people coming to the Hill to lobby on legislation. It had its own convention in which it endorsed nominees that ran for office both at the national level and sometimes at the local level for governor. It set about mobilizing a grassroots organization because that is where the strength of ADA lay, and as national director for 20 years, Leon Shull presided over all of these very, very extensive and important activities. He was out there mobilizing the grassroots at the country level and the State level, moving across the country, talking about issues of importance and why people ought to care.

That is not to say that there were not other important organizations, ones committed to the environment, some to social issues, civil rights, the housing alliance or women's groups, the labor unions, each one targeting a narrow portion of our national agenda and working vigorously in that area. But for Leon Shull, he took the whole panorama of issues that faced our country, and like the political parties, like the Democrats and the Republicans, fashioned a platform and a form of action to try to accomplish these things in a global and total sense. And he was a master. He devoted his total energies and expertise in organizing and in confronting people who were going to make decisions to make the right decisions.

He served at a critical time. I happened to be here in the Congress during the Vietnam war and during the matters in which we debated the poverty program, and the housing agenda, and the concepts of nondiscrimination in jobs, and the need for full employment, and all of these things that were debated at that time. It is not to say that they are not central issues today, but the character of the debate has changed somewhat, largely due to the pioneer work of Leon Shull and those who followed in his footsteps who placed the proper agenda and emphasis of this country, and for all of the people who believe in what can be done about these issues. And Leon was a master at doing that.

So I am very proud to have had the opportunity to serve not only in the Congress with him, giving us direction and leadership, but also after I left the Congress to serve as national president of ADA for three terms while he was the national director.

Since he retired in 1984 he has gone on to assume numerous other responsibilities. He has not been in retirement. He simply left the presidency of ADA. He went on to serve as executive director of Citizens for a Just Minimum Wage. Minimum wage is very much an issue that this Congress has to deal with if we are really going to move our country forward and provide people with quality employment. I mean how can we talk about people working a full 40-hour week and still being in poverty based on our national standard? So there he is working mightily as a member of that committee.

He also went on to serve as executive director of Citizens for Workplace fairness. This has to do with the striker replacement bill. So he is very much in the forefront as an activist and a strategist in order to get that legislation through the Congress.

He served as legislative director of the Full Employment Action Council, because again, as in the early part of his career, he is back to concentrate on the importance of full employment in America. Whether we talk about NAFTA or any of the other issues that provoke this Congress, and which require our action, fundamentally it all comes down to jobs. Whether we are debating an item in a defense budget or social program, we are talking about what impacts it will have on the employment opportunities in this country.

He has returned to the ADA, and that is probably the most remarkable thing. He is our No. 1 volunteer. He is serving in our legislative department. He is giving guidance again to people who come and flock around him for inspiration. He has been a model individual in my life, and he has certainly affected the lives of many people here in Washington.

We pay tribute to Leon for his remarkable career. But alongside him, inseparably and almost joined together in this crusade to make America better has been his wife, Anne, who has worked side by side along with Leon on all of his adventures and all of his projects. And so we cannot really pay tribute to Leon without also recognizing his wife, Anne. His two daughters, Jane and Susan, and son-in-law, Ed, and his granddaughter, Ruth, I know will be coming together shortly in the Capital City to join with Anne and Leon in celebrating his 80th birthday. And so along with my colleagues who were here tonight, and those who were not, I want to extend to Leon the happiest of 80th, and many many more to come. And we will continue to look to you, Leon, for your leadership, and for your challenge for a better America.

Mr. MINETA. Mr. Speaker, I would like to thank our good friend, the gentlewoman from Hawaii [Mrs. MINK], for requesting this time to pay tribute to Leon Shull, on this the occasion of his 80th birthday.

Known to many as Mr. Liberal, Leon Shull has been a driving force in American politics for over 50 years. Without his commitment to the principles of fairness and equality, some of the most important civil rights and employment laws in this Nation would never have been enacted.

The amazing thing about Leon's many achievements is that they came about as a result of grassroots political action that seemed to have little or no chance of winning from the outset.

From his work in reforming Pennsylvania politics in the 1940's, to his opposition to the Vietnam war, to his passionate commitment to progressive political action, Leon's activism springs, not from any quest for power or influence, but from his unshakable dedication to equality and justice.

It is this very integrity that has kept Leon as active in the political process at age 80, as when he first started in politics. While most of us would have long since stopped to smell the roses, Leon continues on as a full-time volunteer at ADA where he serves as the legislative and grass-roots coordinator for ADA's efforts to enact a single-payer health plan, bring about full employment, and realign our national budget priorities.

On top of all this, Leon continues to reach out to younger ADA staff and volunteers, teaching them about the power of grassroots political action and instilling in them a drive to continue the tradition of activism he started at ADA.

Leon's principled dedication and commitment are respected across the political spectrum, even among those who disagree with his positions on the issues. His activism represents the embodiment of the basic ideals of American Government: that a free people are capable of governing themselves and that, despite the cynicism of our times, one person can make a difference.

I'm proud to join my colleagues in wishing him a well-deserved Happy Birthday.

NORTH AMERICAN FREE-TRADE AGREEMENT

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

Mr. DREIER. Mr. Speaker, I have taken out this time this evening to

talk about the North American Free-Trade Agreement. We know that it is a package that is being strongly supported by President Clinton. It is being supported by all of the living former Presidents. This morning a letter was circulated from all 10 living former Secretaries of Commerce supporting the North American Free-Trade Agreement for a very simple and basic reasons. They have all come to the conclusion that the North American Free-Trade Agreement is in the best interest of the United States of America.

One of the things that has happened over the past several weeks and months is that the people have been led to believe that implementing the North American Free-Trade Agreement is somehow a sellout of U.S. interests. Mr. Speaker, actually nothing could be further from the truth. In fact, the opposite is the case when one looks at NAFTA.

I happen to believe that as we look at the challenge of the future, NAFTA is in our best interest. In fact, as we listen to people who regularly stand here on the floor of the Congress, we listen to people out there in the country debating on television and radio programs the North American Free-Trade Agreement, we regularly hear horror stories about Mexico, about the flow of United States jobs from the United States to Mexico.

□ 1930

We hear about problems that exist on the border, we hear about the problem of illegal immigration which certainly affects my State of California. Our taxpayers in my State have to shoulder a $3 billion annual cost for illegal immigration. We hear about the wage situation that exists in Mexico, we hear about human rights violations in Mexico, we hear about a lack of political pluralism in Mexico. We hear all these things and one would conclude that every one of these problems is taking place. Why? Because of NAFTA? Well, Mr. Speaker, NAFTA does not exist. NAFTA is an agreement which will be struck among the three countries, Canada, the United States, and Mexico, and is proposed to go into effect January 1, 1994, and be phased in over a 15-year period. So as we listen to the horror stories of United States jobs going to Mexico, as we listen to the horror stories of environmental problems on the border, as we listen to the horror stories of human rights violations which have taken place in Mexico, as we listen to all these problems, illegal immigration and all, we have to realize that all these things have happened not because of NAFTA, because there is no NAFTA. I happen to believe that while every single one of these problems does exist, the best way for us to counter these is by implementing NAFTA.

So basically the conclusion that I have drawn is that the North American Free-Trade Agreement is about the future and not the past.

What we need to do is realize that we have some very serious economic problems right here in the United States. I am privileged to be able to represent part of Los Angeles County here. The unemployment rate in Los Angeles County is between 9 and 10 percent; the unemployment rate statewide in California is right around 9 percent. I happen to believe that the North American Free-Trade Agreement is not just in the best interests of the State which I am privileged torepresent here in the Congress, it is in the best interests of this country. Why? Because we desperately want to create job opportunities here in the United States all over the country. The best way for us to do that is to realize that finding new markets for U.S.-manufactured goods and services is the best way to do that.

How do we do that? By breaking down tariff barriers, and that is what NAFTA is all about.

You know, those who oppose the North American Free-Trade Agreement do not offer a job-creation strategy. Oh, yes, they say things with which I agree that we should reduce the capital gains tax rate here in the United States, to create a business friendly Government outlook here; but we have this great opportunity 3 weeks from tomorrow when on November 17 we cast our vote on the North American Free-Trade Agreement.

Frankly, if we pass this opportunity—and there are many who have predicted defeat of the North American Free-Trade Agreement—I think we have a great chance to narrowly win it. I have said many times that if this were a secret ballot it would probably win by 75 votes. Why? Because as I have talked to colleagues on both sides of the aisle, Democrats and Republicans, they say they know it is in the best interest of the United States of America to pass NAFTA. But they feel political pressure at home and for other reasons they do not think they can vote for it. In fact more than a few, Mr. Speaker, have said to me they hope it passes but they feel they do not want to vote in support of it.

So clearly we have to look at the consequences of a potential defeat of NAFTA.

Let me tell you basically what happens: There is no doubt whatsoever that someone will export products like cars, computers, medical equipment, telecommunications to Mexico. With NAFTA if we put it into place it will be the United States of America. We will be the ones manufacturing automobiles, telecommunications, medical equipment, computers, other things to send into Mexico. Without NAFTA it will just as likely be Japan and the European Community.

I have said many times, Mr. Speaker, that I am not one who likes to engage in bashing Japan or the European Community, but I am the first to acknowledge that Japan and the European Community have benefited greatly since we played a role in rebuilding their economies, their societies in the postwar world. And what has happened is they would very much like to have the chance to get into the Mexican economy.

There are 88 million consumers in Mexico and if we defeat NAFTA they will have in Mexico little choice other than to look toward Japan, the Pacific rim, and the European Community for opportunities to trade. Why? Because the United States will have said to the neighbor, their neighbor with which they share a 2,000-mile border to the north, the United States will have said, "Forget it. We don't want to do this."

Now I have always said that as my friends talk about, "Not this NAFTA, we want to create another North American Free-Trade Agreement," I believe that is slightly disingenuous. Why? Because while this is a 2,000-page agreement and I do not like every aspect of it and I am supporting NAFTA in spite of, not because of the side agreements, I am convinced they do not jeopardize U.S. sovereignty as some have said; but as we look at this package, that is phased in over a 15-year period—and the reason it is so long is that the tariff structure is so great today that we need to work to bring it down—but as we look at those who say, "Not this NAFTA, we need to negotiate another NAFTA," I say: "Strike an agreement that will have the support of Ross Perot and Pat Buchanan, Jesse Jackson, Jerry Brown, Lyndon LaRouche, Ralph Nader. These people who came out and opposed NAFTA said there should be another NAFTA. The AFL-CIO, I am hard-pressed to believe that an agreement could be struck that would have all of the support of the AFL-CIO and Pat Buchanan and at the same time Jesse Jackson.

So the fact of the matter is while it is not perfect, and I realize, I am the first to admit there is going to be some job displacement—that is what happens with free markets, the free flow of goods and services. That is the way it works. I am convinced while this one is not perfect it clearly is far superior to the status quo and it does create an opportunity for the United States of America to have a tremendous, tremendous advantage over the Japanese and the European Community.

Let me explain why: First of all we look at the tariff structure that exists today. I would like to ask you, Mr. Speaker, to focus on these charts right here so that our colleagues, most of whom are not here but I realize they may be seeing this in some other spot, the tariff structure that exists today as a tariff that ranges between 10 and 20 percent for chemicals, United States-manufactured chemicals going into

Mexico. Where the United States tariff on chemicals from Mexico is between zero and 4 percent.

Under NAFTA for the United States and Canada that tariff will be completely eliminated. What we will see is we will see this tariff barrier of 10 to 20 percent maintained, not for the United States, Mr. Speaker, but for the Japanese and the European Community.

Look at pharmaceuticals: On an average a 15-percent Mexican tariff is charged on United States-manufactured goods going into Mexico. The average tariff that we impose on Mexican pharmaceuticals coming into the United States is only 3.5 percent. Under NAFTA that is totally eliminated, brought down to zero. But for the Japanese and the European Communities it is still a 15-percent average tariff barrier that wall will still be up giving the United States a greater advantage over our friends in Japan and the European Community.

In the textiles and apparels area, 14 to 20 percent on average, the Mexican tariff that is charged—a tax basically on United States textiles and apparel going into Mexico—6 percent is the average tariff that we have on Mexican textiles and apparel coming into the United States. This 14- to 20-percent average tariff remains for Japan and the European Community. But it comes down for the United States creating an opportunity for us to gain access to those 88 million consumers creating a chance for us to create jobs here in the United States and expand export opportunities for us.

So it seems to me we need to realize that NAFTA is clearly in the best interests of the United States.

Let us go further: Industrial machinery. On average a 10- to 17-percent Mexican tariff on United States-produced industrial machinery going into Mexico, zero to 2 percent is the United States tariff on Mexican-manufactured industrial machinery coming into the United States. What happens under NAFTA if NAFTA is implemented? both sides are brought down to zero. But remember Japanese and European Community manufacturers of industrial machinery will still face this 10- to 17-percent Mexican tariff.

Household appliances on average 17.1 percent is the Mexican tariff on United States-manufactured household appliances going into Mexico. Less than 1 percent, 0.8 percent is the average tariff charged on household appliances manufactured in Mexico coming into the United States. Under NAFTA a total elimination of these barriers but 17.1 percent average tariff will be maintained for the Japanese and the European Community.

Steelmill products: On average 10- to 15-percent Mexican tariff on steelmill products coming from the United States into Mexico; 4 percent is our average tariff charged for Mexican-manufactured steelmill products coming into the United States. Under NAFTA totally eliminated. But the 10- to 15-percent Mexican tariff will be maintained for the Japanese producers and the European Community.

□ 1940

Flat glass: The average tariff is 20 percent on flat glass coming from the United States into Mexico. The tariff that the United States charges on Mexican-manufactured flat glass coming in is three-tenths of 1 percent, this tariff brought down to zero, totally eliminated except for the Japanese and the European community, that 20 percent tariff is maintained. So the United States creates a tremendous advantage over the Japanese and the European communities.

Bearings, 12 percent Mexican tariff, 7 percent the average United States tariff, goes down to zero under NAFTA. And what happens, maintained at 12 percent for the Japanese and the European community.

Machine tools: Thirteen percent average Mexican tariff that is charged on United States-manufactured machine tools going into Mexico, 2 percent is the average United States tariff on Mexican machine tools coming into the United States. Under NAFTA, it comes down to zero. Free trade, yet the 13 percent average is maintained for Japan and the European community.

Look at automobiles, which is the item that is often discussed here, and for the life of me, as my friend, the gentleman from Florida [Mr. SAM GIBBONS], chairman of the Trade Subcommittee says regularly, he cannot understand why auto manufacturers and the workers would not support NAFTA.

Why? The tariff that Mexico charges for United States-manufactured automobiles, a tax imposed on us to get our cars into Mexico is 20 percent.

The United States tariff charged for manufacture of automobiles in Mexico coming into the United States is only 2.2 percent. Under NAFTA, it comes down to zero.

Projections from the big three automakers are that we will see a 60 fold increase in the first year. Right now we export 1,000 automobiles from the United States into Mexico. Under NAFTA, the projections are that in the first year we will see an increase of 60,000 automobiles manufactured.

Why? Because of the dramatic production that takes place, and ultimately that tariff will be down to zero.

But Mr. Speaker, the 20 percent tariff right here that Mexico charges for automobiles coming in will be maintained for automobiles manufactured in Japan, for automobiles manufactured in Germany, for automobiles manufactured in Italy, or France, or other countries, but for the United States of America and Canada, under the North American Free-Trade Agreement it will be zero, so we will have a tremendous opportunity, which is much greater than Japan or Germany to sell United States-manufactured automobiles to the 88 million consumers in Mexico.

Light trucks, again 20 percent tariff that Mexico charges. Right now for the United States to send light trucks into Mexico, our average again, our tariff is 2.2 percent that we impose on Mexican light trucks coming into the United States. Under NAFTA, it comes down to zero. Free trade, dramatic increase in our opportunity to export from the United States into Mexico, but the 20 percent tariff is maintained for Japan and the European Community.

Auto parts, 13.1 percent tariff is what the Mexicans charge for United States-manufactured auto parts going into Mexico; four-tenths of 1 percent, you can see here, is what is charged for Mexican-manufactured auto parts coming into the United States.

Under NAFTA, it comes down to zero, but for Japan and the European community, it remains at 13.1 percent for auto parts.

So with these figures, you can see very clearly, Mr. Speaker, that there is a tremendous benefit that is accrued to the United States worker which will enhance opportunities for us to have this grand strategy of creating jobs.

Let us look at computers. I have often pointed to this and said, as I will say again this evening, that computers is something that is of great concern in my State of California. We have a 10-percent figure here, but actually the tariff on computers manufactured in the United States going into Mexico goes up to 20 percent. It is 10 to 20 percent, and the United States tariff on Mexican-made computers coming into this country is between 3.7 and 3.9 percent, as you can see on this chart, Mr. Speaker.

Well, what happens is under NAFTA we bring that tariff down to zero, a great big zero, nada; but the tariff of 10 to 20 percent remains for Japan and the European community.

Now, the specific example that I have cited in the area of computers, Mr. Speaker, I would like to share again. As we talk to the people in the computer industry, the chief executive officer of IBM, the International Business Machines, has said that if NAFTA is defeated, IBM will have no choice other than to move operations to Mexico.

Why? Because it is the only way that they can gain access to those 88 million consumers in America; but if we put the North American Free-Trade Agreement in place, we can keep the jobs right here in the United States.

Why? Because under NAFTA the tariff will come down to zero, so that United States workers can continue to manufacture computer systems products, software, and export into Mexico tariff free under NAFTA.

So I would like to see IBM keep its jobs here in the United States, and with a zero tariff export into Mexico.

Now, if we pass NAFTA, remember that 10 to 20 percent tariff on computers which will be eliminated under NAFTA if we pass it will be maintained for computers coming from Japan and the Far East, other countries in the world, the European Community.

So what happens? The North American Free-Trade Agreement is a great boost for the United States of America, the U.S. worker, and it will clearly create more job opportunities for us here.

Computer chips, 10 percent, right now we have zero tariff, no tariff on computer chips from Mexico coming into the United States. They charge us 10 percent, that tariff, that 10 percent tax on the U.S. worker going in.

Under NAFTA, both will be eliminated. You can see there is obviously a humongous difference that exists today. We have no tariff and they have a 10 percent tariff. It goes down to zero.

Computer chips from the United States will go in. IBM, Tandy, other operations will not have to shift from the United States, and open up their manufacturing operations in Mexico.

But, and once again this 10 percent tariff that is there for computer chips is maintained for Japan, the European Community and other countries throughout the world.

In the area of electronics, 2.6 percent average tariff on electronics that they charge on our goods coming in, 2.4 percent on Mexican-manufactured electronics equipment coming into the United States. It will go down to zero. That 2.6 percent average will be maintained for Taiwan, Singapore, Hong Kong, Korea and Japan and other countries, which would desperately like to have access to the Mexican market. They would love to get to Mexico so that they could use it for a staging ground, an export platform, if you will, to send goods into the United States; but Mr. Speaker, I believe that we in this hemisphere should unite together, recognizing that the wave of the future is to reduce barriers.

Now, let us look at the export industry here in the United States. We found that on average workers here in the United States who manufacture items for export earn 17 percent more than workers here in the United States. The workers here in the United States are compensated for items that are simply for domestic consumption here in the United States.

So it is a 17-percent wage improvement for those people who are in the export industries.

We also know that contrary to the argument that we regularly hear that the poor Mexican people cannot afford to buy United States goods, the middle income wage earner in Mexico, there are 20 million of them, almost the entire population of Canada, and these are the people who are desperately seeking the opportunity to purchase United States-manufactured goods and services.

So it seems to me, Mr. Speaker, that we need to do everything we possibly can to expand these opportunities for us to create jobs right here in the United States.

Now, as we look, I mentioned a few minutes ago the people who oppose the North American Free-Trade Agreement. It consists of, I mentioned all the defeated Presidential candidates, Ross Perot, Pat Buchanan, Jesse Jackson, Jerry Brown, Ralph Nader, Lyndon LaRouche, all these people have run for President of the United States and they strongly oppose the North American trade agreement.

Let us look for a moment at the people who support the North American Free-Trade Agreement. Last month, actually on September 1, all 12 of the living American Nobel Laureate economists joined with 264 other economists in sending a letter to President Clinton. In that letter, the likes of Paul Samuelson, Milton Friedman and others, Robert Solow and James Tobin, who have received the Nobel Laureate in Economics, strongly supported the North American Free-Trade Agreement.

□ 1950

In their letter, and I have got it here, it says, and I quote, "Specifically the assertions that the North American Free-Trade Agreement will spur an exodus of United States jobs to Mexico are without basis," and I think that the points that I have made with these charts, Mr. Speaker, point to that.

Now I should explain that. Let me say that, as we look at other support, I remember when we went to the White House and President Clinton had former President Ford, former President Bush, and former President Carter join in a ceremony with him. He stood up and he talked about his experiences as a Governor. He had told me on other occasions that, as a Governor, he knew of people that, under the present situation, had seen their jobs go to Mexico, and he said that as a former Governor he knows that every single person who lives in a Governor's mansion, of the 50 in this country, wakes up in the morning, and the first thing he or she thinks of is, how am I going to create jobs for the people in my State?

Mr. Speaker, people expect their Governors to create jobs for them in their States, and that is really their top priority, and, Mr. Speaker, 41 of the 50 Governors in this country, Democrats and Republicans, support the North American Free-Trade Agreement, and I think that as those who are out there here in Washington, Members of Congress, talking about how jobs are going to be lost, one cannot help but ask the question, Why is it that 41 of 50 Governors, all of whom have as their top priority every morning when they wake up, creating jobs for their States, why is it that 41 of the 50 strongly support the North American Free-Trade Agreement?

The reason is very simply that they know that NAFTA is going to create jobs in their States, and I say to my colleagues, if you look at the past several years, exports for all but two States in the Union have increased from between 100 and 300 percent already, even with the tariff structure that exists, and that is how we have been able to go from what was a nearly $6 billion trade deficit in 1986, to what we had last year, a $5.4 billion trade surplus. The Mexican consumers were buying $5.4 billion more in goods from us than we from them.

Now, Mr. Speaker, I know that opponents say that so many of these goods simply go down to Mexico, and then are manufactured, and then turn around and come back to the United States, but 83 percent of the items which go from the United States to Mexico stay in Mexico, and they are there for the Mexican consumer.

I mentioned the fact that all 10 of the living Commerce Secretaries who, here at the Federal level, have as their responsibility economic growth, creating jobs, spurring on the economy; all 10 living former Commerce Secretaries have today signed this letter which strongly supports NAFTA, Democrats and Republicans. So, as we look at this issue, it is clear that we need to do everything that we possibly can to expand these opportunities.

Mr. Speaker, Mexico is our third largest export market, and it is the 13th largest economy on the face of the Earth, and it is one of the fastest growing, and we need to realize that, while we have had slow economic growth in many parts of the United States, Mexico's economy is growing, and so are the economies of other countries in Latin America.

Mr. Speaker, the other countries in Latin America desperately want to see us pass the North American Free-Trade Agreement, and I believe that, if we try to stick our heads in the sand and simply say that the United States of America can stand alone, that we will actually be hurting ourselves more than anyone can imagine. There are some very dire predictions as to what might happen if we do not pass the North American Free-Trade Agreement, and the best one, I believe, is that which I was referring to with these charts.

We extend an invitation to Japan and the European Community to come to Mexico and utilize Mexico as an export platform to embark on free-trade agreements with other countries in South America. They ultimately want to join with us, and I think that, as we look at the cause of freedom and the

fact that during the past 15 years we have seen incredible advances in technology, we have seen incredible advances in our ability to communicate worldwide, the natural step is to work to reduce barriers to the free flow of goods and services.

Mr. Speaker, I say regularly that I do not believe that I, as a Member of the U.S. Congress, have a right to say to the people whom I represent in California, "You can't buy the best quality product at the lowest possible price." I think that we should be able to do that. I believe that we should do everything that we can to increase U.S. productivity. I am convinced that the American worker is by far the most productive.

Mr. Speaker, it was United States productivity that led General Motors and the United Auto Workers to make a decision to move a plant from Mexico back to Lansing, MI, creating a thousand jobs right here in the United States. Why? Because the United States auto worker is actually nine times more productive than the Mexican auto worker.

So, as we look at these issues which are of concern, I hope very much that our colleagues will do everything that they possibly can to look at the details and the facts on this.

I recognize that it is a tough political issue. Out in southern California, Mr. Speaker, I suppose I enhance their efforts by saying this, but there are more than a couple of people, many of whom are not actually constituents of mine, but know that I have been in strong support of reducing trade barriers, trying to increase export opportunities for the United States, but these people have gone out and picketed and protested almost daily in front of my office in Los Angeles, and I certainly welcome them. I mean, I know that some of the people in my office may not welcome them, but I support their first amendment rights, their right to free speech. They have a right to stand there and voice their opinions on this.

But I believe that, as we look at the facts on this, Mr. Speaker, that it is in the best interests of the United States to look toward the future and not the past, and that is what I am trying to do, and I hope that 3 weeks from tomorrow, on November 17, that a majority of our colleagues in the U.S. House of Representatives will join with a majority of our colleagues in the U.S. Senate and pass the North American Free-Trade Agreement.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. MCCANDLESS, for 60 minutes, on October 27.

Mr. MANZULLO, for 5 minutes, today.

Mr. GILLMOR, for 5 minutes, on October 27.

Mr. GOSS, for 5 minutes, on October 27.

Mr. WELDON, for 5 minutes, today.

Mr. DORNAN, for 60 minutes, today.

Mr. BILIRAKIS, for 5 minutes each day, on November 3 and 4.

Mr. BARTLETT of Maryland, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. MCCLOSKEY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Miss COLLINS of Michigan, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. UNDERWOOD, for 30 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mrs. MINK, for 60 minutes, on October 27.

Mr. STUPAK, for 10 minutes, on November 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. FISH.
Mr. GILMAN.
Mr. BAKER of California.
Mr. ALLARD.
Mr. LAZIO.
Mr. GRAMS.
Mr. SMITH of New Jersey.
Mr. SAXTON.
Mr. HOKE.
Mr. DORNAN in two instances.
Mr. GALLEGLY in three instances.
Mr. BURTON of Indiana.
Mr. CLINGER.
Mr. SOLOMON in three instances.
Mr. WALKER.
Mr. QUINN.

(The following Members (at the request of Ms. WOOLSEY) and to include extraneous matter:)

Ms. MEEK.
Mr. PETERSON of Florida.
Mr. BLACKWELL in three instances.
Mr. DIXON in three instances.
Mr. ACKERMAN.
Mr. LEHMAN in three instances.
Mr. CLAY.
Mr. STARK in five instances.
Mr. FOGLIETTA.
Mr. MONTGOMERY.
Mrs. MALONEY in two instances.
Mr. MINETA.
Mr. SWETT.
Mr. NEAL of Massachusetts.
Mr. BROOKS.
Ms. DELAURO.
Mrs. THURMAN.
Mr. MANN in two instances.
Mr. SLATTERY.
Mr. RANGEL.
Miss COLLINS of Michigan.
Mr. KREIDLER.
Mr. STENHOLM.
Mr. RICHARDSON.
Mr. MARTINEZ.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. LEWIS of Georgia.
Mr. SCHUMER.
Mr. PORTER.
Mr. TOWNS.
Mr. MAZZOLI.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 328. An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM.

H.R. 2491. An act 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, 1994, and for other purposes.

H.R. 2519. An act making appropriations for the Department of Commerce, Justice, and State, and judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2750. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

H.J. Res. 228. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

H.J. Res. 281. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

A BILL PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2685. An act to amend title V, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 27, 1993, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2054. A letter from the Administrator, Energy Information Administration, transmitting the Energy Information Administration report "Emissions of Greenhouse Gases in the United States, 1985–1990," pursuant to section 1605(a) of the Energy Policy Act of 1992; to the Committee on Energy and Commerce.

2055. A letter from the Chairman, Federal Trade Commission, transmitting a report on the need for, and the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers, pursuant to Public Law 102–486, section 1503(c) (106 Stat. 2999); to the Committee on Energy and Commerce.

2056. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2057. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing "Best Efforts" to obtain and report contribution information, pursuant to 2 U.S.C. 438(d)(1); to the Committee on House Administration.

2058. A letter from the Comptroller of the Department of Defense, transmitting a report pursuant to sections 8007, 8006, and 9006 of the Department of Defense Appropriations Acts for fiscal year 1991, fiscal year 1992, and fiscal year 1993, respectively, and sections 1401, 1001, and 1001 of the Department of Defense Authorization Act for those same years; jointly, to the Committees on Appropriations and Armed Services.

2059. A letter from the Chairman, Competitiveness Policy Council, transmitting a report to the President and Congress entitled "Enhancing American Competitiveness: A Progress Report to the President and Congress," pursuant to Public Law 100–418, section 5204(b) (102 Stat. 1456; jointly, to the Committees on Education and Labor, Banking, Finance and Urban Affairs, Science, Space, and Technology, Energy and Commerce, and Ways and Means.

2060. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to designate defense acquisition pilot programs in accordance with the National Defense Authorization Act for fiscal year 1991, and for other purposes; jointly, to the Committees on Armed Services, Government Operations, Small Business, Ways and Means, Foreign Affairs, the Judiciary, Merchant Marine and Fisheries, Public Works and Transportation, and Energy and Commerce.

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. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 1250. A bill to amend the coastwise trade laws to clarify their application to certain passenger vessels; with an amendment (Rept. 103–307). Referred to the Committee of Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 283. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2492) 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, 1994, and for other purposes (Rept. 103–308). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS (for himself and Mr. SCHUMER):

H.R. 3350. A bill to establish a program of residential substance abuse treatment within Federal prisons; to the Committee on the Judiciary.

H.R. 3351. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation; to the Committee on the Judiciary.

By Mr. GIBBONS (for himself, Mr. MATSUI, Mr. ANDREWS of Texas, Mr. KOPETSKI, Mr. JEFFERSON, Mr. RICHARDSON, Mr. COLEMAN Mr. CHAPMAN, and Mr. BAESLER):

H.R. 3352. A bill to establish a transitional program of adjustment assistance to workers adversely affected by the implementation of the North American Free-Trade Agreement, and for other purposes; to the Committee on Ways and Means.

By Mr. BROOKS (for himself and Mr. SCHUMER):

H.R. 3353. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking; to the Committee on the Judiciary.

H.R. 3354. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing and implementing residential substance abuse treatment programs within State's correctional facilities, as well as within local correctional facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment; to the Committee on the Judiciary.

H.R. 3355. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety; to the Committee on the Judiciary.

By Mr. HAYES:

H.R. 3356. A bill to designate the U.S. courthouse under construction at 611 Broad Street, in Lake Charles, LA, as the "Edwin Ford Hunter, Jr., United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. GOSS:

H.R. 3357. A bill to prohibit travel by Members, officers, and employees of the House of Representatives at lobbyist expense; to the Committee on House Administration.

By Mr. HOBSON:

H.R. 3358. A bill to suspend until January 1, 1999, the duty on straining cloth of nonwoven, needletacked web composed of fibers made from polypropylene electret charged, fibrillated film, with or without scrim, such scrim being composed of spun bond fibers of polypropylene; to the Committee on Ways and Means.

By Mr. HOKE (for himself and Mr. DERRICK):

H.R. 3359. A bill to amend the Federal Deposit Insurance Act to establish a lifetime limit of $100,000 on the amount of deposit insurance any person may obtain; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LIPINSKI (for himself, Mr. TAUZIN, Mr. MANTON, Mr. STUPAK, and Mr. LAFALCE):

H.R. 3360. A bill to direct the Secretary of Transportation to demonstrate on vessels ballast water management technologies and practices, including vessel modification and design, that will prevent aquatic nonindigenous species from being introduced and spread in U.S. waters; to the Committee on Merchant Marine and Fisheries.

By Mr. MACHTLEY:

H.R. 3361. A bill to provide revenues for the revitalization of the U.S. merchant marine by increasing the excise tax on the transportation of passengers by water for vessels having a capacity of at least 150 passengers, and for other purposes; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 3362. A bill to amend the Immigration and Nationality Act to strengthen sanctions relating to employment of unauthorized aliens; to the Committee on the Judiciary.

By Mr. MAZZOLI (for himself, Mr. SCHUMER, and Mr. MCCOLLUM):

H.R. 3363. A bill to amend the Immigration and Nationality Act to improve immigration enforcement and antismuggling activities, to reform the asylum law, and to authorize appropriations for the Immigration and Naturalization Service; to the Committee on the Judiciary.

By Mrs. MEEK:

H.R. 3364. A bill to provide for adjustment of immigration status for certain Haitian children; to the Committee on the Judiciary.

By Mr. MORAN (for himself, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. TOWNS, Mr. SCOTT, Ms. BYRNE, and Mrs. MORELLA):

H.R. 3365. A bill to amend title 18, United States Code, to protect the personal privacy and safety of licensed drivers, taking into account the legitimate needs of government and business; to the Committee on the Judiciary.

By Mr. ORTON (for himself, and Mrs. SCHROEDER):

H.R. 3366. A bill to amend title 18, United States Code, to provide penalties for child endangerment and abuse in the special maritime and territorial jurisdiction of the United States; to the Committee on the Judiciary.

By Mr. OXLEY (for himself and Mr. MICHEL):

H.R. 3367. A bill to provide restitution to crime victims; to the Committee on the Judiciary.

By Mr. PETERSON of Florida:

H.R. 3368. A bill to provide that each State may furnish one additional Statute for placement in National Statuary Hall in the Capitol, and for other purposes, to the Committee on House Administration.

By Mr. RANGEL:

H.R. 3369. A bill to amend the Internal Revenue Code of 1986 to exempt certain Small Business Administration financing from the

provisions of section 514 of such code; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 3370. A bill to amend the Agricultural Act of 1949 to provide for the establishment of a multiple-tier price support program for milk to achieve a closer correlation between annual milk production and consumption while assuring sufficient low-cost dairy products for nutrition assistance programs; to the Committee on Agriculture.

By Mr. SWETT:

H.R. 3371. A bill to authorize Federal departments and agencies to sell energy from cogeneration facilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. UNDERWOOD (for himself, Mr. ABERCROMBIE, Mr. DE LUGO, Mr. EDWARDS of California, Mr. FALEOMAVAEGA, Mr. FROST, Mr. GALLEGLY, Ms. NORTON, Mr. KING, Mr. LIPINSKI, Mrs. MEEK, Mrs. MINK, Mr. MURPHY, and Mr. SERRANO):

H.R. 3372. A bill to provide for the minting of coins in commemoration of the 50th anniversary of the liberation of Guam and the Northern Mariana Islands, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ZIMMER (for himself, Mr. SAXTON, and Mrs. JOHNSON of Connecticut):

H.R. 3373. A bill to amend the Internal Revenue Code of 1986 to allow a credit against the estate tax for certain transfers of real property for conservation purposes; to the Committee on Ways and Means.

H.R. 3374. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain bargain sales; to the Committee on Ways and Means.

By Mr. GILLMOR:

H.J. Res. 282. Joint resolution proposing an amendment to the Constitution of the United States regarding federally mandated expenditures; to the Committee on the Judiciary.

By Mr. BLACKWELL:

H. Res. 284. Resolution expressing the sense of the House of Representatives that the Third College at the University of California at San Diego should be renamed the "Thurgood Marshall College" in honor of Justice Thurgood Marshall; to the Committee on Education and Labor.

By Ms. WOOLSEY:

H. Res. 285. Resolution expressing the sense of the House of Representatives that the Attorney General and the Director of the Federal Bureau of Investigation should cooperate with the U.S. Postal Service and the Polly Klaas Search Center to disseminate information regarding the kidnapping of Polly Klaas; jointly, to the Committee on the Judiciary and Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

263. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to having Congress take appropriate measures to have the National Railroad Passenger Corporation rescind the recently announced service reduction within the Keystone Corridor; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS.

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. GILCHREST.

H.R. 140: Mr. GUNDERSON and Mr. ROTH.

H.R. 323: Mr. INGLIS of South Carolina, Mr. GREENWOOD, Mr. MCKEON, and Mr. TALENT.

H.R. 417: Mr. MANZULLO, Mr. FAWELL, Mr. GOODLATTE, and Mr. COX.

H.R. 419: Ms. BYRNE.

H.R. 455: Ms. FURSE and Ms. BROWN of Florida.

H.R. 467: Ms. SLAUGHTER, Mrs. LLOYD, and Mr. ENGEL.

H.R. 656: Mr. GIBBONS.

H.R. 688: Mr. GRAMS and Mr. JEFFERSON.

H.R. 760: Mr. FISH and Mr. SENSENBRENNER.

H.R. 769: Mr. SKEEN.

H.R. 830: Mr. PRICE of North Carolina, Mr. INSLEE, Ms. SLAUGHTER, and Mr. TAYLOR of Mississippi.

H.R. 886: Mr. EWING, Mr. CASTLE, Mr. DEAL, and Mr. MCDADE.

H.R. 894: Mr. SOLOMON.

H.R. 911: Mr. VISCLOSKY.

H.R. 935: Mr. DELLUMS.

H.R. 972: Mr. KOPETSKI and Mr. ENGEL.

H.R. 1082: Mr. MINETA.

H.R. 1295: Mr. FRANKS of New Jersey, Mr. TEJEDA, Ms. FURSE, Mr. LAZIO, and Mr. WILLIAMS.

H.R. 1332: Ms. SLAUGHTER.

H.R. 1355: Mr. BATEMAN.

H.R. 1438: Mr. MCINNIS.

H.R. 1593: Mr. ZIMMER.

H.R. 1608: Mr. BROOKS, Mr. DURBIN, Mr. GIBBONS, Mr. STOKES, and Mr. WASHINGTON.

H.R. 1627: Mr. WOLF, Mr. SLATTERY, and Mr. BARLOW.

H.R. 1671: Mr. WYNN and Mr. DIAZ-BALART.

H.R. 1709: Mr. MCKEON, Mr. FIELDS of Texas, Mrs. MALONEY, Ms. ENGLISH of Arizona, Mr. SANTORUM, Mr. COOPER, Ms. HARMAN, Mr. STENHOLM, Mr. GALLEGLY, and Mr. HUNTER.

H.R. 1718: Ms. MCKINNEY.

H.R. 1738: Mr. MILLER of Florida.

H.R. 1787: Mr. GORDON.

H.R. 1796: Mr. EVANS, Mr. ANDREWS of Maine, Mr. GENE GREEN of Texas, Mr. ENGLISH of Oklahoma, Mr. REGULA, Mr. TEJEDA, Mr. GUTIERREZ, Mr. SANTORUM, Mr. MOAKLEY, Mr. WYDEN, and Mr. RIDGE.

H.R. 1801: Mr. GENE GREEN of Texas.

H.R. 1814: Mr. BISHOP and Mr. MACHTLEY.

H.R. 1933: Mr. MANTON.

H.R. 1985: Mr. YATES, Mr. PICKETT, and Mr. JOHNSON of South Dakota.

H.R. 2033: Mr. MCHALE.

H.R. 2042: Mr. UPTON, Mr. HOEKSTRA, Mr. WOLF, Mr. STUMP, and Mr. LEWIS of Florida.

H.R. 2092: Mr. SISISKY, Mr. KOPETSKI, Mr. FISH, Mr. GUTIERREZ, and Mr. DELLUMS.

H.R. 2171: Mr. RAMSTAD and Mr. KOPETSKI.

H.R. 2292: Mr. BROWN of Ohio, Mr. MACHTLEY, and Mrs. FOWLER.

H.R. 2307: Mr. MCCRERY.

H.R. 2375: Mr. BACCHUS of Florida, Mr. HOCHBRUECKNER, Mrs. MALONEY, Mr. BOUCHER, Ms. PELOSI, Ms. SNOWE, and Mr. LIPINSKI.

H.R. 2414: Ms. WOOLSEY.

H.R. 2438: Mr. VISCLOSKY.

H.R. 2462: Mr. JACOBS.

H.R. 2602: Mr. JOHNSON of South Dakota and Mr. GRAMS.

H.R. 2612: Mr. MINETA.

H.R. 2706: Mr. BARCA of Wisconsin, Mr. HUGHES, Mr. RANGEL, Mrs. MEEK, Mr. BOUCHER, Mrs. MALONEY, Mr. FINGERHUT, and Mr. KENNEDY.

H.R. 2712: Mr. BLACKWELL and Mr. BREWSTER.

H.R. 2720: Mr. WYNN, Mr. KINGSTON, Mr. BISHOP, Mr. BUYER, Mr. BEREUTER, and Mrs. ROUKEMA.

H.R. 2722: Mr. REYNOLDS, Mr. KILDEE, Mr. MCDERMOTT, Mr. GILLMOR, Mr. ENGEL, Mr. CUNNINGHAM, Mr. PALLONE, Mr. TORKILDSEN, Mrs. ROUKEMA, Ms. SLAUGHTER, Mr. FRANK of Massachusetts, Mr. HOEKSTRA, Mr. ANDREWS of New Jersey, and Mr. RAMSTAD.

H.R. 2787: Mr. HINCHEY.

H.R. 2834: Ms. BYRNE, Mr. JOHNSON of South Dakota, Mr. BARCA of Wisconsin, and Mr. MEEHAN.

H.R. 2864: Mr. ROMERO-BARCELO, Mr. REED, Mr. MYERS of Indiana, and Mr. MEEHAN.

H.R. 2867: Mrs. SCHROEDER, Mr. JEFFERSON, Mr. THOMPSON, Mrs. MEEK, Mr. BERMAN, Mr. HILLIARD, Mr. DEUTSCH, Mr. FRANK of Massachusetts, Mr. JOHNSTON of Florida, Mr. EVANS, and Mr. WATT.

H.R. 2872: Mr. PAXON, Mr. HOUGHTON, Mr. BOUCHER, Mr. THOMAS of Wyoming, and Mr. BACHUS of Alabama.

H.R. 2884: Mr. EVANS.

H.R. 2916: Mr. FROST, Mr. SMITH of New Jersey, and Mr. MACHTLEY.

H.R. 2975: Mr. MCHUGH.

H.R. 2995: Mr. CONDIT and Mr. PRICE of North Carolina.

H.R. 2997: Mr. REED.

H.R. 3012: Mr. LEACH.

H.R. 3017: Mr. GIBBONS.

H.R. 3021: Mr. THOMAS of Wyoming and Mr. HUGHES.

H.R. 3030: Mr. TALENT.

H.R. 3031: Mr. MOORHEAD.

H.R. 3039: Mr. GUNDERSON, Mr. TALENT, and Mr. ROHRABACHER.

H.R. 3041: Mr. WILSON and Mr. LIPINSKI.

H.R. 3078: Mr. PARKER.

H.R. 3096: Mr. ABERCROMBIE.

H.R. 3098: Ms. ENGLISH of Arizona, Mr. SHAYS, Mr. KLUG, Mr. VISCLOSKY, Mr. MANTON, Mr. HOUGHTON and Mr. MARKEY.

H.R. 3100: Mr. BEILENSON, Mr. BERMAN, Mr. FILNER, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. HUGHES, Mr. JEFFERSON, Mrs. MINK, and Mrs. UNSOELD.

H.R. 3109: Mr. HANSEN, Mr. KLUG, and Mr. KLECZKA.

H.R. 3122: Mr. EVERETT.

H.R. 3129: Mr. FRANK of Massachusets.

H.R. 3146: Mr. ZELIFF.

H.R. 3182: Mr. BLACKWELL and Mr. DEUTSCH.

H.R. 3203: Mr. MACHTLEY, Mr. MCHUGH, Mr. NEAL of North Carolina, Mr. EDWARDS of California, and Mr. JEFFERSON.

H.R. 3205: Mr. PETE GEREN of Texas, Mr. KLEIN, Mr. ANDREWS of Texas, Mr. ENGLISH of Oklahoma, Mr. LANCASTER, Mr. WILSON, Mr. MINGE, and Mr. ZELIFF.

H.R. 3212: Mr. BAKER of Louisiana and Mr. PETRI.

H.R. 3228: Mr. HUGHES and Mr. SHAW.

H.R. 3235: Mr. FLAKE, Mr. KANJORSKI, Mr. PICKLE, Ms. VELÁZQUEZ, and Mr. HINCHEY.

H.R. 3250: Mr. ROHRABACHER and Mr. BAKER of Louisiana.

H.R. 3256: Mr. CRAMER, Mr. FROST, Mr. EMERSON, Mr. WALSH, Mr. KLUG, Mr. MURPHY, and Mr. LIPINSKI.

H.R. 3269: Mrs. UNSOELD, Mr. FILNER, Mr. BOUCHER, Mr. MCHUGH, Mr. LIPINSKI, Mr. JEFFERSON, Mr. GUTIERREZ, and Mr. NEAL of North Carolina.

H.R. 3272: Mr. MCCOLLUM.

H.R. 3278: Ms. VELÁZQUEZ, Ms. PELOSI, Mr. BLACKWELL, and Mr. LEWIS of Georgia.

H.R. 3301: Mrs. MALONEY, Mr. FRANK of Massachusetts, Mr. NEAL of North Carolina, Mrs. ROUKEMA, Mr. HOCHBRUECKNER, Mr. LEWIS of Georgia, Ms. BYRNE, and Mr. ROMERO-BARCELO.

H.R. 3341: Mr. THORNTON.

H.J. Res. 79: Mr. BACCHUS of Florida, Mr. BARLOW, Mr. CLINGER, Mr. DEUTSCH, Mr. EVERETT, Mr. HANSEN, Mr. INHOFE, Mr. KILDEE, Mr. KLINK, Mr. LANTOS, Mr. MORAN, Mr.

OXLEY, Mr. PACKARD, Mr. PAYNE of New Jersey, Mr. PASTOR, Ms. PELOSI, Mr. PETRI, Mr. ROBERTS, Mr. ROTH, Mr. RIDGE, Mr. SCHUMER, Mr. SOLOMON, and Mr. SMITH of Iowa.

H.J. Res. 159: Mr. GILMAN, Mr. JOHNSON of South Dakota, Mr. SAXTON, Mr. HUNTER, Mr. WYDEN, Mr. WHEAT, Mr. BONIOR, Mr. PRICE of North Carolina, Mr. MANTON, Mr. ORTON, Mr. KANJORSKI, Mr. PAYNE of New Jersey, Mr. GRAMS, Ms. PELOSI, and Mr. HILLIARD.

H.J. Res. 163: Mr. PETE GEREN of Texas.

H.J. Res. 175: Mr. BARCA of Wisconsin, Mr. CLEMENT, Mr. CONYERS, Mr. VALENTINE, Mr. WHITTEN, Mr. SWETT, Mr. WYNN, Mr. REGULA, Mr. BERMAN, Mr. PARKER, Mr. SKEEN, Mr. SHAYS, Mr. MOAKLEY, Mr. KENNEDY, Mr. PETE GEREN of Texas, and Mr. FRANKS of New Jersey.

H.J. Res. 212: Mr. BOEHLERT and Mr. PAYNE of Virginia.

H.J. Res. 216: Mr. BARLOW, Mr. GENE GREEN of Texas, Ms. NORTON, Mr. MANTON, Mr. BACCHUS of Florida, Mr. BARCA of Wisconsin, Mr. PETE GEREN of Texas, and Mr. MCCANDLESS.

H.J. Res. 242: Mr. LEWIS of Georgia, Ms. VELÁZQUEZ, Mr. OWENS, Mr. PETE GEREN of Texas, Mr. LEWIS of California, Mr. BOEHLERT, Mr. DIXON, Mr. HOLDEN, Ms. NORTON, Mr. UNDERWOOD, Mr. QUILLEN, Mr. REYNOLDS, Mr. STOKES, Mr. BILIRAKIS, Mr. HINCHEY, Mr. GALLO, Mr. POMEROY, Mr. KLINK, Mr. QUINN, Mr. HANSEN, Mr. THOMAS of Wyoming, Mr. SISISKY, Mr. SYNAR, Mr. RICHARDSON, Mr. EMERSON, and Mr. CLINGER.

H.J. Res. 246: Mr. BERMAN, Mr. BLILEY, Mr. CLEMENT, Mr. CONYERS, Mr. DREIER, Mr. GONZALEZ, Mr. KLEIN, Mrs. MALONEY, Mrs. MORELLA, Ms. NORTON, Mr. PASTOR, Mr. PRICE of North Carolina, Mr. ROEMER, and Mr. ROHRABACHER.

H.J. Res. 247: Mr. SCHUMER, Mr. CARDIN, Ms. PELOSI, Mr. HOLDEN, Mrs. LLOYD, Mr. BARCA of Wisconsin, Mr. SCHIFF, Mr. WYNN, Mr. FAWELL, Mr. SCHAEFER, Mr. BISHOP, Mr. JOHNSTON of Florida, Ms. WATERS, Mr. JOHNSON of Georgia, Mr. ROWLAND, Mr. BONIOR, Mr. FROST, Ms. KAPTUR, Mr. FINGERHUT, Mr. MORAN, Mr. EDWARDS of California, Mr. BROWN of Ohio, Mr. EVANS, Mr. HOEKSTRA, Mr. TALENT, Mr. BARRETT of Wisconsin, Mr. KILDEE, Mr. BLILEY,MR. OLVER, Mr. WASHINGTON, Mr. MANN, Mr. TORKILDSEN, Mrs. BENTLEY, Mr. DELLUMS, Mr. ROMERO-BARCELO, Mr. RICHARDSON, Mr. GINGRICH, Mr. GALLEGLY, Mr. GUNDERSON, and Mrs. JOHNSON of Connecticut.

H.J. Res. 264: Mr. MOAKLEY, Mr. HUGHES, Mr. BONIOR, Mr. PORTER, Ms. PELOSI, and Mr. HEFNER.

H.J. Res. 266: Mr. BATEMAN and Mr. MARTINEZ.

H.J. Res. 274: Mr. FROST and Mr. MCDERMOTT.

H.J. Res. 278: Ms. BYRNE and Mr. SARPALIUS.

H. Con. Res. 20: Mr. KREIDLER.

H. Con. Res. 103: Mrs. MEEK.

H. Con. Res. 122: Mr. FARR, Ms. SCHENK, Ms. ESHOO, Mr. LANTOS, Mr. GALLO, Mr. KING, and Mr. MATSUI.

H. Con. Res. 124: Mr. FOGLIETTA, Mr. ROHRABACHER, Mr. FRANK of Massachusetts, Ms. PELOSI, Ms. BYRNE, Mr. BOUCHER, and Mr. PRICE of North Carolina.

H. Con. Res. 126: Mr. EVANS, Mr. MCINNIS, Ms. NORTON, and Ms. SHEPHERD.

H. Con. Res. 148: Mr. BURTON of Indiana, Mr. BARTON of Texas, Mr. ARMEY, Ms. ROS-LEHTINEN, Mr. DORNAN, Mr. SMITH of Oregon, Mr. KING, Mr. PENNY, Mr. APPLEGATE, Mr. GEJDENSON, and Mr. HILLIARD.

H. Con. Res. 159: Mr. FINGERHUT and Mr. WALSH.

H. Res. 122: Mr. SCHIFF, Mr. SANDERS, Mr. TORKILDSEN, and Mrs. MEYERS of Kansas.

H. Res. 234: Mr. PAYNE of Virginia, Mr. MONTGOMERY, Mr. HOUGHTON, Mr. HOEKSTRA, Mr. MCCLOSKEY, Mr. HAMILTON, Mr. NEAL of North Carolina, Mr. OXLEY, Mr. ENGEL, Mr. EVANS, Mr. WHITTEN, and Mr. BILBRAY.

H. Res. 277: Mr. BARLOW, Mr. CASTLE, Mr. BAESLER, Mr. POMEROY, Mr. TEJEDA, Mr. BROWDER, Ms. PRYCE of Ohio, Mr. SWETT, Mr. GILLMOR, Mr. GUNDERSON, and Mrs. LLOYD.

H. Res. 281: Mr. STEARNS, Mr. GOSS, Mr. COLLINS of Georgia, Mr. SMITH of Texas, Mrs. VUCANOVICH, Mr. RAMSTAD, Mr. COMBEST, Mr. CRANE, Mr. GILLMOR, Mr. BLILEY, Mr. PAXON, Mr. KNOLLENBERG, Mr. UPTON, Mr. EWING, Mr. ARMEY, Mr. POMBO, and Mr. BUNNING.

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. Con. Res. 166: Mr. DORNAN.

SENATE—*Tuesday, October 26, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray:

Love worketh no ill to his neighbour: therefore love is the fulfilling of the law.—Romans 13:10.

God of perfect love, these words of the Apostle Paul remind us of the place of love in the economy of God. The foundation of Old Testament truth and worship is the word of Moses in the Torah. "Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might." (Deuteronomy 6:4,5)

Jesus said that all the law and the prophets are summed up in two commandments: "* * * love the Lord thy God * * *," and "* * * love thy neighbour as thyself."

We have reduced love to a feeling, an emotion, a fantasy. In the Bible, love is a command of the Ruler of the universe which comprehends all law and is to be obeyed. Give us grace to hear this truth and respond as we ought.

In the name of Him who is Love Incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 26, 1993.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, immediately following my remarks on the schedule, the Senate will begin 90 minutes of debate on the pending motion to invoke cloture on the Interior appropriations conference report. The time will be equally divided and under the control of Senators REID and NICKLES, or their designees.

From 10:30 until 11:30 this morning, there will be 1 hour for debate on the motion by Senator HUTCHISON to waive the Budget Act with respect to her amendment to the unemployment insurance bill, with a vote on that motion to waive to occur at 11:30 a.m. That time will be divided 40 minutes under Senator HUTCHISON's control and 20 minutes under my control.

Following the vote on the motion to waive—and that means at approximately 11:50 a.m.—the Senate will begin 1 hour of debate on a point of order to be made against the bill by Senator NICKLES, with a motion to waive the Budget Act to be made by me or my designee. And at the conclusion of that hour, or at approximately 12:50 p.m., the Senate will stand in recess to accommodate the respective conferences.

At 2:30 p.m., the Senate will vote on the motion to waive the Budget Act with respect to the bill. Following that vote, or at approximately 2:50 p.m., there will be 30 minutes additional for debate on the motion to invoke cloture on the Interior appropriations conference report. That time will be equally divided under the control of Senators REID and NICKLES, and approximately 3:20 p.m. the Senate will vote on that motion to invoke cloture.

Following that vote, the Senate will return to the unemployment insurance bill.

Mr. President, we have fallen substantially behind schedule due to the length of consideration of a number of measures that was more than anticipated—primarily the defense appropriations bill. Therefore, I wish to repeat what I said last evening so that all Senators will be aware of it and on notice.

I have been the principal advocate of the Senate adjourning by Thanksgiving. My advocacy has been based upon my expectation that the Senate would complete all of the business required prior to that time. I wish to make very clear to all Senators that if we do not complete that work, then the Senate will continue in session after Thanksgiving. I will be a principal advocate of that position.

What has happened is that Senators increasingly want it both ways. They want to adjourn by Thanksgiving, but they also do not want to be here during the time between now and Thanksgiving, which is necessary if we are going to complete action on the agenda that remains. I wish to repeat this so there can be no misunderstanding:

Adjournment at Thanksgiving is directly contingent upon completing those measures on which action must be taken prior to then. If we do not do so, then we will be in session after Thanksgiving for as long as it takes to complete action on those measures.

Senators can make a choice. I now make it clear that that choice exists. They can either be present during the week and in the evenings and cooperate in helping us get through this agenda, or they cannot do so, in which event it is assured—it is a certainty, in that event, that we will remain in session after Thanksgiving and for as long as it takes in December to complete action on those required measures.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

CLOTURE MOTION—CONFERENCE REPORT ON H.R. 2520

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to invoke cloture on the conference report accompanying H.R. 2520, which the clerk will report.

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 the conference report accompanying H.R. 2520, the Interior appropriations bill:

Robert C. Byrd, Wendell Ford, Harry Reid, Claiborne Pell, Russell D. Feingold, J. Lieberman, Paul Simon, Patty Murray, Pat Leahy, D. Pryor, Fritz Hollings, Harris Wofford, Barbara Boxer, Edward M. Kennedy, Paul Sarbanes, Joe Biden, Dan Inouye.

The Senate resumed consideration of the motion.

The ACTING PRESIDENT pro tempore. The time until 10:30 a.m. shall be

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

equally divided and controlled between the Senator from Nevada [Mr. REID] and the Senator from Oklahoma [Mr. NICKLES].

Mr. REID. Mr. President, it is my understanding that the proponents and opponents of this matter have approximately 80 minutes, equally divided.

The ACTING PRESIDENT pro tempore. There are 83 minutes equally divided.

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I will just make a few comments before turning this over to my colleagues. We are confronted with a very difficult situation on the Interior appropriations bill. I, for one, would like to see us pass this bill. But I also share the frustration and opposition by many of the colleagues that will be speaking this morning, and have spoken last week, in opposition to the provision that was inserted in the bill during the conference report, and that provision was inserted by our colleague and my friend, Senator REID, from Nevada.

This provision was not in the House bill, and it was not in the Senate bill. It was extraneous to the conference. I might mention, in the House bill there was a provision to increase grazing fees. In the Senate bill, we had a provision that had a moratorium on regulations dealing with land management. We did not have the grazing fee increase in the Senate bill. In the conference, one would think that the two items to be decided would be how much would we raise grazing fees, or whether or not they would be raised, and whether or not there would be a moratorium on the regulations proposed by the Secretary of the Interior Bruce Babbitt.

But instead of debating those two items, we had an extraneous provision brought in out of the conference that significantly legislated the land-use policies in detail, 19 pages of detail.

I have been a Senator now for 13 years, but I do not remember or recall legislating in conference. We legislate on appropriations bills all the time. The House does it. The Senate does it. One side prevails. That happens. That is not unfamiliar. It is sometimes against the rules but not uncommon.

But it is uncommon to legislate in conference, to take a significant piece of legislation and to pull it in extraneous to the House bill, extraneous to the Senate bill, and put it in conference. That is very unusual. I cannot recall it happening.

I mentioned that to my colleague, Senator BYRD from West Virginia, who has had experience for far more years than I and a great deal of knowledge about the Senate as an institution. But I could not recall a very significant piece of legislation being put in in conference extraneous to either the House or Senate bill and to be inserted. I say that in reference so our colleagues will know what we are talking about.

I know that my colleague and friend, Senator WALLOP from Wyoming, as ranking Republican on the Energy Committee, which has jurisdiction over public lands, is offended by the fact that this committee and actually this conference would legislate policy that affects such a significant percentage of the United States and particularly the Western United States.

I happen to share some of his frustrations. I happen to be vigorously opposed to the procedure that happened in the conference committee. I told that and mentioned that to my friend and colleague, the chairman of the subcommittee and full committee, Senator BYRD.

I do think Senators have a very legitimate procedural complaint about the way this process has happened. That is why we are in this real dilemma now. I believe my friends and colleagues, the opponents of this procedure, probably have 41 votes. We will find that out this afternoon.

I know the House is insisting on its position. It is interesting that the House is insisting that this happen. But it was not in the House bill. I have heard, well, Congressman MILLER and others are going to insist that we keep this provision in. But this provision was not in the House bill.

Some say, well, where do we go from here? I really think we should have debate and discussions on grazing fee increases, and I will support some increases in grazing fees. I think we should have a discussion on whether there should be a moratorium or not, and that should be the parameters of the discussion. That is what was in the Senate bill and what was in the House bill. That is, frankly, where we should end up to break this logjam. I hope we can break this logjam.

It is important that we pass this bill. It is important that we pass this bill as soon as possible. I hate to see us continually postponing or not finishing this bill and continuing with the continuing resolutions. That is not a good way to plan or to govern.

Mr. President, I will yield the remaining control of this bill to Senator WALLOP from Wyoming.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, I yield to myself such time as I may consume.

I say to my friend from Oklahoma, whom I have had the pleasure of working with in the legislative appropriations bill, he the ranking member for 2 years, and I have the greatest respect and admiration for him.

But I remind him that in the Interior appropriations bill, during the last several years we have legislated in the Interior appropriations bill on the spotted owl, on timber on more than one occasion, reauthorization of the arts and humanities in conference and a number of other issues. So this is not anything new or unique. This has happened time and time again on this bill in addition to many other bills.

I also say to my friend from Oklahoma, this is a situation where it is never the right time. It is never the right time to do an increase in the grazing fee and to do some land management reforms. Tomorrow is always better, next week, next month, or next year.

We are faced with a situation in this U.S. Senate this week that today is the right time, that we must do something about this, or the Interior Department could be closed. It is as simple as that. The House by a 3-to-1 vote approved this amendment.

Mr. NICKLES. Mr. President, will my colleague yield for an inquiry or question?

Mr. REID. Sure.

Mr. NICKLES. Mr. President, I appreciate the Senator's yielding.

I want to make sure that the Senator understood that I mentioned, yes, I know that we legislate on appropriations bills. I know that we have legislated in the past on the Interior appropriations bill in other committees which I have served on. So I am not saying we should never ever do that.

I cannot recall an instance where we brought in very significant legislation that was totally extraneous to either the House or the Senate bill. Usually, when we have legislated, one House or the other has passed legislation specifically in their bills, and then we would adopt either the House position or the Senate position.

But this is the first time that I can recall that we have had very significant legislation totally extraneous to either the House or the Senate bill.

Mr. REID. Mr. President, I respond to my friend again that we had a moratorium in the Senate version of this bill which, in effect, stopped all the rulemaking procedure from going forward with Secretary Babbitt. All the rulemaking procedure was something we talked about here on the Senate floor when the Interior appropriations bill came up. It was not something new and unique. We talked about various aspects of what Secretary Babbitt wanted to do.

I would also say, on the House side they had a significant grazing fee in this bill, as they have had every year in the past number of years. In addition to this, of course, we have brought in the Interior appropriations conference a lot of, as referred to my friend, unique, unusual—I am not finding the right word that he had—but extraneous in their reauthorization of arts and humanities in conference just

a couple years ago. We completely rewrote that. And there was nothing in the House or Senate bill. That is not what we have in this instance.

I also state that it is unique. I have listened to every one of the speeches that Senator BYRD has made regarding the Roman empire and how it relates to the loss of legislative power here in the United States. He compared Rome to the United States, and he can see, as I see, a troubling pattern developing here in this country that the U.S. Congress, the legislative branch of this Government, is giving up its power to the executive branch of Government.

There could be no better illustration than right here with this bill. We are saying, and the people who are trying to invoke filibuster in this instance are saying, we do not want to do anything; we will let the Secretary of the Interior go ahead and make all the rules. I think that is wrong.

Let us not forget that what this amendment does is restrain the Secretary of the Interior from increasing grazing fees up to $4.28 a year at the end of 2 years and also allows him 25 percent a year increase in addition to that. We have restricted, as a matter of law, his going forward in five different rulemaking procedures that he wanted to do. This is pursuant to requests from people who are now opposing this amendment, who said the Secretary has too much leeway, let us restrict him. And that is what we have done in this instance.

What is happening is that the small guy is going to lose if this amendment is not adopted. The big people can go ahead and file their lawsuits, as we showed last time in this debate. The opponents of this legislation not only threatened gridlock on the floor, they threatened gridlock in the courts. They said: Let Babbitt go forward. Then we can tie it up in the courts.

We need to move forward with this legislation. It is fair. It is appropriate. We should have an up-or-down vote on the amendment and go forward with this legislation. If we did that, in a year, next year at this time, grazing would not even be on the lips of a Member of the U.S. Senate or the House of Representatives. It would be gone and over with.

But, in fact, what we are having is a small minority holding up progress on this legislation, preventing us from going to health care reform, the crime bill, unemployment insurance, NAFTA, all these things that have great significance to the American public.

I believe that this amendment protects Nevada ranchers from Secretary Babbitt. I believe that we should go forward with this. We have 250 million people whose legislation is being held up in this body as a result of 20,000 permittees. It is time we moved forward. It is time we moved forward and got on to the business at hand.

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

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield myself 1 minute.

Mr. President, it is not often that I find myself in a position of hoping that perhaps in this instance the executive branch might win.

I am a strong believer in a strong Congress. But when Congress is off track, off the rail, so to speak, then perhaps those of us whose constituency—and I suggest that that constituency is significantly larger than the Senator from Nevada portrays—I suggest that that constituency touches virtually every State. But in our instance, the livelihood of a major portion of our people is about to be seriously affected.

This is, as I have said and have said and have said, not just an issue of ranchers. Apparently, in the State of Nevada, school boards do not derive any income from ad valorem taxes on livestock; apparently, the counties have no particular need for the revenues from those; apparently, the banks in the small towns have no investments in the ranching business; apparently, the purveyors of propane, ranching equipment, shoes, groceries, and other things have no dependency on the livestock industry.

I suspect that is wrong and I suspect that the people whose income is from ranching in the State of Nevada will be as drastically hurt as will those from our other States.

In fact, I have a press release from the Nevada Cattlemen's Association and a letter signed by Demar Dahl.

I will read the letter:

NEVADA CATTLEMEN'S ASSOCIATION,
Elko, NV, October 25, 1993.

Hon. MALCOLM WALLOP,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR WALLOP: It has come to our attention that our position concerning Senator Reid's amendment has not been made clear, therefore we feel it is important that you understand our feelings regarding Senator Reid's actions. Senator Reid has never asked for our input and has steadfastly ignored our recommendations. He has turned his back on the livestock industry and in our view the entire State of Nevada by his blatant misrepresentation of our best interests.

We view Senator Reid's actions on water rights as a states' rights issue and very therefore damaging to Nevada and the livestock industry. The subleasing paragraph in his amendment will put a number of our ranchers out of business. It also makes it nearly impossible for young families to get started in the livestock business, since Nevada's ranching industry is so dependent upon federal lands with 87% of Nevada federally owned. We are very concerned about the infringement upon our private property rights, i.e., range improvements and water, by Senator Reid's amendment. We view Senator Reid's amendment as a political maneuver to deny the public, including ranchers, the right to comment on all of the proposed changes. By codifying this into law we are denied our rights that the NEPA process guarantees.

The livestock people of Nevada appreciate your efforts on our behalf and on behalf of all the ranchers in the west. If we can assist you in any way, please don't hesitate to contact us.

Thank you again for your efforts.

Sincerely,

DEMAR DAHL,
President.

I ask unanimous consent that the text of the press release that accompanied that letter be printed in the RECORD.

There being no objection, the text of the press release was ordered to be printed in the RECORD, as follows:

ELKO, NV.—October 21, 1993—Demar Dahl, President of the Nevada Cattlemen's Association issued the following:

The Nevada Cattlemen's Association today appealed to Senator Bryan asking him to stand up for Nevada and join the filibuster pending in the United States Senate.

"Senator Reid has turned his back on Nevada, the livestock industry, and the communities that depend on that industry," said Demar Dahl, President of NvCA.

"Senator Reid says we have the choice of accepting his amendment or Secretary Babbitt's proposal. That's like choosing between the electric chair and the firing squad," Dahl said.

He also pointed out that Senator Domenici of New Mexico and other western senators are leading the filibuster effort. "They obviously believe there are alternatives other than the Reid amendment or the Babbitt plan," he said.

Senator Reid said in a press release yesterday, "Frankly, it would be easier for me to throw my hands in the air, support a filibuster, and watch Secretary Babbitt go all the way with his reforms, and a $4.28 fee. In good conscience I cannot do that. I did not walk away from the negotiating table when the going got tough, and I will not walk away from cattlemen now."

"The going got tough at the negotiating table for Reid because he was working against the very people he is supposed to represent," said Dahl. "and yes, he did walk away from the cattlemen."

Mr. REID. Mr. President, might I just ask a brief question? Who was that letter from?

Mr. WALLOP. From Demar Dahl, president of the Nevada Cattlemen's Association. The date of letter is October 25, 1993.

Mr. President, one of the problems that we have is that people do not understand the consequences of this amendment. The Senator from Colorado quite correctly last week spoke to the issue of water. And while the Senator from Arizona denied that it affected any water except on BLM, it is simply not true.

The Forest Service and the BLM are equally affected by the language that exists in the underlying law. We will find that there are areas in the East, perhaps in the State of the occupant of the chair, where municipal water supplies, Mr. President, will be affected by

the provisions in this bill. I know that they will be affected in the State of Alabama, because we have already had contact.

There is another thing which is completely unknown, apparently, to the sponsors of this amendment and to the Secretary of the Interior, neither of whom seems to have any knowledge of the agriculture business that exists in their States, and that is about this issue of subleasing.

Mr. President, subleasing, in most instances, is illegal today, but what they have succeeded in doing is making it impossible for a number of ranch operators to compensate employees in a way which has been normal since the beginning of the ranching business—and, as a matter of fact, most of the ranchers in the West, at one time or another, have been employees of other ranchers—and that is to allow the employee to run some livestock as an additional means of compensation. Now, all of the sudden, because of this bill, that means of compensation will be outlawed.

Mr. President, the land values in the West have declined by a couple of billion dollars since the Secretary of the Interior has come along, and particularly since this language was around.

Let me read a letter from James Webb from Phoenix, AZ, dated October 19, 1993.

PHOENIX, AZ,
October 19, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: The compromise entered into by Secretary Babbitt and Senator Reid is devastating to my community and to my personal operation. My neighbors have sons that work for the county and help on the ranch are faced with the fact that what they have put their life into is now a liability for the family instead of an asset. The tenure of their ranching operation is in jeopardy.

One neighbor who has only about 20% BLM land was in the process of obtaining a loan from the Travelers Life Insurance Co. to pay off an existing debt and pay down his bank debt while rates are low. He was just informed by a Travelers representative that they will not consider any loans on ranches with more than 10% federal land that can not be isolated because of the announced compromise.

In my case, the Arizona State grazing land follows the federal pattern. However we can not obtain a refund if our grazing is unused. When the fee goes up, my state fee will follow and I will be penalized severely, since much of my grazing is seasonal and I must pay in advance. My view of this increase is that my cows don't know the fee has unilaterally increased since they didn't breed up as well due to the hot summer, and the mountain lions are not going to pass up a calf or two so I can pay the increase. There is nothing in my operation that will compensate for the fee increase, except what I have to live on. Since all my money is tied up in the ranch, which is now unsalable, I am in a pretty tight jam if my banker calls my note.

Everyone around here is pretty frustrated because nobody seems to give a damn that the government is taking our equity, is taking our private property values in the process of this settlement.

Sincerely yours,

JIM WEBB.

Now, this is a letter a legitimate complaint from a rancher. But what it does not tell and what the Senate will not hear is what it does to the country and what it does to the revenues of the United States of America. Those revenues that trickle into the BLM are trickling out at a greater rate from the Internal Revenue Service.

Mr. President, let me read another letter. I would like to display it. It is a handwritten, little letter from a guy in Wyoming.

FARSON, WY,
October 20, 1993.

DEAR SENATOR WALLOP: I'm writing this letter regarding the Reid Amendment.

I hold no federal grazing permits or even own any land, but the Reid amendment would certainly have a large negative effect on my families quality of life. I am employed by a public lands rancher. Instead of a retirement plan or a benefit package I own cattle that I'm allowed to run right along with my employers cattle. This practice of being able to run some cattle has allowed me to one purchase a new car (the first in 8 yrs) and two to help my two children ages 12 & 13 to build savings accounts for their college education. This practice would certainly be cost prohibitive under Reids amendment. In our small community I know of many other operations that have similar agreements.

I have to ask Congress if America's forefathers, and fighting men made the sacrifices they did just to have the liberties of their descendants stripped from them by a simple yet devastating amendment to an appropriations bill.

Respectfully,

M.A. MOODY.

Mr. President, again, here is a legitimate way of compensating people suddenly just wiped out; water rights wiped out. To support this claim somehow under this legislation, under which there has never been a hearing, the Senator from Nevada will show boxes and boxes of hearings, but none about these proposals.

Mr. President, the most interesting part of all of this is that, absent a hearing, none of us can claim to know precisely all the consequences. Absent the normal process of the authorizing committee, this back room deal has denied Americans the chance to comment on it.

Mr. President, I do not know what it takes to persuade the Senate that the provisions on improvements on public lands will deny this country ever the opportunity to have a private industry build a new gas pipeline or a new transmission line.

Mr. President, I yield myself 1 more minute.

This will cost America revenue.

Last, I would just say that there was a claim by the Senator from Nevada on C-SPAN this morning that they have to have this because I would not let it come up in my committee.

Nothing could be farther from the truth. It has never been offered in our committee and the Senator from Arkansas is the chairman of the subcommittee—we have not had a chance to have this thing. The Senator from Colorado and I have a bill in our committee for which we have yet to have a hearing offered to us. It is not we who have stood in the way of this.

Last, let me just remind the Senate that of the 28 Senators in the 14 Western States, only 7 have supported this; not one Governor of the Western States.

This is not the new West. This is a West that is struggling to survive.

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

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, there are a couple of things I want to bring to the attention of the Members of the Senate. The person who wrote the letter from the State of Nevada was my opponent in last year's general election. He was the Republican nominee for the U.S. Senate, Demar Dahl. So I think we have to understand he may be a little biased in his approach.

I have spoken to many cattlemen in the State of Nevada. I got a letter yesterday from the former President of the Nevada Cattlemen's Association who said he thought the amendment was fine. So I think we have to understand who the opposition is from the State of Nevada.

I would also like to refer to a chart to put to rest once and for all this nonsense about what this amendment does regarding the definition of "range improvement."

Under the Code of Federal Regulations which is now in effect it says:

"Range improvement" means a structure, development or treatment used to rehabilitate, protect, or improve the public lands to advance range betterment.

It applies to running cattle and sheep. We go on to more detail, but keep in mind these definitions include the improvements that are associated with ranching, with grazing. Grazing permittees have had the privilege to claim ownership of improvements for 11 years in the entire history of this country, and only on land managed by the Bureau of Land Management. This is the famous "Watt change."

For all this century the Forest Service was treated just like the Bureau of Land Management. Secretary Watt came along and changed it in the Department of the Interior. And we have even recognized that. We have said water rights will be grandfathered in. Those people who proved up on water rights during the 11 years, or range improvements, they can have those. This is certainly fair.

Mr. President, this is a phantom, a straw man someone is trying to chase

that simply does not exist. This amendment that has been approved by the conference and approved by the House by a more than 3-to-1 margin does not change the grazing world at all. It is not going to stop a rancher from buying a vehicle. It is not going to stop some kid from saving money.

It is going to raise grazing fees. If you run 400 head of cattle 12 months a year it would raise the grazing fee, for all 400, total—not 1, all 400 for a year—between $1,500 and $2,000 for 400 cattle.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CAMPBELL addressed the Chair.

Mr. WALLOP. Mr. President, how much time does the Senator from Colorado require?

Mr. CAMPBELL. Six minutes will be fine.

Mr. WALLOP. I yield 6 minutes to the Senator from Colorado.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, I would like to also discuss a letter that was not written by an enemy of my friend from Nevada, Senator REID, but in fact a friend of his, and a huge friend of mine, too, that is the Governor of the State of Colorado, Gov. Roy Romer. I ask unanimous consent to have his complete letter printed in the RECORD.

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

STATE OF COLORADO,
Denver, CO, October 25, 1993.

Hon. BOB DOLE,
Senate Minority Leader, Hart Senate Office Building, Washington, DC.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATORS MITCHELL AND DOLE: I am writing to express serious concerns about the Reid Amendment to the fiscal year 1994 Interior Appropriations bill. This Amendment addresses grazing fee and rangeland management reform issues. I urge members of the Senate to oppose this legislation in its current form.

While I agree that the grazing system should be reformed, the potential long-term consequences of these reforms on Colorado ranchers and the public land resources demand a far more deliberative and constructive process for the formation of rangeland management law than has been used in developing the Reid Amendment.

We need an open and deliberative process to solve this complicated set of issues. The Reid Amendment is not the product of the informed viewpoints of all the constitutents whose lives they would affect, including ranchers, water users, environmentalists, western governors, and many others.

I am particularly concerned with the provisions of the Reid Amendment pertaining to water. As written, the Reid Amendment would inject such ambiguity and confusion into the process or allocating water in the West that litigation and uncertainty would prevail for years to come.

For over a century, the allocation and administration of water rights have been the province of the States. In Colorado, as in other Western states, we have worked hard for decades to remove the cloud of uncertainty created by unknown and unquantified federal reserve rights over state water rights. In that regard, laws have been passed that require the United States to proceed in accordance with State law to obtain rights to water for uses on federal lands. We in Colorado have spent considerable time and money over the past two decades in efforts to quantify the federal water rights on our public lands.

If passed in its present broad and ambiguously worded form, the Reid Amendment could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well. Such an outcome unnecessarily exceeds the scope of rangeland management reform, and could undermine State water allocation laws and the rights created under those laws.

The Reid Amendment would also direct the Secretary of the Interior to incorporate standards and guidelines into permits and leases that, among other objectives, would provide for the "protection and restoration of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." While it is necessary to take steps to improve riparian habitats throughout the West, the Reid Amendment would appear to place undue reliance on the regulatory process of permit issuance to achieve this important goal. Collaborative, voluntary efforts that involve all affected parties are far preferable means to achieve riparian restoration than is unilateral reliance on regulation. In contrast, the Reid Amendment clearly exceeds the appropriate scope of rangeland management reform and seriously erodes the prerogative of the States to protect riparian values within the prior appropriation system.

The Western governors, through the Western Governors' Association, have asserted among other things that if rangeland reform is to succeed, it must result in healthy land and sustainable and economically diverse communities. Most westerners would agree that fees need to be raised in a way that protects the range and the resource; however, a fee increase that drives family ranchers off the land is not practical or acceptable.

We need to develop such important and far reaching laws and policies in the full light of public participation and scrutiny.

Beyond the need for a sound policy making process, rangeland management reform and other efforts to reform federal land policies should be approached in full recognition of the need to protect both rural economic vitality and diversity and the productive ecological systems necessary to sustain rural economies. This fundamental point must be understood and embraced if we are to successfully reform federal land policies.

The grazing fee issue is but one of a number of concerns that affect public lands. We need to do more to examine these impacts and support a comprehensive effort to diversify the economies of the rural west.

Sincerely,

ROY ROMER,
Governor.

Mr. CAMPBELL. The letter I received was from Governor Romer yesterday morning. He and I both oppose this legislation in its current form.

Governor Romer is particularly concerned about the bill's provisions pertaining to water. He feels that as written:

The Reid Amendment would inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come.

Governor Romer is further concerned that:

For over a century, the allocation and administration of water rights have been the province of the states. In Colorado, as in other Western States, we have worked hard for decades to remove the cloud of uncertainty created by unknown and un-quantified federal reserve rights over state rights. In that regard, laws have been passed that require the United States to proceed in accordance with State law to obtain rights to water for uses on federal lands. We in Colorado have spent considerable time and money over the past two decades in efforts to quantify the federal water on our public lands.

The Governor has written that if the language is passed:

*** in its

* * * in its present and ambiguously worded form, the Reid Amendment could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well. Such an outcome unnecessarily exceeds the scope of rangeland management reform, and could undermine state water allocation laws and the rights created under those laws.

In and of itself, the water language in this bill is bad enough, but read together with the language about national standards and guidelines, the language is certainly an impermissible intrusion into State water matters. As my colleague, Senator BROWN, has already said, the Forest Service has similar authority and is trying to force small communities to transfer their rights to the Federal Government even though these water rights and water projects were specifically recognized in Federal legislation passed in 1866.

In addition, Governor Romer is justifiably concerned that the Reid amendment would place undue reliance on the regulatory process to issue permits to achieve the goal of riparian restoration. This is tragic, as the goal of restoring riparian habitat has been accomplished, so far, through cooperation, rather than regulation.

Collaborative, voluntary efforts that involve all parties are far preferable to unilateral, command and control regulation. Governor Romer feels that the Reid amendment "clearly exceeds the appropriate scope of rangeland management reform and seriously erodes the prerogative of the States to protect riparian values with in the prior appropriations system."

The entire Western Governor's Association has also expressed similar concerns and have asserted among other things, that if rangeland reform is to succeed:

It must result in healthier land and economically diverse communities. Most Westerners would agree that fees need to be raised in a way that protects the range and the resource, however, a fee increase that drives family ranchers off the land is not practical or acceptable.

It is my feeling that the so-called reforms in this legislation are neither

reasonable, practical or acceptable and must be rejected.

I believe the unstated objective of these so-called reforms is to remove livestock grazing from Federal land. Few, if any of the proposals, will actually improve range conditions or agency efficiency. In fact, if these proposals are adopted, it is far more likely that range conditions and wildlife habitat will deteriorate, not improve. Range conditions have improved and continue to improve. Wildlife numbers have increased significantly and continue to do so. The case cannot be made that there is a significant need to change the way grazing is managed in the United States.

This proposal will end the era of economically diverse communities. I should not have to remind my colleagues that the average rate of return in the livestock industry is 2½ percent. After factoring in a number of conditions related to grazing and calving on public and private lands, the administration's proposed fee increases equals a reduction in gross receipts of 4 percent. This result will end grazing on public lands.

I think that there are several key objectives in establishing a fair grazing fee formula. First, the fee needs to be based on the value of forage. Second, the value of the grass, or forage, needs to be identified as a percentage of the private land lease rate. Third, an adjustment needs to be made which reflects the lower returns derived from Federal lands compared to private lands, as well as the additional costs of doing business on Federal lands compared to private lands.

In short, the bill I have already introduced, the Federal Forage Fee Formula Act, is based on the private forage market while reflecting the higher operational costs and lower returns derived from ranching on Federal lands. As a result, this formula would promote similar economic opportunity between Federal land and private land livestock producers.

Ranchers are the family farmers of the West. The establishment of a fair and equitable grazing fee formula is necessary to ensure their survival. It may sound redundant, but it is no lie that ranching remains a key component in the rural western economy. Every dollar a rancher spends yields $5 in economic activity throughout the West. Not only does this add billions to the Nation's economy, in much of the West, it is the single largest source of economic activity and tax revenue.

Every Western ranching job creates as many as four jobs on Main Street. If ranchers go under, so will the tractor, truck, and automobile dealers, the gas, grocery, and feed store owners, the veterinarians, doctors, and dentists, and many others who make up the commercial and social fabric of rural Western towns.

A fee that is not based on sound science and careful study will destabilize the entire livestock industry and the rural Western economic infrastructure it supports. If Congress and the administration want livestock grazing on Federal lands, and the billions of dollars in economic activity it represents, it must consider the Federal Forage Fee Formula Act that has been introduced rather than passing this legislation.

I yield the floor.

Mr. REID. Mr. President, I yield 5 minutes to the Senator from Washington [Mrs. MURRAY].

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, the people of Washington State and this Nation quite rightly take a great interest in what is happening on the Senate floor day in and day out. They want to know what we are doing to cut spending and create jobs. They are asking tough questions about NAFTA and health care. They are concerned that our troops abroad are deployed judiciously. In short, they want to know we are down here doing our jobs.

This month, people have seen the fiscal year end. They have seen us pass one, then another continuing resolution. For the past several days, they have seen an extremely important appropriations bill held up because a small group has been unwilling—after literally years of debate—to accept a reasonable compromise on grazing. I will remind all of us the language in this bill is a compromise.

There has been pressure for years to increase the grazing fees. I remind my colleagues that before this language came before the Senate, our friend and colleague from Nevada, HARRY REID, was an outspoken critic of efforts within the administration to increase fees. He was first in line to deny funds for the administration to implement its proposals. But given the pressure in the other body, and the position of the administration, Senator REID took up the challenge and negotiated a compromise. This compromise would cut in half the fee increase proposed by Secretary Babbitt, and would include regulatory reforms that largely bring BLM grazing rules into line with the Forest Service.

Senator REID has endured tremendous pressure, and I think he should be commended for doing a terrific job under very difficult circumstances. It may not be a perfect deal for public land grazers, but it is certainly not going to bring the livestock industry to an end and it does reflect an understanding of multiple use of public lands.

Mr. President, the grazing fees today are lower than they were about 10 years ago. Can we simply deny the existence of inflation, or are we going to step up and say the Treasury should get a fair return on the use of our public lands? This is a perfect example of what the American people do not like to see in Congress: Filibuster means gridlock. In gridlock, everybody loses.

I said it the other day and I will say it again. There are too many things in this bill that are important to my constituents and other Members' States to keep holding it up on this floor. Caught in the middle of this debate are people with historical and cultural ties to the forest products industry in my State. These people have faced years of uncertainty, one lawsuit after another and the frustration of dealing with an indecisive bureaucracy.

Earlier this year, the Government challenged people in the rural Northwest—local leaders, business people, workers—to come up with new ideas and a new vision for the forest products industry. Let me tell you, they have responded with creativity and enthusiasm. People in Port Angeles, Aberdeen, Darrington have flooded my office with all kinds of ideas.

This bill that we are considering today fulfills the commitment to people in my State to help bring these ideas to fruition. They have been waiting for years for someone in the Government to take responsibility for solving a difficult problem. Like the grazing compromise, the forest plan is by no means perfect, but it has given people hope that new opportunities exist. They cannot afford to wait anymore and we should not deny them that hope today.

There is another big issue at stake. There are two runs of Snake River salmon that have been listed under the Endangered Species Act. A petition to add runs on the mid-Columbia is pending. Just last week, another petition was filed to list coho salmon throughout its range from California to the Canadian border. This bill today contains resources to fund a salmon conservation strategy that is vital to the commercial and recreational fisheries and to the forest products industry in my region. If we cannot get this bill passed and stem the decline in salmon stocks in the Northwest, we, the Congress, will be faced with immeasurable costs in the future, costs that place even more pressure on the timber industry, costs that undermine fisheries on the entire west coast, costs that threaten energy production and agriculture. In short, costs to the West will dwarf the grazing issue by comparison.

These issues and many others are at stake because of this filibuster. More often than not, gridlock, as we are seeing now, sets progress back. When a vocal few can succeed in derailing a well-reasoned plan, nothing is accomplished and no one is served. We must move on. We must pass this bill and show the public that we can tend to its business responsibly and that we do care about the people we serve.

Thank you, Mr. President.

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. I yield myself 1 minute. I say to the Senator from Washington that the Governor of Washington does not seem to be of the same view. As part of the Western Governor's Conference, they have come down heavily against this proposal, and for reasons that are quite simple. It is broader than just the grazing issue, I will say to the Senator from Washington. It is not about gridlock. It is about livelihood.

Let me say to the Senator from Nevada, I direct a question to him if he will give me his attention. I wonder if the Senator is aware that the plain language of his section on range improvements is not limited to range improvements only but applies to any improvements on public lands which includes dams, transmission lines, pipelines, mining structures, et cetera. Let me just read it.

Subject to valid existing rights on the date of enactment of this section, all rights to permanent improvements contained on or in public lands are vested in the United States.

Mr. President, I will say there is absolutely no limit to that.

Mrs. MURRAY addressed the Chair.

Mr. REID. The Senator from Washington is yielded whatever time she needs.

Mrs. MURRAY. If I can just comment on the comment of the Senator from Wyoming on the Governor from Washington, the Governors Association did take a stand on Secretary Babbitt's original proposal. It is my understanding they have not taken a stand on this current proposal in this bill.

Mr. WALLOP. I yield myself 30 seconds. I will say that is incorrect. In fact, a letter has gone to the Senator from Nevada which says:

While we expected the conference committee might very well legislate a fee, we feel strongly that this is not an appropriate process for dealing with broader rangeland reform. Rangeland reform is complex with the potential result of healthier land and sustainable rural communities. It should not be done hastily, opening the door to unintended or undebated results. We believe that governors and those in western grazing communities have expertise and experience that should be tapped through an inclusive process. * * * Therefore, western Governors are not supportive of the process that led to this proposal.

Mr. REID. Mr. President, if I can respond to my friend from Wyoming, I think you will find that letter was not signed by the Governor of Nevada. I talked with him yesterday. He indicated he had not signed the letter. I believe the Senator from Wyoming has the floor.

Mr. WALLOP. I yield 5 minutes to the Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my friend from Wyoming. I just want to remind this body, we have stood here and talked about this issue many times. I am interested in what the Senator from Washington had to say because we stand here on principle today. A year ago, this Congress passed a water bill that affected California. It took 25 percent of the water away from the farmers in the central valley of California.

I had an opportunity to drive through that part of the country. I observed land going back to waste, starting to grow tumbleweeds now, with 40 and 50 percent unemployment in Mendota, Firebaugh—all of these areas where we thought we were doing a very grand thing and doing something about reallocating that water. Farmers there are finding it hard to understand when you have 150 percent snow pack and yet your water gets cut 25 to 30 percent and your fields burn up.

That is when we said that this is just the first step in an assault on the West. I am interested in the Senator from Washington saying that she does not have any problems with this, but that is what it is. We do not stand here today discussing fees. We are discussing policy, and it has to do with mining, it has to do with timber, it has to do with recreation, it has to do with gas and oil and energy development, it has to do with hunting and fishing, it has to do with everybody that has a use on a public land.

It is new policy that says we do not want things to happen out there. I will tell you right now—and everybody heard this old story about big operators have all these leases—in Montana, we have 3,039 BLM permittees and 1,399 Forest Service. The average AUM's are from 200 to 350 AUM's that run from 6 to 7 months. That does not sound like big operators to me. It sounds like hardworking people who will, by policy, be driven from the land; by policy will be driven from the land because of these new rules and regulations that have never had a hearing in this Congress and with this process.

So I ask my colleagues, if they want to fight for their people, I am going to fight for mine, and I am going to stand on principle. But it is much broader than that. The war has already been declared out there because of the emotional issue of public lands.

Who made it that way? Who improved them? We have more elk, more antelope, more mule deer, more turkey and white tail. We did it because we improved the land through an organization called the Society for Range Management and Range Days that I sponsored since 1980. We could carry more AUM's. Give us a little more rain, and we can carry a lot more. But it is better now than any time in recent history, and I mean since the Great Depression and the drought years of the thirties, the "dirty thirties." And yet those people who improve those ranges, who make it livable, in a harsh land, now see it taken away from them with an inability to pay for schools, taxes, and to provide all the services that local government is supposed to provide.

But we chase the straw man, range or grazing fees. That is the straw man. The devil is in the fine print and that is the rules and regulations in this bill, that should have been in the authorizing committee.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BURNS. I urge my colleague to stand on this because there is a lot at stake for the West.

I yield the floor. I thank the Chair.

Mr. WALLOP. Mr. President, I yield 5 minutes to the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Wyoming for yielding on what has become a very important and closely watched debate in the Senate. I say that, Mr. President, because this debate may be about principle; it may be about philosophy; it may be about one Senator's approach toward an issue versus another Senator's. But let me tell you what I believe it is really about. It is really about power.

Our Founding Fathers recognized that an all-central government was a too powerful government, and most of that power ought to reside out in the States. But ever since that day 200-plus years ago through to today, that power, through one effort or another, one legislative vehicle or another, one change in our Constitution or another, has emanated back toward Washington.

In those 17 elusive pages of legislative effort on the part of the Senator from Nevada and the Secretary of Interior, it is all about power. It is about a phenomenal shift of power away from public land States and their representatives toward a central government. That shift of power gets masked in the argument of fees or a battle over this or that or something else. But who controls the water has the power. Who controls access to the public lands has the power. Who controls the policy that designs the human effort and activity on those public lands holds and has the power.

Government is all about power. We know that as Senators. Some have it and some do not, and some are in and some are out. But that is what this debate fundamentally is all about. And power does affect the lives of people.

For a moment let me reflect on the lives of the citizens of my State and how they perceive the power that the Senator from Nevada is jerking out of his State and turning over to Bruce Babbitt as the Secretary of Interior and the Department of Interior and

how it will impact the people of my State.

Here is the vice president of a major regional bank who says, "The profitability and the creditworthiness of a permittee will drastically decrease if the Federal Government insists on maintaining water rights and permittee-financed range improvements." In other words, a shift in power is going to affect the financial credibility of a permittee on our grazing lands. That is First Security Bank in the West, Vice President Curtis H. Eaton.

A CPA talks about the historical relationship of farming and ranching to small agricultural communities. This CPA is in Burley, ID. Burley is not a big place, but a lot of marvelous small businesses reside there, and beautiful families of people. He says it is going to cost that community hundreds of thousands of dollars as small ranchers—not big ranchers, small ranchers, 150- and 200-cow operations, mother, father, son, and daughter operating these—will go out of business because the Senator from Nevada by the policy in this law would assist in putting out of business.

I wish to enter all of these in the RECORD, but the story goes on and on. Power resides in other ways.

Here is a letter from a variety of professors and range management specialists from Colorado State University, and their line in conclusion is, "But our concern is about the fairness in the reallocation of wealth." Not big wealth, little wealth, little wealth having an impact on small people.

Wealth is power. If you control the wealth of Burley, ID, by controlling the access to the public lands, that generates the resource base, that generates the wealth that flows back down main street, you have created a phenomenal power shift.

That is what this legislation does. Instead of those advisory committees where a majority of those who are affected by the policy of this administration would have some say, there is a shift once again in power. So there are a variety of ways of debating this issue.

I ask unanimous consent, Mr. President, that a cross-section of these letters be printed in the RECORD because it is very important Senators understand that Bruce Babbitt and the Senator from Nevada are talking about power at this moment.

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

FIRST SECURITY BANK,
October 1, 1993.

DIRECTOR (200),
Bureau of Land Management,
Washington, DC.

DEAR SIR/MADAM: Thank you for the opportunity to comment on the proposed rulemaking by the U.S. Forest Service and Bureau of Land Management. We believe that the proposed increase in grazing fees to the $4.28 level and accompanying measures will cause significant disruption to our borrowers.

Livestock ranchers, their families and employees now make up a sizeable percentage of our commercial lending portfolio.

A rancher's ability to acquire financing is base on assets, liabilities and net worth. The proposed grazing fee increases will decrease permit value, thus decreasing the rancher's assets and net worth. In addition, the shortening of the permit term will result in a higher amortization cost and limit marketability and value of said permits.

The profitability and credit worthiness of a permittee will drastically decrease if the federal government insists on maintaining water rights and permittee-financed range improvements. As a lender, it would not be a sound decision to finance improvements that can be amortized. As a result, improvements will most likely not be made and the forage resources of the land will suffer making it less profitable.

The combination of the above effects will result in devastating short-term impacts. The financial viability of the livestock industry will be severely threatened due to increased operating costs, decreased asset marketability and decreased profit margins. This will ultimately result in herd liquidation, lower livestock prices and discontinuance of many family operations. An already fragile western range sheep industry will collapse and the cattle industry will slowly follow!

I strongly urge that fee increases and regulatory measures be carefully thought out and that the many studies that have been submitted dealing with private/public grazing cost comparisons be carefully considered.

Sincerely,

CURTIS H. EATON,
Vice President, Area Manager.

RAMSEY HEATING & ELECTRIC, INC.,
Burley, ID, October 11, 1993.

DEAR SIRS: Your proposal to increase the grazing fees to a $4.28 level could have serious effects on cattlemen's financial support of our business. We are in an agricultural, cattle area depending on no other source for income. We believe the range is in good condition, not overgrazed and the ranchers do a good job cooperating and keeping it in control as requested.

We need financial support from owners of the cattle business if our business is to continue successfully.

Please take another look at the increase possible at the rate of inflation.

Thanks,

ROBERT A. RAMSEY,
Owner.

WM. F. STEVENSON D.V.M. INC.,
Buellton, CA, September 20, 1993.

Re range reform '94.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

This letter is to provide comments for the United States Department of the Interior—Bureau of Land Management and Department of Agriculture-Forest Service Notice of intent to prepare an Environmental Impact Statement and Proposed Rulemaking as published in the Federal Register, Vol. 58, No. 155, Friday, August 13, 1993, pps. 43202–43206, 43208–43213 and 43234–43237.

Please do NOT support the current administration proposal for a 130% increase in grazing fees and severe land-use restrictions. This increase and the changes in land-use policies established under the Public Rangelands Improvement Act (PRIA) will severely hurt many of the family-owned ranch operations. These people are obviously a minority and their lifestyles and values as conservationists of the land should be protected. Please study the cases of privately managed lands vs. publicly managed lands and I think you will see the folly behind this socialized new proposed policy.

Thank you for your time and support.

Sincerely,

BILL STEVENSON, D.V.M.

OSTERHOUT POPE PHILLIPS & CO.,
Burley, ID, October 11, 1993.

DEAR GENTLEMEN: I would like to comment on the proposed changes in the rules and regulations pertaining to federal land users. I believe that the proposed increases in grazing fees, and the resulting decrease in value in the associated permits will cause a significant decrease in the profitability of our local ranchers and a significant decrease in my business.

I practice as a certified public accountant in Burley, Idaho. Agriculture represents a major portion of my business, both directly and indirectly. A majority of my business is in the preparation of income tax returns with its related write-up work. The proposed increase in grazing fees would adversely affect a material portion of my clients and result in an estimated contraction of my business of approximately 10–20%.

Historically farming and ranching has operated on a very small operating profit. Any profit produced has been reinvested in the business, except for that needed for living expenses. Because of low net profit amounts, any additional cost of the rancher will make a large difference in the net profit of the ranchers. For example, an increase in grazing fees of $5,000.00 may not seem like much in an operating budget of $100,000.00. However, when it is considered that there is only a $10,000.00 profit, an additional $5,000.00 expense does make a big difference.

I also believe that the ranching industry has been taking good care of our ranges. They have been managing the ranges for sixty years. If they had been exploiting these ranges, the ranges would not have lasted this long. One reason why ranchers have taken care of the ranges is because their range leases are proprietary in nature. It is my understanding that some of the new regulations reduce or limit the proprietary nature of the leases. If this is the case, then I do believe that the incentive for the rancher to maintain the range will be less and the government costs to maintain the range will increase substantially. If the ranchers are not there, who will manage the range. Will it be the bureaucrats from Washington, D.C.? I suppose they will do as good a job as they have previously done. A good example of the government's management skill is found in Yellowstone Park. In Yellowstone Park the range has been destroyed with an over population of diseased animals. However the government is not able to make the decisions necessary to properly manage the animals. It is a mess. I predict that all the federal range land will look like Yellowstone if the government assumes management duties.

You bureaucrats claim that the rancher is not paying the cost of maintaining the range. Well, what happens if the ranchers leave the range? Then there will be no revenues. However, the naturalists, conservationists, and recreationalists, will require more and more from the government. It appears to me that the government will have

increased expenditures and decreased revenues. Where is the benefit in this? If you don't believe this is true, then who is presently demanding the government spend more money on the public lands. It is not the ranchers.

In Idaho the government owns 64% of the land. Over 80% of the cattle in Idaho will spend some time on government land. Changes in government policy regarding public lands have a big impact on Idaho's economy. A 132% increase in lease rates will have an enormous impact on Idaho's economy and future. The average age of farmers and ranchers is over 50 years. If this is such a profitable industry why aren't more young people involved? It is not because there is no interest, it is because it is not economically possible. Increased fees and decreased proprietary interest in the leases will further reduce the number of young people who can begin to farm.

One final comment, all the government programs are instituted for one reason and one reason only. That being to provide inexpensive food to our citizen's. Generally that has been accomplished. The American citizen's percent of revenue that is spent for food is the lowest in the world. We have been able to accomplish this by maintaining a large number of small farmers who have been unable as a group to limit supply and drive prices up. If the government is successful in driving the western cattlemen from the ranges, the supply of beef will decrease substantially and the cost to the consumer will increase proportionately.

You people should consider the sayings which are found on grain storage facilities in Cassia County:

"Don't complain about agriculture with your mouth full."

"If you eat, you are involved in agriculture."

Sincerely,

CURTIS B. POPE,
Certified Public Accountant.

COLORADO STATE UNIVERSITY,
Fort Collins, CO, August 27, 1993.

MICHAEL J. PENFOLD,
Assistant Director, Land & Renewable Resources, U.S. Department of the Interior, Bureau of Land Management, Washington, DC.

DEAR MIKE: As the outside (University) authors of the Grazing Fee Task Group Report (GFTG) we read with interest Rangleland Reform '94. We were especially interested in the reference to the GFTG Report and the support our analysis lends to the fee proposal. We agree with the interpretation of our study findings but feel the brief synopsis provided in Rangeland Reform '94 does not explain or even mention one of the major concerns highlighted in our report. As we summarized in the Executive Summary of our report (Incentive-Based Grazing Fee System, Part I, pp. i-ii):

"The government is not collecting the full market value for grazing public lands, but ranchers are paying full value through the current fee, non-fee grazing costs, and investments in grazing permits. Past grazing fee policy has contributed to the value of grazing permits and current ranchers have paid this cost. Some of the value of public land grazing has been capitalized into the value of public land ranches and is bought and sold in the ranch real estate market. Legal precedent says permit value need not be considered in setting grazing fee policy, but the allocation of permit value remains a central issue in the grazing fee debate.

There is a strong theoretical linkage between grazing fees and permit value. As fees go up, permit values should erode and wealth will be transferred from ranchers to the government. This is the dilemma that policy makers face. The GFTG does not imply that this transfer is right or wrong, but the concern about the fairness of reallocating wealth is obvious."

Our assessment that the value of public land grazing was worth between $3 and $5 per AUM relied heavily on what ranchers have paid to purchase grazing permits. In most instances, a total cost comparison between private and public leases did not support the $3 to $5/AUM recommendation. In fact, the cost comparison for Forest Service and all sheep allotments resulted in negative forage values. In many cases, ranchers are paying more to graze public lands because of the lack of alternatives and/or the complementary between their deeded lands and associated federal permits. Utilizing the permit value approach allowed us to quantify some of these intrinsic values associated with the use of public lands.

The allocation of permit value is a key issue to be addressed in setting grazing fee policy. By proposing a base value of $3.96/AUM the implication is that the value of public land grazing permits belongs to the government and will be reallocated from ranchers to the government. We feel it is important that those setting grazing fee policy, and the general public, realize that a reallocation of value will result from higher grazing fees.

We hope that as federal grazing fees are debated, recognition will be given to the permit value issue. We do not take a position as to who is entitled to permit value. Ranchers took a risk that policies might change when buying the grazing permit. We point out, however, that public land ranchers are paying full market value for grazing public lands when higher non-fee grazing costs and investments in grazing permits are considered. The issue is whether recognition should be given to the investment cost current holder of grazing permits have. To exclude this point from the proposed policy statement and from the synopsis of what we found is misleading.

Sincerely,

E.T. BARTLETT,
Professor, Department of Rangeland Ecosystem Science, Colorado State University.

NELI RIMBEY,
Extension Professor, Range Economist, University of Idaho.

L. ALLEN TORELL,
Professor, Dept. of Agric Economics, New Mexico State University.

LARRY VAN TASSELL,
Assoc. Professor, Agric Economics, Univ. of Wyoming.

JOINT SCHOOL DISTRICT NO. 365,
Grand View, ID, October 4, 1993.

DIRECTOR (200),
Bureau of Land Management, Washington, DC.

DEAR SIR/MADAM: As a public school district with a tax base reliant on agriculture, we are extremely worried about your recent proposals. We believe the proposed increase in grazing fees to the $4.28 level and the expected loss or elimination of permit value which would accompany this increase will cause significant hardship to our school district.

Ranching families and employees now make up 25% of our total school district enrollment. Our school district would suffer without the presence and diversity of ranching students.

In addition, livestock ranchers, their families and employees now pay approximately 33% of our total school district tax assessments. Without this financing, we cannot pay teacher salaries, repair facilities, purchase text books and supplies, and might possibly have to close schools all together.

Approximately 4100 of the 5200 square miles which make up our school district are federally owned. These federal grazing permits must continue to remain, along with the deeded land to which they have been historically attached, with Idaho ranchers so that we can rely on a consistent tax base to allow us to provide for the education needs of our community.

The cattle business is not only the largest agricultural commodity in Idaho, it is an important part of our school district. The ranching lifestyle produces students that we want in our schools, they are responsible and hard-working!

This proposal along with the proposed endangered species listing of the Bruneau Hot Springs Snail, would be disastrous to our school district.

Sincerely,

RALPH HATCH,
Superintendent.

EMMETT, ID,
October 14, 1993.

DIRECTOR (200),
Bureau of Land Management, Washington, DC.

DEAR SIRS: Please accept the following remarks on the proposed Rangeland Reform.

First, let me give you a little background on my agriculture experience. My family has been in the livestock business for over a hundred years. My grandfather started out in the sheep business and my father expanded into cattle. We are primarily in the cattle business now, although I still have an interest in the family sheep business.

There are several issues in the proposal that need to be addressed. We have had for at least 20 years, a rest rotation system for our grazing lands. We have done this with the full cooperation of the BLM and Forest Service. With the program, even in the severe drought years that we have experienced in the last few years, our cattle have not had to be held off of the land for any reason, much less for any deterioration. We are good stewards of our land, both private and public. A raise in the grazing fees will greatly hurt our ability to stay in business. I feel we would be punished for our taking care of the land.

Something that does not seem to be addressed in the proposal is the fact that we, in agriculture business, are feeding not only the United States but several other nations with the beef and other products that we, as an industry produce. We in the United States have probably the cheapest food prices in the world, and with the increase in the fees, along with so many restrictions and regulations on us, cattle producers will go out of business. When these producers, like myself, go out of business, the price is going to do nothing but go up, the supply is going to go down and the consumer is going to yell.

As for the disbanding of the grazing advisory boards and re-appointing of the new

board, this is a very strange proposal. Would you appreciate paying rent on property, for the use of the property for your business, then have someone with no expertise or experience in your business, be put in charge of telling you how to run your business? We pay rent for the privilege of using this land and the preservationists and recreationists do not and yet they will be able to tell us how to run our business? If this is allowed to happen, it would be very unfair to the livestock producer and the citizens of the U.S.

63.8 percent of the State of Idaho is federally owned. We, the tax payers of Idaho, survive on this type of tax base. By raising the grazing fees, the economy of the state will be greatly impacted. The impact on the local counties and communities will be even more impacted. The most current figures that I have seen say that for each person that is employed on a ranch or farm, 5 people in the surrounding communities are kept employed. The sale of cattle in Idaho generated $721.4 million in 1992. Eighty percent of these cattle graze on public land. Our industry accounted for 25.6 percent of the total Idaho agricultural receipts last year. Don't strife this important part of our economy.

The main reason most of the Federal lands are Federal lands in the Western United States is because this land is not usable for any other purpose. The rancher has developed water for livestock, which wildlife, the hunters, and the recreationists, among others, use and benefit from year round. I feel that taking away the ownership of the these improvements will cause the incentive to maintain these to deteriorate. The right to have the water rights is a very important part of this process. Without these rights, all users of the land will be affected.

To make such general restrictive regulations for the totally different kinds of terrain there are in the West, not just here in Idaho, is ludicrous. Any regulatory changes need to be regionalized, not nationalized.

Thank you for considering these remarks.

Sincerely,

JUDY AND RON WOODIE,
Haw Creek Ranch.

HOUSE OF REPRESENTATIVES,
STATE OF IDAHO,
October 14, 1993.

DIRECTOR,
Bureau of Land Management,
Washington, DC.

DEAR SIR: As a state legislator knowledgeable in the day to day hardships of family ranch operations in southern Idaho, I can state with full confidence that the proposed grazing fee increase from $1.86 to $4.28 over a three year period is too much-too fast. Even the current Senate/House compromise proposal of $3.45 exceeds realistic economic considerations. Especially in light of the fact that rangeland reform regulations and standards are apparently included in the compromise language. The two in combination constitute a double-whammy economic impact that is poorly conceived and ill advised. The cause célèbre is that this package is for the taxpayer, the forgotten in grazing debates. I disagree. Like the emperor who wore no clothes, the federal government has surrounded itself with its own gown of logic; logic developed in the ethereal atmosphere of absolute right that so often prevails within the Washington D.C. beltway.

It is not really logical when a landgrant university such as the University of Idaho prepares a detailed research paper on comparative grazing costs on federal, state and private land only to have deferral bureaucrats reject that study on the basis of other studies which purport to show something else. My experience in Washington D.C. was that in research and development I could always find studies to support any thesis. Sort of the antithesis of the scientific thought process.

In all probability, the University Idaho study has a good handle on grazing conditions and cost as they relate to Idaho. As such, the grazing fee increases and rangeland reform package currently under consideration will adversely impact the economic stability of Idaho's family ranches. When these families cut back operations or fold operations, the state's economic base is disrupted. taxes from income and sales will decrease and additional taxes will have to be collected to maintain existing levels of state funding. Since this will also adversely impact most Idaho taxpayers, how much has the "forgotten taxpayer" really been helped?

On a more national scale, larger corporations who engage in livestock operations often use cattle as a profit/loss control to advantage the corporation in reducing taxes. With the increased grazing fees proposed, it is very likely that the national treasury will actually see five year average losses resulting from just such corporate manipulations. Therefore, large corporations which also include cattle operations will probably not be too heavily impacted. However, the "forgotten taxpayer" will still be wondering when his ship is going to come in.

Large livestock operations will have a cut in their economic base which will again impact state income and sales taxes. They will survive either because of their economic base, or because they are able to acquire additional range grazing rights from those who yield their rights back to the federal government. This forced cannibalism on the part of the federal government will reduce jobs. Will the federal treasury see the benefit? Perhaps—but only perhaps. States are matched by the federal government on an approximately 70/30 basis for health and education costs of the unemployed or dysfunctional. The costs of these programs, to the extent that ranch families are displaced, could significantly reduce the net return to the federal government.

Finally, even the Idaho Land Board has taken note of economic pressure on livestock operators as evidenced by the recent reduction of the Idaho grazing fee from $4.99 to $4.53. It is the reduction that establishes the precedent. The point often made that the Idaho grazing fee is as high as rates considered for federal lands is largely negated by the fact that environmental regulations and operational mandates on federal lands are generally more extensive than on Idaho lands.

Are there winners in this package. Yes. But the taxpayer rallying call is a smokescreen. As recently pointed out by Senator Larry E. Craig, the issue is environmental and the purpose is to reduce livestock on federal land. The recent elimination of BLM grazing advisory boards is clear evidence of a planned shift in grazing representation on federal boards. That being the case, every "forgotten taxpayer" in the United States had better remember that when the livestock go, the costs for federal land maintenance will transition to the user—that's the general public now calling for the reduction. And in this area, the rate of increase in abuse of federal lands but the general public far transcends anything in the livestock industry over the past one hundred years.

Sincerely,

JIM D. KEMPTON.

NEVADA CATTLEMEN'S ASSOCIATION,
Elko, NV.

Contact: Betsy Macfarlan
Phone: 702-738-9214

FOR IMMEDIATE RELEASE

Elko, Nevada—October 21, 1993—Demar Dahl, President of the Nevada Cattlemen's Association issued the following:

The Nevada Cattlemen's Association today appealed to Senator Bryan asking him to stand up for Nevada and join the filibuster pending in the United States Senate.

"Senator Reid has turned his back on Nevada, the livestock industry, and the communities that depend on that industry," said Demar Dahl, President of NvCA.

"Senator Reid says we have the choice of accepting his amendment or Secretary Babbitt's proposal. That's like choosing between the electric chair and the firing squad," Dahl said.

He also pointed out that Senator Dominici of New Mexico and other western senators are leading the filibuster effort. "They obviously believe there are alternatives other than the Reid amendment or the Babbitt plan," he said.

Senator Reid said in a press release yesterday, "Frankly, it would be easier for me to throw my hands in the air, support a filibuster, and watch Secretary Babbitt go all the way with his reforms, and a $4.28 fee. In good conscience I cannot do that. I did not walk away from the negotiating table when the going got tough, and I will not walk away from cattlemen now."

"The going got tough at the negotiating table for Reid because he was working against the very people he is supposed to represent," said Dahl, "and yes, he did walk away from the cattlemen."

NEVADA CATTLEMEN'S ASSOCIATION,
Elko, NV, October 25, 1993.

Hon. LARRY CRAIG,
Hart Senate Office Building,
Washington D.C.

DEAR SENATOR CRAIG: It has come to our attention that our position concerning Senator Reid's amendment has not been made clear, therefore we feel it is important that you understand our feelings regarding Senator Reid's actions. Senator Reid has never asked for our input and has steadfastly ignored our recommendations. He has turned his back on the livestock industry and in our view the entire state of Nevada by his blatant misrepresentation of our best interests.

We view Senator Reid's actions on water rights as a states' rights issue and very therefore damaging to Nevada and the livestock industry. The subleasing paragraph in his amendment will put a number of our ranchers out of business. It also makes it nearly impossible for young families to get started in the livestock business, since Nevada's ranching industry is so dependent upon federal lands with 87% of Nevada federally owned. We are very concerned about the infringement upon our private property rights, i.e. range improvements and water, by Senator Reid's amendment. We view Senator Reid's amendment as a political maneuver to deny the public, including ranchers, the right to comment on all of the proposed changes. By codifying this into law we are denied our rights that the NEPA process guarantees.

The livestock people of Nevada appreciate your efforts on our behalf and on behalf of all the ranchers in the west. If we can assist you in any way, please don't hesitate to contact us.

Thank you again for your efforts.

Sincerely,

DEMAR DAHL,
President.

NEVADA CATTLEMEN'S ASSOCIATION,
October 25, 1993.

BILL MYERS,
Public Lands Council,
Washington, DC.

DEAR MR. MEYERS: I have read many quotes from Senator Reid in several papers, saying he is representing the livestock industry and that he consulted with ranchers who are semi-agreeing with him.

I am here to tell you that is not the truth. I myself talked to him at length on the phone, and then faxed him the enclosed letter. Senator Reid is absolutely not working for the Nevada Cattlemen. He has not spoken with the Nevada Cattlemen's Association or any person authorized to speak for us, and he does not echo the true beliefs of the State of Nevada, the State with the most public land. He has sold us out in favor of lining up with Democrats and the Administration.

It is imperative at this time that we either stick with the moratorium for a year or let the Administration move administratively. We cannot allow any of the Reform 94 package to be codified into law. Issues such as this should not be codified into law in a committee without a public hearing, and should be done pursuant to the Administrative Procedure Act and the Taylor Grazing Act.

As Chairman of the Federal Lands Committee for the Nevada Cattlemen's Association, I believe I am in much better communication with the federal lands ranchers in this State and can speak for them more accurately then can Senator Reid. The ranchers in Nevada do not support the Reid Compromise or Rangeland Reform 94.

Sincerely,

JOHN L. FALEN,
Chairman, Public Lands.

OROVADA, NV,
October 5, 1993.

Senator REID,
U.S. Senate.

DEAR SENATOR: Please excuse the hand written note. I talked to you on the phone earlier today—

I know you've been convinced that we must reach a compromise—Sir—we just can't compromise any more. We have been compromising ourselves out of business for the last several years—don't give away the store!

To further prove my point about the endangered species and other similar laws, taking our country over do me and yourself a favor.

Please get the September 1993 issue of the Readers Digest and read "When a Law Goes Haywire." It starts on page 49 and is only four pages long—surely you have enough time to read that, it's really important. Take it to the committee meeting with you.

Tell them this is where we're heading—stand up and be tough. If you take a hard line, Nevada will be proud of you.

The compromise you are talking about is going to do us in anyway. If it has to be, let them do it and don't be a party to our own devise.

Thank you,

JOHN L. FALEN,
Chairman,
Nevada Federal Lands Committee.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CRAIG. That is one of the bottom lines of the debate in this issue.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, in the West there are stories of important heritage, good guys in white hats, bad guys in black hats. We have had shootouts at all kinds of corrals, but the most famous is the one at OK Corral; Federal marshals like Matt Dillon, who single-handedly stopped train robberies and found murderers in the most interesting places.

Let us understand, as I have explained before, I am from the Western part of the United States, was born there. I understand western heritage and stories about the train robbers and marshals and all kinds of things like that. These stories are good when they are not falsehoods or they are not built upon myths.

But we have heard some myths in this debate from those who propose locking up Government, stopping Government from moving forward. I believe they do a disservice to the West and westerners.

We have heard about this so-called war on the West. But let us look, Mr. President, at the facts. Take, for example, the State of Montana. In the State of Montana, like all Federal lands, the grazing fee is $1.86. That is what it is now. If you want to graze on State lands in the State of Montana, it is $4.03. If you want to graze on private land, it is almost $12.

Is $1.86 increased by a few cents over the next 3 years outrageous? Of course not. Secretary Babbitt's proposal is much higher than what I have recommended in my amendment. But one of the myths being propounded around here is that the $1.86 is fair and should not be increased at all.

Look at private lands all over this country—Oregon, $9.28; Washington, $10.69; Wyoming, $9.93, and in Wyoming the legislature just passed a law and State lands will be $3.50. So that is what we are talking about in the way of myths.

It is not often, Mr. President, that you get the National Taxpayers Union, environmental groups, and editorial support from all over the country. When I was here last week, I could only talk about editorial support from Reno, Las Vegas, Sacramento, Casper, Denver. Now we even today have an editorial supporting what should happen on this bill in the Washington Post. The support is growing, not weakening.

Since I was born and grew up in Searchlight, NV, Mr. President, the population of Nevada has increased 650 percent. In Alaska, 350 percent; Colorado, 150 percent; State of Washington, over 100 percent; Utah, 150 percent; Oregon, about 100 percent; Idaho, 700 percent; Montana, Wyoming 65 percent.

Mr. President, overall, western populations have grown nearly 200 percent in my lifetime. The population growth has brought pressure on public lands. These lands that are public are owned by the public, are intended for multiple use. And our growing population is using these lands.

Look at our national parks. During the last 10 years visitors to the Grand Canyon have increased 50 percent—4 million people a year visit Grand Canyon. Zion National Park in Utah, really kind of a small park, has increased the same period of time 50 percent—2 million visitors. I told you about Grand Canyon having 4 million visitors. Lake Mead had 9 million—9 million people. There is tremendous growth in the wanting of people to visit our parks. Yosemite, 4 million. The population has strained our resources, our urban centers are becoming crowded, our lands are used by many. We must recognize new reality. This reality is about progress and it is about change.

My friends on the other side do not want change. There is not a thing that we can do to make them happy. "Change this, we do not like that." "Stop Babbitt from going forward, restricting by statute, that is not good enough." We did that. The grazing fee is still too high, $3.45, still too high. They want gridlock. That is what has stopped this country from going forward is gridlock. We cannot do anything to make them happy.

Today's West is different. This debate is about a new West. We talked about gridlock last week, gridlock not only in the Senate, but in the courts, we have been threatened with in the courts. I believe that we must again understand that what we are talking about here, Mr. President, is giving the ranchers of the Western part of the United States a break from what Secretary Babbitt wanted to do, lower grazing fees, less increase after 3 years and restricting what he can do and what he can move forward on.

The compromise allows room for the ranching families that are part of our history. The vast majority of ranching families will not be affected by these changes. They will retain ownership of range improvements during this 10-year period, they will retain the water rights that they have proven up, they will not be penalized if they care for the land.

This compromise, I again suggest to the President, has been endorsed by the National Taxpayers Union. Conservation groups, the environmental groups, say this proposal is watered down. It is a compromise but it is a step forward and they support it. The House does not like it. Secretary Babbitt does not like it. But it is the best we could do. Again, what the opponents have offered is gridlock and more gridlock. I believe we should allow this to come to a vote, vote it up or down, and move forward with something else.

Mr. President, we are now in the world of gridlock No. 2. We have moved from last week to gridlock No. 1; we are now at gridlock No. 2. I think we should move on to something more constructive.

The PRESIDING OFFICER (Mr. DORGAN). The Chair advises the Senator from Wyoming has 8 minutes 30 seconds remaining; the Senator from Nevada controls 18 minutes and 30 seconds.

Mr. REID. I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, we find ourselves back again with the same arguments, the same talking. Everybody wants to project themselves out here as representing the West, those of us who are at least speaking. I will say this to my friends from Wyoming, Idaho, and New Mexico. You all represent the West. I understand that. I represent the West. I hope you understand that.

I have been here long enough and I know the issues well enough in my State to realize what is important to the ranching industry there. My family, though not ranchers, were farmers and we know the land, we know what water is all about, and the importance of it. What we are faced with today is a decision, in my judgment, of whether or not we are going to put an end to this constant yearly battle as to what ranchers are going to pay. We know they are going to pay for it, what rights they are going to have, as it relates to the Bureau of Land Management land, and when doing that, you have to be realistic.

Sure, we like it our way. We have had it our way. And this particular Reid compromise that is before us is still our way. It is still beneficial to the ranchers. The costs, for instance, do not cover the exact cost of administering the program. That is a benefit to our ranchers. And in Arizona, two-thirds of the ranchers' lands are leased from the Forest Service. The standards that are imposed here in this legislation are those same standards that are already adopted by the Forest Service. I do not know how it is in other States.

Amazingly enough, we seem to reach an agreement here on this floor when, in fact, we have reached agreement with the House of Representatives. The fee no longer appears to be the primary bone of contention based on the arguments that are here. Even the opponents of the Reid compromise seem to propose that their own fee increase of $3.45 focuses now on the policy questions involving this compromise.

I would like to address a subject that has been raised by those in opposition to the Reid compromise before us; that is, private property rights. It is being presented that this proposal will in some way have an effect on present private property rights.

This Senator has always been a strong defender of the property rights of individuals. On many occasions, I have risen and voted to defend attacks on private property rights when the issue has come before the Senate.

A fundamental question before us today is what rights do the grazing permittee's have now and how, if at all, will these rights change after this proposal is adopted.

The Federal Land Policy and Management Act—section 402—directs the Secretaries of the Interior and Agriculture to issue permits and leases for a period of 10 years subject to terms and conditions deemed appropriate and consistent with the law. Recognition of the value of the permittee's contribution to the permanent improvements is noted.

The State governments have established water laws which grant rights to water. The Federal Government has long recognized the States' right to regulate water. In the past century, tens of thousands of water filings have been processed and granted by the States in the West. Clearly water rights exist on the public land.

What would this proposal do to change these existing water rights? Nothing. This proposal recognizes and maintains existing water rights. Future water rights only will be vested in the United States so that the Federal Government can ensure that protection of public water supplies are maintained.

To fully understand the importance of the water issue, I would like to provide an example of what happens when a water right on the public lands is granted to an individual and then removed from multiple-use management.

I would like to describe Dripping Spring in northwest Arizona. This spring, on public land within the Mount Nutt Wilderness Area, is managed by the BLM and is the only water source for miles. It was the water source for desert bighorn sheep, birds, deer, wild burros, small mammals, and livestock.

The water rights granted by the State included the entire flow of the spring. The State granted Water Right No. 713 in 1930 for 15,000 gallons per day. This 15,000 gallons per day permit was issued on a spring that flows 3 gallons per minute. The actual flow amounts to less than one-third of the permitted amount.

An adjoining private landowner has piped the water to use on his private land several miles away. It is reported that over 15 families currently use the water for domestic use even though the State permit is for livestock use only. Additionally, State law does not require that sufficient water be left at the source to serve the ecosystem that is dependent upon the water. This is not an isolated example. I have several other examples of these types of actions.

I ask my colleagues, how can you manage the public lands, especially in desert ecosystem, if you do not have water? Entire ecosystems can be changed and species displaced and the land can be damaged immeasurably for future grazing. Water is the most critical resource in the desert ecosystem. While past policies have allowed this to occur, it is time to make the correction. We should not penalize those who abide by the law but we need to maintain the entire ecosystem, not pieces for the benefit of maintaining the ecosystem for livestock. Several of my colleagues have tried to redirect the argument and scare people by saying that these changes will affect water rights all over the West. It will not affect the allocation on the Colorado River. It will not affect the city of Boulder's water supply. The changes are clearly directed at the BLM range, and it is so clear in the law that it irks this Senator to see that continuously argued, that the central Arizona project is going to be affected. It is not.

Range improvement ownership is another issue where past policies need correction. While it is suggested that you must have title to range improvements before money is invested, this view is flawed. The Forest Service has, since its very formation in 1906, not allowed ownership of range improvements.

Livestock grazing on the national forest has occurred for over 80 years under this policy. Investments have been made, transfer of permits undertaken, and bank loans have been granted. I do not remember a single piece of legislation introduced to change the Forest Service policy. It must be working.

I ask my colleagues, if you were a business person and you leased land to someone else and they made improvements in order to conduct their business, would you give them title to the improvements? I venture to say no. The lessee made those improvements with full plans to amortize them during the period of the lease. This is why permit tenure for 10-year leases is so important to the industry. Adequate time needs to be allowed to make investments and amortize their value. The Reid compromise protects permit tenure.

Many of the range improvements have multiple use values and need to be the responsibility of the BLM to ensure they are used in that manner. The springs I described before are used in that manner. The springs I described before are examples of that. In addition, in other locations livestock corrals and fences are also used in wild horse and burro roundups or management.

While past BLM policy allowed the ownership of range improvements, it is time for change. Again, what is the impact of the change on existing ownership of range improvements? Nothing!

The proposal recognizes existing ownership. Future permanent range improvements will have title vested in the United States.

Mr. President, let me also remind my colleagues that there are other things at stake in this bill. If this bill does not pass, funding for timber harvest, which is vital to my State and to the States of many who are opposing this measure, will be unavailable; funding for important national park projects—which are already experiencing a tremendous backlog—will be unavailable; critical funding for native American schools, hospitals and water projects will be unavailable; and so on.

The State of Arizona has the largest on reservation Native American population in the United States. Everyone here has heard me speak of the destitution and poverty in the Bennett Freeze Area on the Navajo Reservation. Well, Mr. President, there is money—no where near what is necessary—but there is funding to start to provide sewer lines and home repairs for U.S. citizens who are living in third world conditions.

I am not prepared, and I hope my colleagues would not be either, to jeopardize programs critical to the health and well-being of a number of Americans.

Mr. President, I have long supported the livestock industry. I feel this proposal is the best compromise that can be achieved. I think this bill should be passed and I ask my colleagues to support the Reid compromise. I yield the floor.

I wish we had more time because this is an important issue that needs to be resolved, and we need to do it now. This is going to bring certainty to the capability of ranchers to finance their ranching enterprises. And it is time that we put it to rest and stop all of the misinformation that is being put out here. Nobody here who is proposing this that I know of says it is a wonderful, wonderful thing. How many times have my friends on the other side had to propose legislation that was not absolutely perfect?

So, Mr. President, in closing, I hope that the Senate will impose cloture and get on with it. Failure to do that this afternoon, means that the Interior Department could close down, in effect, really all of Arizona. We must not let something like this keep us from doing what is right for the entire west and what is right for the ranchers.

Mr. WALLOP. Mr. President, I yield 30 seconds to myself.

I say to the Senator from Arizona that the western State water engineers feel that he is flat wrong. Maybe he is right and they are wrong, but one thing is certain: Nobody had a chance to find out, because a back-room deal denied them the ability to have a hearing.

I yield to the Senator from Idaho.

Mr. CRAIG. I thank the Senator. The Senator from Arizona is right. There may be myths in this, but we do know there is a great deal of uncertainty. Why?

First, new section 406 (i)(2) of the conference report states:

> The United States shall assert its claims and exercise its rights to water development on public lands to benefit the public lands and resources thereon.

I take it to mean that the water currently used for hydroelectric power generation is to be subordinated for use for "the public lands and resources thereon" —even if that water has been used for the past 50 years to produce electricity at a hydroelectric dam.

Hydroelectric projects on BLM lands in Arkansas, 8; Alabama, 5; California, 32; Idaho, 30; Colorado 3; Minnesota, 7; New Mexico, 1; Missouri, 2; Montana, 2; Utah, 9; Washington, 2; Wyoming, 10; Nevada, 0. Is that a coincidence? I do not know, but I do know what it appears that the conference report says, and the Senator from Arizona will not really know, unless we have full public hearings and bring in the experts to apply that language.

Second, new section 406(l) authorizes the Secretary of the Interior to cancel or suspend permits and leases if there is any violation of Federal or state law concerning conservation, protection of natural or cultural resources, and the protection of environmental quality. There are a half-dozen or so Federal and State authorizations necessary to build a hydroelectric powerplant. Plus there are untold State laws on these issues. Thus, the conference report gives the Secretary of the Interior nearly unbridled power to rescind a hydroelectric license.

The PRESIDING OFFICER. There are 7 minutes remaining for the Senator from Wyoming. The Senator from Nevada has 9 minutes.

Mr. WALLOP. Mr. President, I yield myself the remainder of our time.

If this debate contains any other information for a public confused by having one side say one thing and another side counter it, and the other side deny it, it is that nobody can say for a certainty what is contained in the language of these back-room deals. I will say this—and it is the belief of the Senator from Wyoming—that the thoughts propounded by the Senator from Arizona are absolutely wrong. Water is affected. Range improvements are affected. The language of the bill on range improvements does not confine range improvements to just those for livestock usage. There is no definition and language which says "all improvements."

Mr. President, all improvements is a lot more than just the ranching issue. Let me just say once again that the livestock industry has accepted the fact that there will be a rise in grazing fees, and they have authorized the Senator from Colorado and the Senator from Wyoming—a bipartisan, nongridlock twosome—to introduce legislation to raise those fees. And we have not been able to have a hearing, because the back-room deals with the Secretary of the Interior were on the way down.

The issue of costs was raised by the Senator from Arizona and is absolutely fraudulent. The BLM figures produced by the Secretary of Interior, Mr. Babbitt, assume that all costs of rangelands are attributable solely to grazing, as though if you eliminated all of the livestock, there would be no more need for BLM employees, range experts, forest experts, hydrologists or anything else. Mr. President, that is not fair to the people whose honest living comes from this.

There is also a very disturbing thing that the Senator from Arizona brings up: Subject to valid existing rights. My friends from the west know, and most other people who have ever been in private business know, the determiner of valid existing rights is the U.S. Government and the Secretary of the Interior, who seeks to take them. That is who the determiner is. There is nothing in the back-room deal that says this is subject or pursuant to State law. Secretary Babbitt, over the weekend, managed to make it clear that he does not believe that State law or compensation for the loss of property is an obligation of the United States.

Mr. President, let me talk just a minute about one other thing. The Senator from Nevada said the Forest Service has had these regulations for many years. Let me just make clear that the Forest Service with regard to these has had some, not all, similar regulations—and the key word, Mr. President is "regulations"—over the years. They have not had the Forest Service law, and many of those regulations have been and are being tested in jurisprudence. That distinction is critical. Forest Service regulations are not laws, and the Senator from Nevada and the back-room dealers are putting them into law. Why? It is our belief that the Secretary of the Interior does not have the statutory authority for most of the Executive order. And so how better to get it than to put it in a back-room deal, and then authorize the Secretary to issue regulations pursuant to what is now law and has not been before—only Executive order.

Mr. President, there is something really very unsettling about that.

I say again this Congress managed to say that ordinary people in America are not entitled to their expenses for raising issues of direct concern to this Congress. Lobbying is no longer deductible even though it is a perfectly legitimate pastime for a rancher from Rawlings, WY, to come and see the Senator from Wyoming. He cannot do that. The big corporations, the favorites on the left, are able to write that off as legal fees.

Ranchers were not even allowed to come here at their own expense for a hearing, and why not? Because a hearing would have disclosed the very troubling events that are here.

Mr. President, I have a series of statements on the economic effects of this. But let me just say it is ironic that the Republican staff of the Joint Economic Committee just last week released a study finding that State budgets will experience a $33.8 billion shortfall over the next 5 years because of the tax bill just passed.

This is a big-time shortfall for those of us whose lands lie in Federal hands. It is very easy from somebody from Iowa, or Oklahoma, or some other place, to not worry about that because they do not have the same circumstance. Their land is all deeded in the hands of citizens and of the State. It is not true in Wyoming, Nevada, Arizona, or Idaho, or the rest of the 14 States that are covered by it.

This Congress, without having so much as a whim of conscience, can impose on the 28 of us from the western land States its will because they do not have any constituents affected by it. They do not have any State government affected by it. They do not have any county government affected by it. The loss of revenues are of some consequence to them except when the revenue from income tax begins to flow next year and the outflow will be complete.

Mr. President, I see no reason to mince any words with respect to the consideration of the conference report on the Interior appropriations measure. I still do not understand how the Senate conferees managed to go from an overwhelming vote in the Senate to place a moratorium on the Secretary of the Interior's proposed rulemaking on range management to enactment of the very regulations which the Senate decided should not go forward.

The situation is simply unbelievable. Not only did the Appropriations Committee disregard the vote of the Senate, it also ignored the authorizing committee. Even more unbelievable, once they had decided that the authorizing committee was irrelevant, they ignored the only legislation pending in the Senate, which had been introduced by Senator CAMPBELL and myself.

I do not understand how we got to where we are. I do not understand how an overwhelming vote in the Senate not to engage in rulemaking turns into the enactment of something which is so terrible that no Senator would even introduce it. Just so my colleagues understand the situation, the Senate voted 59 to 40 to place a moratorium on the proposed rulemaking by the Secretary of the Interior. There was legislation pending before the Senate Committee on Energy and Natural Resources, which was bipartisan, and the Senate acted to protect its rights as an institution against the executive branch which had chosen to end run the Congress. That was the mandate of the Senate which the Appropriations Committee took into conference.

The House, on the other hand, had no provisions in their bill, although they later manufactured a vote to instruct their conferees. The issue before the conference was whether to have a moratorium. It would have been understandable, although regrettable, if the Senate conferees had simply caved to the House and deleted the moratorium. What the Senate conferees did was to adopt virtually all of the Secretary's proposals and enact them into law. How in the name of reason did the conferees decide to do that?

Mr. President, doing nothing would have been far more preferable to what the conferees brought back. There are portions of the Secretary's proposed regulations which simply have no basis in law and would fall under court challenge. The conferees would have us enact those provisions. As I stated earlier, there is legislation pending before the authorizing committee which would raise grazing fees and make other changes. Apparently the Appropriations Committee considers endrunning the authorizing committees to be a problem only when a point of order might be raised on initial consideration. It does not seem to be a problem when the authorizing committee can be ignored in the dark of a conference room.

I will go through this travesty line by line to demonstrate why it should not be enacted. But I resent having to engage in that debate. If any Member of the Senate thought this proposal was a good idea, they could have introduced it and had it referred to the Committee on Energy and Natural Resources. If the administration had wanted to involve the legislature branch in its assault on the West, the Secretary could have submitted a bill and had it introduced by request. Both Senator CAMPBELL and I would be happy to put our legislation as well as this outrage to the test of public hearings and committee consideration.

That is not the route which the administration and its minions on the Hill chose. No public hearings, no public scrutiny, no consultation with the sponsors of the only legislation pending in committee, no concern, no thought. I am bitterly disappointed in my colleagues who voted to accept this proposal in the conference. This proposal would have fallen under a point of order had it been offered honestly in the Senate when we originally considered the interior appropriations bill. There is no excuse or justification for what the conference did.

I hope that my colleagues will stand up for the legislative process and the rights of the authorizing committee. I hope that my colleagues will stand up for the rights of the Senate of the United States to have major measures debated fully in accordance with the rules and procedures of the Senate.

The conferees took a simple moratorium into conference and came back with 19 pages of substantive law. The conferees took a moratorium into conference and came back with legislation to reverse over a century of deference to State water law. The conferees took a moratorium into conference and came back with legislation which seizes all improvements on public lands, from highways to mines to canals to homes, in the name of the United States. The conferees took a moratorium into conference and came back with a provision which makes every water right and every permanent improvement on public lands subject to an undefined Federal validity determination. The conferees took a moratorium into conference and came back with a blanket assertion of Federal ownership of all water developed on public lands, not just for grazing, but also for hospitals, schools, rural communities, mining, and all other uses.

Most outrageous of all, the conferees made major life decisions for thousands of family ranchers, and hundreds of western communities without their knowledge or counsel.

Mr. President, I have been flooded with letters which clearly and painfully detail the real life drama created by fear of what this Congress proposes to do to our Western Federal lands and to the communities they support. There is something terribly wrong with the process that has brought us to this point.

Mr. President, I ask unanimous consent that the several statements, several letters, and others relating to these topics be printed in the RECORD.

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

SUBLEASING

Under the Reid amendment, most all ranches would be negatively impacted by his new subleasing language.

The Reid language will make what is now a customary business practice for all types of businesses,—wholesale beverage dealers, oil field service equipment businesses, grocery stores, big game outfitters—to name just a few—and will add not only an intolerable financial burden, but will make a legal and widely accepted business practice illegal.

SUBLEASING SITUATIONS UNDER REID'S PROPOSAL

Scenario #1=20% subleasing surcharge: Base property leased, permit held.

Scenario #2=20% subleasing surcharge: Permit leased, base property owned.

Scenario #3=50% subleasing surcharge: Livestock not owned by permittee.

Scenario #4=70% subleasing surcharge: Base property leased, permit held (or leased??) and livestock not owned by permittee nebulous language as to whether permit is held or leased.

SUBLEASING EXAMPLES FOR SCENARIOS

Scenario #1: A young couple entering into the ranching business with only enough assets to purchase livestock but wish to lease base property and acquire permits.

Scenario #2: Existing operator faced with a temporary reduction in forage on private or public lands due to drought, fire, etc. that needs additional forage to avoid overgrazing.

Scenario #3: (a) A rancher is willing to allow a son, daughter or employee to run individually owned livestock on the ranch permit as compensation for work performed.

(b) Permits held by various Grassland associations are grazed by livestock owned by individual association members.

Scenario #4: A rancher forced to retire by age or health wishes to lease the ranch and livestock until a child is prepared to take on operation.

ECONOMIC ARGUMENTS

Environmental groups and the media have portrayed the grazing fee issue as a deficit reduction measure. But we can't look at the revenue issue in a vacuum. Didn't we learn anything from the luxury tax debacle? Increasing grazing fees isn't going to increase federal revenue—it's going to lead to lost jobs, lost cash and lost net worth—all of which translate into lost federal and state tax dollars.

Loss of Net Cash Income

An increase in grazing fees will significantly reduce the net cash flow of a ranch.

One study, prepared by Texas A&M and associated groups including the Department of Agriculture, looked at the economic impact of the proposed higher grazing fees on five representative ranches in Montana, Wyoming, Colorado and New Mexico.

The study found that net cash income could decline by as much as $6,000/year for low debt ranches that depend on federal grazing for 50% of its needs, and by as much as $6,400 for similar high debt ranches.

In Wyoming, a comparison of small and large livestock operations reveals a reduction in average annual income of $3000 for large ranches and $6600 for small ranches.

Let's put these figures into prospective.

In Wyoming, the average annual income for large family livestock operations is only $22,271. For small family livestock operations it is only $19,548. A $3,000–$6,600 reduction in income to these farms represents a decline of 14 to 34 percent of their total net income.

For many, it means the difference between continuing to operate or having to shut down their ranching business.

What does this mean to the federal government? The proposed fee increases will directly reduce economic activity in public land states by over $1 billion. Using the oft-quoted multiplier that $1 of ranch income generates between $5 and $10 times that income to the economy, a reduction of $1 billion could lead to more than $5 billion in lost economic activity.

This lost revenue will trigger an irreversible decline in the economies of rural communities who rely on this economic activity to generate sales tax revenues.

For example, Ken Kerns, Chairman of the Board of County Commissioners, Sheridan County, Wyoming wrote that "rural communities, such as ours, must have economic diversity. The soundness of that profit-driven agriculture base is a valued piece of that diversity. The next downturn in our sales tax revenues could be inflicted by a squeezing of local business profits. If the grazing fee on public lands, along with other factors of production costs, are increased beyond the point of profitability, then that portion of profit now being spent on our main streets, which generates sales tax dollars, will be absorbed in the federal treasury which is a long way from our community."

Isn't it ironic that the Republican staff of the Joint Economic Committee just last week released a study finding that state budgets will experience a $33.8 billion shortfall over the next five years because of the tax bill just passed?

Why? Because citizens forced to send additional monies to Washington are not spending that money on taxable items on which states collect sales tax.

Now the government wants to take away even more state revenues through increased grazing fees.

In rural communities, the sales tax revenues may be the only source of funding, along with property taxes, available to sustain the economy of these small towns. Ranching towns could soon go the way of the boarded up mining towns of the old West.

Equally as important, the economic activity that will be lost to the community will also result in a decline in federal tax revenues—in the form of income and other taxes—that could exceed the $12 million gain from the increased fees.

But for those of you in the East who think we're wrong, I remind you of the luxury tax and the impact that it had on your industries—we were forced to repeal that law this year because of the number of jobs that were lost. Grazing fees will be no different.

Loss of Net Worth

Besides decreasing federal income taxes, higher grazing fees and rangeland reform will result in a devaluation in land values that could result in a total loss of equity in the West of almost $1 billion.

Today, lending institutions, local governments and the IRS all treat permits as capital assets. Banks include the value of the permits in the total value of the ranch when issuing loans and credit. Local governments assess property taxes based on the total value of the ranch, including the permit values. The IRS considers, and the tax court has ruled, that permits are property interests subject to inheritance taxes.

If the changes proposed by Reid are enacted, permits will have a greatly diminished value. The loss of net income and the lack of security and loss of stability in the traditional relationship between western landowners and the government results in a zero permit value.

Because appraisers are no longer willing to value these permits, banks find themselves "over-loaned" on properties. The result is no different from the savings and loans crisis which occurred because of decline in real estate values—except for one critical factor—the federal government is now solely responsible for the devaluation of property in the West.

Banks will no longer issue credit to ranchers. And what happened in the 1980's will happen again in the West—foreclosure and bankruptcy will become a way of life.

Eliminating the equity value of a permit and thus a rancher's equity, also decreases federal inheritance and estate taxes. If the government is so concerned about the amount of revenue that will be generated by this fee increase, why have they not considered the amount of revenue that will be lost because of a decline in property value? A $1 billion dollar loss in equity could mean a lot of estate tax income to the federal fisc.

And at a time when state and local governments struggle to find necessary revenue, a decrease in property values will also severely reduce the property tax income available to localities. How will counties who depend heavily upon their property tax base fund schools, law enforcement, and fire protection?

Balance of Trade

An increase in the grazing fees could also affect the balance of trade for American beef exports by reducing the supply of feedlot cattle. For example:

A reduction in the supply of feedlot cattle could result in an increase in price, making U.S. beef exports less competitive overseas;

A reduction in supply means that we may become an unreliable supplier unable to meet contracts and commitments.

A reduction in domestic supply could also lead to an increase in imports to meet this demand, cutting into a $4 billion trade surplus. With all of the bellyaching over the U.S. trade deficit, why would we erode one of the few industry surpluses we have?

LANDER, WY,
October 19, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: During the Senate filibuster, please ask your opponents to consider the following:

1. Rep. Synar says he wants to give ranchers a dose of free enterprise. Where else can we go? Do we tell ski areas to get a hill on private land?

2. Improvements—Will Federal Land permittees, other than ranchers have their future improvements become Gov't property? What about a ski lift, warming hut, or an outfitters lodge?

3. Fees—The proposed fee of $3.45 is 9% of gross on a $450.00 calf. Ski areas are 2.4% of gross; outfitters 3% of gross.

The proposed fees and regulations will increase our operating expenses beyond what we can make raising livestock and grass. We are due for our annual meeting with the bank loan officer to plan our operating loan for 1994. This constant threat of ever higher fees and expensive regulations has all our loans in jeopardy.

With these fees and regulations in the Reid amendment as law, our ranch will change from a viable economic cattle ranch to a real estate development. We plan to sell out before and if we cannot pay the mortgages and notes raising livestock.

Thank you for everything.

Sincerely,

ROB and MARTHA HELLYER.

OCTOBER 20, 1993.

DEAR SIRS: It is rare for most small ranch and farm operations to pay income tax and if they do it is only in the three figure region, this should tell you that we can't afford a raise in anything. Many of us would have to go out of business if this fee is increased, then all these lands would be taken over by industry, residential or large corporations running our ranches. Right now we have a serious problem with unemployment numbers, if you consider the fee increase you will have many more numbers to add to your unemployment figures. It seems to us as if we need to work together to improve our economic situation for all of us not just a few bureaucrats.

You want to take over the management of this land and water, right now we take care of all this, and do well as this is our livelihood. So why change something that is working well. We know that we have to work

24 hours a day, 7 days a week at times to keep things running for the benefit of our livestock, is the government going to be able to do this?

Ranching is an economic necessity in Wyoming and the United States, lets do our best to keep this viable resource instead of destroying our economic backbone.

Sincerely yours,

RALPH & SHIRLEY DELAMBERT,
Eden, WY.

OCTOBER 20, 1993.

Senator MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR MALCOLM: In reference to the Rangeland Reform Proposal. It would completely eliminate me from the use of public lands. The effect of the increased fee, non-fee costs, governmental intervention and control of both public and private property rights together with the uncertain livestock prices, it would be too costly to operate.

Our ranch is one of the oldest ranches in this area, with territorial rights and has been operating all that time successfully. With the rangeland reform which is being proposed, the margin between profit and loss would narrow and it would result in a complete loss for me in this area and one more blow to the economy of our nation.

Sincerely,

DON KORTES,
Rancher.

J. DOUGLAS AND GLYNDA S. SHEEHAN,
Dixon, WY, October 20, 1993.

Re: Grazing Fee Bill

Senator MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: Thank you for the support that you are giving to the Western states and the people in them who are fighting the grazing fee bill. No matter the outcome, we feel that you have done your best to represent us.

My wife and I are members of a small community in Southern Wyoming, and we live on the ranch that was homestead by my grandparents. My wife works in the accounting office that is supported by the ranching and mineral industry, and local businesses. If the grazing fee bill passes as it stands, this could mean that the economic community will have a difficult time surviving. This will not only rock the stability of the community, but also the state and ultimately the nation.

We strongly support the filibuster and hope to see some local hearings on the issue. It is our opinion that the survival of this nation depends on the livestock, mineral, and lumber industries of the West.

Thank you for your support,

J. DOUGLAS and GLYNDA S. SHEEHAN.

RIVERTON, WY, *October 19, 1993.*

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: We elect our congressmen to go to Washington to keep our State on an economic flow to support our livelihood and our future for our children and grandchildren. What are we getting? A movement to completely destroy our future in all our western states.

1. Our congressmen have let the environmental pressures almost completely cut off our timber industry that gave employment for many workers to support our economy.

2. Raising of the grazing fees will no doubt put many of our ranchers out of business. Many now are just getting by on poverty level profits. The ranchers using public land have to spend more money for maintaining livestock due to predator loss. Livestock losses are far greater than on private lands.

3. Grizzly bears are now becoming a problem for the livestock permittees and fast becoming a problem for the hunters. Congress should push for delisting of the grizzly so they can be controlled by the Game & Fish.

This is another environment push to lock up public land from logging and gas, oil & mineral use.

4. Wolves—a movement that will only help decrease our economy by future depletion of our big game population and depletion of our livestock on forest range.

A lock-out of use of public land is inevitable if the current trend continues.

I only hope Congress will review the 70,000 signatures that were obtained at the Yellowstone Park booth asking tourists if they would like to see wolves in Yellowstone. You will find a big percentage of these are out of state and foreign signatures. Please let these issued by decided by the people it will affect the most, i.e., Wyoming, Montana and Idaho citizens.

5. Now is the time to stop all of the idiotic decisions and work to help the western states survive all this political nonsense to please the environmentalists.

It is rapidly becoming impossible for our young people to stay in Wyoming and survive.

Sincerely,

VAN PARKHURST,
Riverton Businessman.

J-B CATTLE CO.,
Roosevelt, AR, October 21, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I am writing to beg for your help in maintaining the West as we know it here in Arizona. Our entire way of life and that of our community is at stake.

We have worked all our lives with the dream in mind of buying a ranch. All else has been sacrificed to that end. Our children have given up the normal things teenagers do so that we all might buy our ranch. We have owned it since 1989 and have added many waters to the area to spread out the cattle and to help maintain wildlife. The land is better for our having been here.

I feel that people who do not know this terrain or anything about cattle grazing are trying to determine the future of my family, our town and our Western country. As the cattle that go into feel lots for Eastern buyers come off federal lands this action will affect the food supply for the whole country. Even those who are not directly hurt by this action will find the result from these uninformed senators and will remember who to hold responsible.

Sincerely,

LINDA BRAKE.

RALPH S. DUBOIS III,
Kearny, AZ.

DEAR HONORABLE JOHN MCCAIN: I am writing you in reguard to the proposed changes in the federal grazing leases. These proposals have no merit and must be stopped. While others pay lip service to Environmental problems, the rancher is the only one who must work full-time to preserve the environment or he will parish.

I have been in the cattle industry all my life, 31 years. My family has held government grazing leases for 46 years, and I have held government leases for 12 years. If these proposals are adopted it will be the end of my way of life, as well as thousands of other cattlemen.

I am able to stay in the cattle business, by only a small profit margin. With grazing fees at $1.86 per AUM, the cost of improvements, feed, everyday living etc., etc, it costs me around $14.00 per AUM to raise my cattle. A rate increase of 2 or 3 dollars per AUM would make it impossible to stay in business. I would soon join the ranks of the unemployed.

The adverse effects of these proposals will cost the American people a huge amount of money, unemployment, and the loss of concerned caretakers of the land.

Thank you,

RALPH S. DUBOIS III.

Members of the Congressional Research Service:

On behalf of Elected County Commissioners Garey Ketcham, Eunice McEwan, and myself, we welcome you to our Sheridan Rural Community.

Sheridan County, with a base of 27% federally-owned land, is a typical rural western community of 23,562 residents with a tradition of cultural spirit and a possession of heritage pride.

This heritage is steeped in the traditional spirit of the pioneer who believed in the "American Dream" and moved west with their families to develop a culture of family-owned and operated ranches entwined within federal and private land.

Those family ranches and ranchers, though dwindling in number, are no less spirited today than those who settled the west in the late 1800's. They value their life qualify with reverence and are an integrated part of the area's socio-economic base.

My name is Ken Kerns, a third-generation family rancher who is permitted to graze 1136 animal units per month upon public lands located in the Bighorn National Forest.

I tell you this so as the economic data I am prepared to present to you will not appear biased by self-interest but will be objective from the platform of local government.

Sheridan County is one of four counties who commissioned the University of Wyoming to do an in-depth economic analysis of the economic impact of federal lands in relation to our counties' tax revenues (Economic Contributions of Federal Lands Within the Big Horn Mountain Area prepared by Fletcher, Taylor, Moline, and Borden). This objective data allows local governments to better interpret and plan for the tax-supported local governmental services provided to our residents. A copy of the area-wide data is provided for your reference.

I will attempt to briefly explain to you how an increase in grazing fees may affect every resident within Sheridan County.

Family-owned and operated ranches who use federal lands as a supplement to other grazing resources are profit-driven. This profit motive is no different in grassland ranching than it is in any other enterprise—gross income minus operating expenses equals profit.

These profits are spent in local stores which collect sales taxes from those profits spent. These sales taxes are the highest single-revenue source for the operation of Sheridan County government.

Big Horn Mountain Country's current economy is driven by a diversity of an export base which is related to federal lands. That diversity is mining, renewable resource harvesting, and tourism. These sectors contribute 40.5% of our local base economy. Profits from these sectors are essential for the local retail sector, a direct relation to Sheridan County's and the State of Wyoming's sales tax collections.

I have prepared a graph (Exhibit A) showing a relationship of one sector of that diversity—grazing—as it relates to the collection of sales taxes within Sheridan County. This graph is not intended to credit all sales tax collections to the price of feeder calves which reflects profitability, but to show how that sector may influence those collections.

Grazing fees are an integrated part of the operational expenses which affect profits of our grassland ranches.

As operating costs for our grassland ranchers increase, unless there is an off-setting increase of revenues, the profit margin of our family ranches may diminish until there is no choice but a liquidation of assets.

The mid-eighties saw a dramatic liquidation of those assets. That liquidation was not because of increased grazing fees but a combination of factors eliminating the profit picture. However, the graphic picture of livestock values, which reflects profits of our grassland livestock producers, parallels our local government sales tax revenues.

I am not so naive as to believe that the dramatic shift in our sales tax revenues is a direct result of a profitable grassland agriculture community, but the graph certainly makes that suggestion.

Rural communities, such as ours, must have economic diversity. The soundness of that profit-driven agriculture base is a valued piece of that diversity. The next downturn in our sales tax revenues could be inflicted by a squeezing of local business profits.

If the grazing fee on public lands, along with other factors of production costs, are increased beyond the point of profitability, then that portion of profit now being spent on our main streets, which generates sales tax dollars, will be absorbed in the federal treasury which is a long way from our community.

According to the referenced Economic Contributions of Federal Lands, for every animal-unit-month loss, for whatever reason, the four counties of Big Horn Mountain Country will have a total economic loss of $63.67. Of that loss, local governments within Big Horn Mountain Country will lose $2.23 in sales and property taxes.

As you mull this issue, I urge you to review the referenced study. It is based upon economic data, not emotional rhetoric.

It appears that a grazing fee increase by the present administration is forthcoming. Hopefully, the data gathered by you in your fact-finding tour will guide the parameters of that increase.

KENNETH D. KERNS,
Chairman,
Board of County Commissioners.

SHERIDAN COUNTY, WY, *June 23, 1993.*

Mrs. MURRAY. Mr. President, there have been numerous references in this debate to the Western Governors' Association and its position on grazing reform. I would just like to clarify that the Governor of Washington, who is a member of the association, was asked to sign the WGA letter mentioned by the Senator from Wyoming. Not only did the Governor of Washington decline to sign the letter, but neither he nor his staff took part in drafting the letter. I have been in contact with him about this; I can assure all my colleagues that he shares my very strong view that it's inappropriate to continue delaying passage of the Interior appropriations conference report.

To underscore the Senator from Nevada's point regarding the disposition of the other body on this question, I also note that Members from Washington voted 7 to 1 in favor of the motion by the ranking member of the House committee to instruct conferees. This motion passed September 29 by vote of 314 to 109.

Mr. President, with those clarifications in mind, I want to restate my concern about the constructiveness of this filibuster and urge my colleagues to vote to invoke cloture.

The PRESIDING OFFICER. The time has expired.

The Chair recognizes the Senator from Nevada who has 9 minutes remaining.

Mr. REID. Mr. President, my five children are now away. Two are married and three of them are in college.

One of the things I miss with my children being out of the house is Halloween. I look back with great almost melancholy of how much fun it was to go with my kids trick or treating.

Now Halloween is being brought to us today in the Senate Chamber. I am being reminded of my escapades with my children here on the Senate floor today because Halloween, which is just a few days hence, is being brought to us in the form of ghosts and goblins, about things that do not exist. This is Halloween. This is an attempt to stop the bill from going forward, the Interior appropriations bill, by magic, by bringing up ghosts here and goblins there and hidden doors and hidden windows. It simply does not exist.

As an example, they talk about sweeping changes. Mr. President, there is not a sweeping change in this. There is not a thing that is in this amendment that the Forest Service has not done for decades. In fact, we have stopped Secretary Babbitt from having the BLM do some of the things the Forest Service has done. We have done that by law. Sweeping changes are part of the ghosts and goblins here before this body.

This letter the western Governors signed was signed by two Governors. There was no meeting held. It was not signed by the Governor of the State of Washington, Senator MURRAY's State. It was not signed by the Governor of the State of Nevada. It was signed by two Governors.

Also, as to water engineers—Secretary Babbitt held hearings all over the West; he got thousands of comments, most of them in favor of his changes—but not a single comment from a water engineer anyplace in the West. So let us get real. Let us not have this Halloween a few days early.

Mr. President, this compromise is fair. Ranch families do not need the threat of looming fee hikes. This stabilizes and gives certainty. This compromise will end gridlock.

In fact, this proposal still subsidizes the use of public lands, and I am willing to do that because I think the increases have come for many, many years. I think they should be moderate. I am willing to do that because I think ranchers contribute to the western part of this country.

I have scaled back Secretary Babbitt's fee by about 40 percent. Under this proposal ranchers can now obtain loans, buy and sell property. I know because they told me that is the reason they wanted property rights and water rights protected. The BLM regulations, I repeat, are inconsistent with the Forest Service regulations. It is simple as that.

There are some in this Chamber there is no way we can please no matter what we did. There is not anything we could do to please them. It is a partisan issue, an effort to embarrass the President of the United States.

Mr. President, let us talk specifics about some of the things that have been talked about here today. As to no hearings on the grazing fees, I have here two of many boxes that I have where we have studies, reports, from the General Accounting Office, from all kinds of Government agencies, from private institutions, from universities all over the country. We also have had congressional hearings averaging about 2 a year for the last 15 years. These studies have been on every aspect of grazing, economics, ranch land ecosystems, policies and program administration. I think it is time to recognize that is not a good argument.

As far as there being a back-room deal, I guess this is to divert attention from the fact that we have had all these hearings, all these studies, and western Senators met with Secretary Babbitt. Secretary Babbitt held hearings all over the western part of the United States. Thousands of comments were received. The negotiations that started with the House involved a number of Senators.

The amendment was offered by a Republican in the conference. RALPH REGULA from Ohio offered the amendment.

As to water rights, the change undoes the change made unilaterally by James Watt a decade ago.

All we are doing is making the Bureau of Land Management like the Forest Service like it always had been until the Watt years in an effort to protect those ranchers who in good faith relied on the Watt changes. We grandfather water rights and range improvements saying they are yours to use. You can sell them, give them away, transfer them at inheritance, do what you want with the water rights and ranch improvements.

In the future they will be treated exactly like the Forest Service. That does not sound too unreasonable.

Also you must understand what Secretary Watt did had a tremendous impact on the nonranchers, on other people who had some use for that water. We have accepted his changes.

I would also suggest that the argument about ranch improvements is not valid. It is part of the ghosts and goblins we are faced with.

In the Code of Federal Regulations I put up here today what ranch improvements need. The proposed change that Babbitt issued also applies to ranch improvements.

So I submit that property values will not be adversely affected. In fact, they will be able to be stabilized and go up. People will be able to borrow money. They will be able to sell ranches because there will be some certainty. Remember we are talking about public land, land that belongs to all Americans.

There is going to come a time in the next few days when a decision will have to be made by those who favor gridlock as to whether they are going to allow gridlock to continue and close the Interior Department. Those who are saying all we want are some modifications are again celebrating Halloween early. The House is going to accept no changes. They by a 3-to-1 margin approved this amendment. So are we going to close Interior?

We did a great job for Native Americans this year especially with Indian health services. If we close the Interior, they get nothing. If we have to go for a CR, they will go back to last year's levels.

What we have done with the park system I think is a good improvement over last year, and on and on.

We should not have gridlock either in the Senate or in the courts. We should move forward, have a vote up or down on the merits and, as the President pro tempore of the Senate said last Thursday, take it like a man; walk away; go to something else.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada yields back the remainder of his time. All time has expired under the 1-hour time limit for debate

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

(1) Hutchison amendment No. 1081, to repeal the retroactive application of the income, estate, and gift tax rates made by the Budget Reconciliation Act and reduce administrative expenses for agencies by $3,000,000,000 for each of the fiscal years 1994, 1995, and 1996.

MOTION TO WAIVE CONGRESSIONAL BUDGET ACT

The PRESIDING OFFICER. There will now be 1 hour of debate remaining on the Hutchison motion to waive the Budget Act with respect to her amendment, the time to be divided, with 40 minutes under the control of the Senator from Texas [Mrs. HUTCHISON] and 20 minutes under the control of the Senator from Maine [Mr. MITCHELL].

Who yields time?

Mr. WALLOP. Mr. President, I suggest the absence of a quorum with no time to be charged.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. The Chair advises the Senator from New Hampshire, the Senator does not control time. The time is controlled by Senator MOYNIHAN, on behalf of the Senator from Maine, and Senator HUTCHISON. The Senator from New Hampshire would have to seek time from Senator HUTCHISON or ask consent of the Senate.

Mr. MOYNIHAN. Will the Senator yield for a question? May I ask how much time he requires?

Mr. GREGG. I would like to get 15 minutes; 7½ from each side?

Mr. MOYNIHAN. That might be difficult at this point.

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

The PRESIDING OFFICER. There has been a unanimous-consent request. Is there objection?

Mr. MOYNIHAN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New York reserves the right to object.

Will the Senator restate his unanimous consent request?

Mr. GREGG. I ask unanimous consent to speak for 15 minutes as in morning business.

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

Mr. GREGG. I thank the Senators for their courtesy.

HEALTH CARE REFORM

Mr. GREGG. Mr. President, I want to talk a little bit about the health care program which has been proposed by the President.

Whatever else you can say, good or bad, about programs recommended by the Clinton administration, one characteristic shines through. The Clinton administration has made a commitment to move social authority from the marketplace and the States into the firm control of the Federal Government.

George Will said it well when he called Clintonism an "ideology demanding a vast expansion of government power."

President Clinton has said that the role of Government was too cramped during the recent Republican administrations of George Bush and Ronald Reagan. He has worked hard to remedy that. Just look at the list of proposals that have been proposed or passed under this administration:

The Motor Voter Act;

Liberalization of the Hatch Act;

Campaign reform, which would expand the role of the Federal Government in financing elections;

Federalization of the student loan program;

Federalization of immunizations; and

The family leave bill.

Nowhere else does the Clinton centralization plan become more obvious than in his proposal to systematize health care in this country. The administration has understandably been reluctant to come right out and say that they want to nationalize our health care system. Their pollsters have told them, accurately, that Americans are deeply suspicious of the Federal Government.

In her testimony before the Senate Labor Committee on September 29, Mrs. Clinton said some very nice things about State flexibility. She said that the States would have the power to make their own choices, and to do what they think is right for their State. Then she said that it would take a bizarre combination of reasons for a State not to want to do this.

I have tremendous respect for Mrs. Clinton's abilities, but her description of the powers retained by the States under the Clinton plan were just not accurate. Under the Clinton plan, the States do not have the authority to do what they think is right. While that sounds good, it does not comport with the terms of the written plan. And it is not what the administration has in mind for the States.

Instead, under the Clinton plan, the States have the authority to do one thing—implement the Clinton plan, as approved by the National Health Board. It appears that Mrs. Clinton would view any State's decision to go its own way, rather than do what the Federal Government wishes, as bizarre.

I am sure that my Democratic colleagues in this Chamber will want to argue that the Clinton plan is not centralized at all. They will argue that the States are given great flexibility to execute the plan, to choose the structure of the regional alliances, to choose

to enact a single-payor plan. But I would say to my colleagues: Read the plan. There is no mistaking that this is, indeed, a plan of nationalization, and nothing less.

What do I mean by nationalization? I mean that the Clinton health care plan would give to the Federal Government supreme authority in all matters of health care. The Federal Government does not now have supreme authority to dictate to the States in regard to health care. Under the Clinton plan, the Federal Government would obtain that power explicitly.

Turn to page 46 of the September 9 summary of the Clinton plan, and look at the powers of the new seven-member National Health Board. The Board has virtually absolute power over the States in regard to the design of health care systems within the States. The only power the States are left with is the power to implement the plan.

The National Board would have the power to require the States to submit health care implementation plans for approval. The Board would then have the power to reject the State plan. If a State did not meet the requirements of the Board, the Federal Government could order the withholding from the State of all Federal health appropriations—Medicare, Medicaid, block grants, categorical grants, everything.

I have some experience in this as former Governor. As a practical matter, I can tell you that no State would be able to withstand the withdrawal of all these appropriations. The States have become dependent on them for their very financial existence. The withdrawal of all HHS appropriations from a State would bankrupt the State in a matter of weeks.

And, as if the withdrawal of HHS appropriations from a State were not enough, the Clintons saw to it that no State could escape from the desires of the National Health Board. If a State remained uncooperative, the Federal Government could take over the recalcitrant State's health care system. And it could unilaterally impose a payroll tax in the State.

Thus, because the National Health Board could do these things to a State—to reject its reform plan, to bankrupt it, and to actually take over its health care system—then there can be no question that, under the Clinton plan, Federal power would be supreme in all matters of health care.

Yes, the States would have the power to implement the plan. But the operative question is, Where is the actual authority? Under the Clinton plan, the National Board would have total veto power over the State plans, and the power to set the rules by which the game is played. That is nationalization.

In case you still have any doubt that the Clinton plan is one of nationalization, I say again: Read the plan. Who would enforce the Clinton employer mandate? The U.S. Department of Labor, based right here in Washington, a few blocks from this Capitol. No doubt the new responsibilities of the Labor Department would require a sizeable expansion of personnel and budget.

Who would decide on changes to the basic benefits package, and whether new treatments should be included? The National Board.

Who would determine the amount to be paid to the regional alliances every year? The National Board. And who would the alliances deal with directly? The National Board.

Who would determine the way in which risks were adjusted for the health plans, to determine risk-adjusted payments? The National Board.

And who would determine the number of training spots for doctors in each region of the country? A branch of the National Board.

Who would determine how national health data was stored and kept private? A branch of the National Board.

The list goes on and on and on; 59 new Federal programs or bureaucracies and the expansion of 20 others.

We in the United States have had a tradition of pride in federalism. The drafters of the Constitution were very suspicious of centralized Federal power, and they took pains to constrain it. The Constitution was supposed to grant limited and enumerated powers to the Federal Government, with the balance of the power retained by the States.

Even James Madison, the defender of the Federal Government, wrote in Federalist Paper No. 45 that, in the balance between the new Federal Government and the State governments, the "State governments will have the advantage * * *." No longer.

He pointed out that the powers delegated by the Constitution to the Federal Government would be "few and defined," while those remaining in the States would be numerous and infinite. He said, "The powers reserved to several States will extend to all the objects, which, in the ordinary course of their affairs, concern the lives, liberties, and properties of the people."

The idea of federalism is that there is a great advantage to having governmental authority split between the State and Federal Governments. In a federalist system, the State governments can do what they know how to do best, being closest to the problems affecting the daily lives of people. The Federal Government can do what it knows how to do best—things the State cannot do, like national defense and protection of individual rights.

Some health care functions need to be centralized. I would never suggest that we have a separate National Institute of Health in each State. I would never suggest we do not need national health data. I could agree perhaps that we need some national rules for delivery of health care, to improve access and control costs.

But I am a firm believer in federalism. We should never house something within the Federal Government that can be efficiently housed outside, in the marketplace or in the States.

The advocates of the Clinton plan have not thought enough about what we are giving up by placing all authority in the Federal Government. The States are laboratories—they really are—for addressing complex social problems. Nowhere is that more true than in health care. Many States have already undertaken reforms that are superior to what is being proposed here in Washington.

To nationalize health care would be to snuff out the possibility of State experimentation. Under the Clinton plan, the Federal bureaucracy, not the State itself, would decide whether a State plan is adequate.

The important thing is that each State now has the ability to take the kind of action that the people of the State feel is needed. Under the Clinton plan, it would be the Federal Government that decides that.

For example, what if a certain State decides that it does not want to step up to a regional health alliance, that it does not wish to institute a single-payer plan? Maybe the State has a better way of getting cost containment and health care access than President Clinton does. Under the Clinton plan, that poor State would be subject to seizure of its whole health care system and a federally imposed payroll tax.

Whenever you talk about centralization, you have to mention one of the great observers of American life, Alexis De Tocqueville, a great commentator. De Tocqueville said, "However enlightened and skilled a central power may be, it cannot of itself embrace all the details of life of a great nation. Such an achievement exceeds the power of man. And when it attempts unaided to create and set in motion so many complicated springs, it must submit to a very imperfect result and exhaust itself in futile efforts." No, the Clinton plan under the present proposal will not work. The periphery cannot be just an implementer.

Perhaps my viewpoint on this is related to my heritage. In New Hampshire, we have 300 years of tradition of wanting to have local control. In our State, crucial decisions are still made by the villages and towns. That is the way we like it. I think to centralize all authority for health care decisions in the Federal Government would be a great mistake.

How do we know that the seven members of the National Health Board will be wise and caring and fair people? Will their loyalty be to the common good or to politics? We should remember that

these seven people will be appointed bureaucrats, beholden to a political system and to the Presidency for their jobs. They will be a political entity above all else, appointed by the President, whether he be a Democrat or Republican, to carry out his own vision of what health care should be for all of America.

Congress, in its usual paralytic mode, would have a hard time dealing with the complexities of the National Health Board, just as it now really cannot deal even with the FDA.

Under the Clinton plan, benefits and budgets will be determined from Washington. But we have evidence from this country and from foreign countries that centralized economic control does not work.

Staring us in the face is the fall of the classic centralized system, the Soviet system. It produced quotas, it controlled prices, and it did not work. As De Tocqueville said and others have pointed out, a beast like national health care, a concept like national health care, is beyond the capacity of the Government to manage. No national health care board could ever know all that it needs to know in order to run the system from the top.

Under the Clinton plan, many prices would, in effect, be set by a bureaucracy in Washington, but we already know that it will not work. History tells us that it will not work. The bureaucracy needed to administer price controls would be immense. Ira Magaziner said the staff of the National Health Board would be under 100 people. Either he is speaking in technicalities, or ignoring the staff of all the associated boards, commissions, and study groups, or he has not read his own plan. With the tremendous authority of the Board, doing everything from setting prices, to setting quality, to negotiating with the alliances, to setting risk adjustment mechanisms, to distributing medical residencies, the National Board and its subsidiaries will employ thousands. The SEC employs 2,600 people, and if the National Health Board is as described by the Clinton health plan, it could easily employ that number or more.

We know providers have many ways to evade price controls—by increasing volume, by gaming procedure codes, by decreasing quality, and many others. Under the Clinton plan, as under Medicare, each time the Government discovers a new evasion, it would publish a new regulation. The result would be more and more bureaucracy.

When President Nixon instituted price controls in 1971, the regulation started with 4 pages and ended up with 1,534 pages. And we all remember how unsuccessful President Carter's price controls were in 1978.

The Clinton plan is a giant risk for all Americans. The point is we do not need to take a giant risk now as a nation. Nearly 90 percent of Americans are satisfied with their health care. The system is self-correcting, and I think the self-correction we have seen in just the last 12 to 18 months will accelerate. We are in the midst of a sea change. The market is beginning to do the job.

What we must do is take aim at those parts of the health care system that cannot self-correct.

First, start with Federal programs. No market can correct them because they do not exist in the market. Reform the Medicare and Medicaid systems. That is where the primary problems are in health care today.

Second, take steps to provide access to the system for those who lack it. Yes, there should be universal access and we can do much to accomplish that. We also need to address the issue of small market insurance reform, ban medical underwriting, redlining, and preexisting condition clauses. Go to a modified community rating system. Encourage private purchasing pools so that small business can get volume discounts.

Reform the way the Federal tax system treats employer-provided insurance premiums. The way we do that now is a crazy system that causes lack of insurance because high-income workers benefit much more than low-income workers. Reform the tort law and the antitrust law. Yes, experiment with new ways of constructing markets for health insurance and allow the States to go their own way by reforming the ERISA.

But let us not hurt more than we help. We have an excellent health care system in this country. It needs to be fixed in a number of places, but it still delivers high-quality care to a large number of people. If you look around the world, it remains the best system. The worst thing we could do in the process of trying to fix what is wrong with our system is to destroy that which is right. By creating a giant new centralized bureaucracy, as envisioned in the Clinton health care plan, we put at risk not only our health but the health of our children and grandchildren.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I believe the distinguished Senator from Texas has 40 minutes and on our side we have 20. I see my able friend is on the floor. Perhaps she would wish to yield time to whichever of her Senators wish to speak on behalf of her amendment.

The PRESIDING OFFICER. The Chair advises the Senator from New York that the total time has been reduced by the previous unanimous consent request.

Mr. MOYNIHAN. Are we then down to 45 minutes?

The PRESIDING OFFICER. The Chair advises the Senator that the vote was previously scheduled to occur at 11:30. So we have 30 minutes for debate remaining prior to the vote.

UNANIMOUS CONSENT AGREEMENT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the vote be held at a quarter of 12 and that there be 30 minutes on behalf of the Senator from Texas and 15 minutes on behalf of the Senator from Maine.

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

Mr. MOYNIHAN. I thank the Chair

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas, who controls 30 minutes.

Mrs. HUTCHISON. Mr. President, I want to thank the Senator from New York for working with us on this. I appreciate it very much. I do yield now to the Senator from Alabama, who is a cosponsor of my amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, there was a lot of discussion yesterday on the Senate floor about how the Hutchison-Shelby amendment was intended to kill or to delay this bill.

Mr. President, this amendment is not—and I wish to repeat, this amendment is not—about killing or delaying the extension of unemployment benefits for out-of-work Americans, as was stated in this Chamber yesterday. In fact, this amendment is about preventing more Americans from losing their jobs. This amendment is about providing some stability to taxpayers, particularly small businesses, who need some guarantee that they will not be taxed on money they have already budgeted for investment, employee salaries or new equipment.

Mr. President, I supported every one of the unemployment extensions in the past, and I support this one today. That is one reason I believe this amendment is so appropriate. The Hutchison-Shelby amendment is about employment. It is about keeping Americans employed. It is about keeping Americans employed and off of unemployment by putting some security back in the way we run our businesses and budget for our future.

Mr. President, if there is one thing sure to kill jobs, to impede job growth, and to inhibit job creation, it is the economic insecurity caused by the need to hire a fortune teller as a tax adviser.

Our amendment should not be controversial. It is basically a win-win scenario. It provides a tax break for Americans by extending the effective date

on the income, estate, and gift tax increases to August 10, 1993. Everybody will remember that was the day the tax bill was enacted. And it covers the loss of revenues from the repeal by making a direct cut in Government spending.

So: first, the amendment helps taxpayers, particularly small businesses, which are the largest employer and producer of jobs in this country; second, it is budget neutral. It makes direct spending cuts in Government expenses to offset the revenue losses; and third, it removes the singularly most offensive part of the budget passed in August—retroactivity of the taxes.

Mr. President, while we all did not agree on the budget as a whole, we all did agree, I thought, that retroactivity was a mistake. It is offensive to taxpayers. It is wrong. This amendment allows us to responsibly fix that mistake. We still get deficit reduction and we actually make cuts in Government spending. We also preserve jobs and restore stability to business and personal financial planning.

Mr. President, this is a good amendment. It is a timely amendment. Do not let anybody say otherwise. I hope my colleagues will support it.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I yield 8 minutes to Senator ROTH.

Mr. ROTH. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I rise in support of the Hutchison amendment to eliminate the retroactive tax increase that was passed as part of the President's budget package in August. These tax increases have already impacted upon our economy.

I would like to focus the camera's attention on the chart that I reproduced from the Commerce Department's record and the Wall Street Journal. This chart makes the dramatic point of just how the Nation's economy is responding to the retroactive tax increases—for that matter, all of the Clinton tax increases.

Clearly, economic activity in late 1992 was clipping along at a brisk 5.7 percent. In mid-February, the President released his proposal to increase tax rates on small businesses and others by as much as one-third or more—retroactively, I might add. In fact, these retroactive tax increases reached all the way back to 20 days, 20 days before the time Bill Clinton was even President.

Now, let us look at what happened. The brakes went on our Nation's economy. We went from a growth rate of 5.7 percent to a rate of only 0.8 percent—a very sizable drop.

That is not all. In September, in my State of Delaware, the unemployment rate reached its highest point this year; 20,800 residents had no jobs. Even with a big increase in Government jobs taking place at that time because of the start of the school year, our State continued to lose more jobs than it gained. In fact, the unemployment rate has increased from about 4 percent before the Clinton retroactive taxes passed, to almost 5.5 percent now, an increase of over one-third.

In Delaware, some 341,000 jobs are provided by about 20,000 small businesses. Because the new Clinton economic policy raised tax rates by over 30 percent on small businesses, and because of my State's reliance on small business jobs, we are feeling the pain with higher unemployment.

Clearly, America cannot afford this retroactive tax increase. Our economy has already taken a bullet because of it, and with this as our foundation, it is clear that the Hutchison amendment will help speed the growth of our economy, and reverse the bad effects of the Clinton economic policy.

Personally, I would prefer to repeal the rates for the full 1993 tax year. However, this amendment does effectively move the enactment date to August 10, 1993, making the tax increase prospective only.

Moving that effective date brings me to my next point. If you were to ask the average American on the street whether it is fair for the President and the Congress to pass taxes on a retroactive basis, you would get an overwhelming response that it is not fair.

I believe that out of fairness, Congress must refrain from any attempt to use retroactivity when it comes to taxation. Unfortunately, many of my colleagues will go on record today supporting retroactive taxes with their vote. I want all Americans to know that if you allow this Congress to get away with retroactive taxes this time, you can expect the Congress to come back year after year expanding its powers to pass taxes months, even years, back into history. If Congress fails to end this unfair tax practice, then I can only hope the Supreme Court will strike down retroactive taxes when it decides the Carlton case later this year. This amendment should be passed because we need to relieve the burden of retroactive tax increases on small business.

The National Association of Manufacturers [NAM] has calculated that, at a minimum, at least one-third of the President's tax increases on individuals fall on small businesses, like subchapter S corporations. The National Federation of Independent Businesses [NFIB] has estimated that when you combine the 1990 and 1993 tax increases, the tax rates on our job creating small businesses will have increased 60 percent in only 3 years—60 percent in only 3 years. These small businesses created 171,000 jobs in the first 9 months of 1992, an astounding 4 million net new jobs from 1988 to 1990.

During debate on the tax bill, I offered an amendment to remove these businesses from the tax rate increases. That amendment got a strong vote of 56 Senators. Here is the Senate's chance to act again for the benefit of small businesses, and I hope that we will get the four additional votes necessary this time to pass an amendment for small business.

Let me make one short point about the unemployment bill and arguments that have been made that somehow supporters of this amendment are holding up benefits for Americans in need. Nothing could be farther from the truth. If this amendment should pass in the Senate, it would take no time at all for the House to agree to our amendment and pass this unemployment bill. In fact, if there is a problem of delay here, then it lies in the fact it has taken so long for the Senate to take up this measure.

Benefits for these Americans expired some 3 weeks ago. Yet it has taken the majority this long to bring the bill up.

When George Bush was President, cries rang out for even a single day's delay in passing an extension of these benefits. Now we hear from the opponents of this amendment that we cannot afford the delay in getting benefits to the people because of the Hutchison amendment. This is clearly nothing more than a politically convenient argument.

So let us do what is fair. Let us repeal retroactive tax increases. Let us cut spending. This is what the American taxpayer has asked us to do. And I urge my colleagues to support the Hutchison amendment.

I ask unanimous consent that newspaper articles be printed in the RECORD at the appropriate place.

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

[From the News Journal, Oct. 26, 1993]

DELAWARE JOBLESS RATE UP 3D MONTH IN ROW

(By Eve Tahmincioolu)

The number of unemployed Delawareans increased in September for the third consecutive month.

It signifies a weakness in the job market because business owners would rather increase overtime than increase payrolls.

The state Department of Labor said Monday 5.4 percent of Delaware's work force was jobless last month, up from 5 percent in August and 4.8 percent in July. Since June when the unemployment rate fell to a three-year low of 4.0 percent, the number of unemployed Delawareans has jumped by more than 5,000 to 20,800 in September.

"We are going through a period since June where we have virtually no job growth," said Ed Simon, analyst with the Labor Department. "To my knowledge, there haven't been any massive layoffs or plant closings, other than in the chemical industry, but on the

other hand, we're not having the kind of job growth needed to lower the unemployment rate."

"Usually, you can discount month-to-month changes except where you see a trend," said Simon.

Simon said the latest round of cutbacks at the DuPont Co.—1,000 Delaware jobs will be eliminated—did not make a major mark on September figures.

"Basically the underlying cause is concern by employers who are reluctant to expand their work force because of uncertainty over the economy and future of taxes, and health-care reform. In general, there's a fear of what's going to happen," Simon said.

Meanwhile, companies appear more than willing to pay overtime as an alternative to hiring more workers. Among manufacturers, average weekly hours per worker climbed to 42.5 in September, up from 39.4 during the same month last year.

The wholesale and retail trade category was particularly hard hit last month because of seasonal changes such as the winding down of the summer resort season, Simon said.

Construction, which usually sheds jobs in September because of seasonal alterations, lost many more jobs than expected, Simon said.

"Construction employment went down 800 from August, where it usually goes down 200 to 300," he said. "That's something to keep an eye on because it could be an indication of a possible slowdown in that sector," which is a critical gauge of economic activity.

Though some industries reported overall gains in employment last month, Simon said almost every business sector had some trouble.

Simon said he expects Delaware's jobless rate to remain below the nation's.

"There's a possibility the rate could go slightly higher, but I don't think it's going to soar," he said.

As of August, Delaware's jobless rate was the 11th lowest in the nation.

"A lot of states are much worse off than here," Simon said.

[From the Dover (DE) State News, Oct. 26, 1993]

STATE JOBLESS RATE HITS NEW HIGH FOR '93

(By Karen Murtha)

DOVER.—Delaware's unemployment rate for September was the state's highest this year—20,800 residents had no jobs.

That represents a 5.4 percent unemployment rate, a 4 percent increase from August when 19,000 Delawareans were jobless.

"Most companies are trying to do more with less," said Edward L. Simon, labor market analyst for the Delaware Department of Labor.

"The rate of job growth for the first half of 1993 has basically slowed to a halt," he said. "Service industries are even being cautious about hiring."

In specific job sectors, manufacturing jobs decreased by 2,200 for September, while government jobs increased by 2,000, according to a report released Monday by the Delaware Department of Labor.

"There's been a corporate downsizing in manufacturing, which is also occurring nationally," Mr. Simon said.

October figures for manufacturing may not fare much better. The recent layoffs at the Du Pont Co. were not included in September's unemployment rate, Mr. Simon said.

The increase by 2,000 employees in government jobs is primarily due to the opening of the school year, he said.

"College student-workers are counted in the rate," Mr. Simon said. "Teachers who may not be counted during the summer months are also included in September's figures."

Education may have boosted the government rate overall, but September also marked the end of summer tourism, which meant a decrease for some local governments.

"Businesses in Rehoboth, Lewes and Dewey are down because tourists are basically gone," Mr. Simon said. The decline of "parks and recreation employees and summer youth programs also contributed" to the government's rank, he said.

Although September's unemployment rate for Delaware is at its lowest mark, the First State still ranks above most others in the nation for the same month.

"Delaware is still relatively low compared to the U.S. unemployment rate of 6.7 percent," Mr. Simon said.

September's unemployment rate has not yet been nationally compared, but for the month of August, Delaware had the 11th lowest unemployment rate in the U.S., Mr. Simon said.

"We're doing better than other states, but not as good as we'd like," he said.

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

The PRESIDING OFFICER (Mr. MATHEWS). Who yields time?

Mrs. HUTCHISON. Mr. President, if the Senator from New York does not want time right now, I will be happy to yield to the Senator from Utah.

I yield to the Senator from Utah 10 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my dear colleague, Mrs. HUTCHISON.

Mr. President, I think we really ought to honor this great Senator from Texas for being willing to do this today.

Mr. President, I rise today to express my support for the amendment of the Senator from Texas [Mrs. HUTCHISON]. This is an important amendment on an issue that I believe did not have the benefit of a full debate under the strict limitations on debate on the conference report for the Omnibus Budget Reconciliation Act of 1993. It is an issue that deserves more public examination given its adverse consequences for all American families.

Because this body faces many other important issues before we adjourn for the year, there may be some on the other side of the aisle who believe we should just let sleeping dogs lie and not again bring up the issue of retroactive tax increases. But, Mr. President, the Senate should realize just how much harm we have done to the potential growth of the economy by passing huge income tax rate increases earlier this year. We should recognize that instead of just passing bills to extend unemployment benefits, we should be dealing with the underlying cause of unemployment—lack of job creation.

Many Americans were led to believe by the proponents of the 1993 tax increases that only the very wealthiest Americans were hurt by the changes in this year's bill. In fact, I have heard some say that only 1.2 percent of taxpayers were affected by these tax increases. Statements like these are completely misleading for two reasons.

First, although these income tax rate increases were ostensibly aimed at only the wealthy, they will miss their mark and have the hardest impact on middle and lower income individuals—those very individuals who we are trying to help with this unemployment bill today. People who depend on jobs created by those who have the capital to risk in starting businesses will suffer far more than the wealthy, who will simply shift their investments to ones that avoid or defer tax. This is exactly the result we saw after we enacted the ill-conceived luxury taxes in 1990—the same luxury taxes that almost all of my colleagues wanted to repeal once they saw the job loss impact from them.

High marginal tax rates discourage hard work, risk taking, investment, savings, and job creation. Consequently, there will be less capital available to invest in new business formation. The biggest losers will be those who need jobs. This is not a difficult concept, Mr. President. We need employers in order to have employees. It is time we realized that new taxes do not discriminate—they hurt everyone.

Second, most proponents of the 1993 income tax rate increases totally ignored the huge and unfair impact these tax hikes have on this Nation's small businesses. Because more than three-fourths of U.S. businesses are organized as proprietorships, partnerships, or S corporations, and pay their taxes as individuals, there is far more to consider here than just the inaccurate idea that the rich have unfairly benefited from too low taxes and should now pay more. Many of these small business owners pay taxes on income that they never receive. Most small businesses are undercapitalized, and owners find themselves plowing their earnings back into the business to finance growth and expansion. Higher tax rates will simply cut back the ability of many of these businesses to grow and create jobs.

Mr. President, let me share with the Senate part of a letter from a Utah entrepreneur who is already feeling the impact of the new higher tax rates on his ability to grow his business and create jobs. The letter reads in part:

For years, my wife and I dreamed of starting a business we could build together. With her training in health, nutrition and fitness, and my experience in business management, healthy frozen desserts seemed like the perfect venture. Since building retail stores is capital intensive, our first challenge was raising money. In time, we found a small group of investors that believed in our plan and agreed to fund a handful of stores in Utah. Since we only had a few shareholders and we wanted to invest our earnings back

into the company, we incorporated as a subchapter S organization. As you know, shareholders in sub S corporations are required to declare business income as individual income, and pay taxes on it (whether received or not) the year it is earned.

It is important you understand that our objective from the beginning has been to create and operate a model company. We have committed every dollar of profit to growing our business. We have hired one of the top product development specialists in the country. We spend heavily on research, training and concept development. We are committed to build 15 to 20 new units each year, all funded with earnings from our stores. In other words, we are serious about becoming a leader in our industry. Ongoing investment and growth are critical to achieving this objective. Businesses that do not invest in the future cannot develop state-of-the-art products, remain competitive, nor create attractive career opportunities.

It took five years before our cash flow was able to support our growth. Up to then, we raised funds by selling additional shares in the company. Our small group of shareholders, who have been tremendous partners, agreed to forgo distributions so we could grow the business. Their only request was that sufficient funds be distributed each year to cover the personal tax liability created by their ownership in the company. Since they all have significant incomes (that's why they were able to invest in our business in the first place), each dollar earned from their investment in our company has always been taxed at the highest level (31%). The average state tax in the various states we do business in is 8%. Thus, 39% of our income was required to cover shareholder taxes. For every dollar we earned, 39 cents went to taxes and 61 cents went to business development. No one has become rich taking wheelbarrows of money to the bank.

Now that the bill as passed, we are faced with a challenging situation. Since our investors' individual income taxes have increased significantly, it will now require 47.6% of our earnings to cover shareholder taxes—39.6% for federal and an average of 8% for various states. In other words, we have just lost nearly 10% of our income we had planned to use for business development. For every dollar we now earn, 48 cents will go to taxes and 52 cents can go to business growth. This year alone, the amount of income we must distribute to cover these new taxes will cost the company 3 new stores and 36 new jobs.

Mr. President, no one has ever explained it better than this. And, it is disturbing to think that this is just one example of many thousands of lost opportunities throughout our Nation. If we multiply the effect of these new taxes by each of these situations, you can see the impact these new taxes are having on job creation.

Now I realize that the amendment before us will not entirely solve the problem. But it will take the first step in showing the Nation that the Senate recognizes the negative effect these retroactive taxes are having and that we are serious about creating jobs.

So let us take the first step, Mr. President, by passing this amendment. Let us demonstrate to the American people that we want a permanent solution to unemployment—job creation.

Finally, Mr. President, let me just read one other paragraph of this very interesting letter from this small businessperson and his wife.

It is very discouraging when our greatest threat to survival is not the competition, the Japanese, etc., but our own government. Why are we as entrepreneurs targets of a financially irresponsible government? Shouldn't we be encouraged to create healthy, desirable products? Shouldn't we be applauded when we create new jobs and train the youth of America? Shouldn't we be heros when we grow our businesses and create net increases in taxes paid to the federal and state governments?

Here is a couple that sacrificed everything they had; kept their other jobs going so they could live while they put everything back in the business to create 1,000 jobs. Now they are finding the survival of their business is threatened, faced with minimum wage increases and all kinds of other mandates from the proposed health care program of this administration, and even more taxes as they go down the pike.

Mr. President, I ask unanimous consent that the letter from which I read be printed in the RECORD.

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

SEPTEMBER 29, 1993.

U.S. Congressperson.

MY DEAR REPRESENTATIVE: I was born and raised in the state of Utah. I received Bachelor's and Master's Degrees from the University of Utah and a Ph.D. in Organizational Studies from Purdue University. I have taught MBA students at the University of North Carolina at Greensboro and the University of Petroleum & Minerals in Dhahran, Saudi Arabia.

I have also consulted with numerous organizations, both large and small, in the areas of strategic planning, business restructuring, market research, and management training and development. In 1985, my wife and I returned to Utah and created our company. We now have 70 retail locations and wholesale product distribution throughout the western United States.

I have reviewed my background so you will understand that I know business organizations intimately. I have studied them, taught about them, consulted with them, and created them. Our company has hired well over 1,000 individuals during the past few years alone.

My purpose in writing to you is to inform you of the negative impact the new tax bill has had on our company's ability to grow and create jobs. Since you cast what proved to be a decisive vote, my hope is to persuade you to vote with our business in the future rather than against us. Here is the story of our company.

For years, my wife and I dreamed of starting a business we could build together. With her training in health, nutrition and fitness, and my experience in business management, healthy frozen desserts seemed like the perfect venture. Since building retail stores is capital intensive, our first challenge was raising money. In time, we found a small group of investors that believed in our plan and agreed to fund a handful of stores in Utah. Since we only had a few shareholders and we wanted to invest our earnings back into the company, we incorporated as a subchapter S organization. As you know, shareholders in sub S corporations are required to declare business income as individual income, and pay taxes on it (whether received or not) the year it is earned. The early years were challenging. Being conservative and desiring to avoid debt, we did not take salaries from the business for nearly three years. This meant I had to maintain a full-time consulting practice to support our family. We often wondered if we had done the right thing—we had created an entity that required all our time and effort, but wasn't able to support us. I admit, there were times when secure government jobs and teaching positions looked awfully attractive. Nonetheless, we were building a dream—we were working together as a couple, we were creating healthy products, we were hiring and training young people in their first jobs, and we were contributing to the state we love.

It is important you understand that our objective from the beginning has been to create and operate a model company. We have committed every dollar of profit to growing our business. We have hired one of the top product development specialists in the country. We spend heavily on research, training and concept development. We are committed to build 15 to 20 new units each year, all funded with earnings from our stores. In other words, we are serious about becoming a leader in our industry. Ongoing investment and growth are critical to achieving this objective. Businesses that do not invest in the future cannot develop state-of-the-art products, remain competitive, nor create attractive career opportunities.

It took five years before our cash flow was able to support our growth. Up to then, we raised funds by selling additional shares in the company. Our small group of shareholders, who have been tremendous partners, agreed to forgo distributions so we could grow the business. Their only request was that sufficient funds be distributed each year to cover the personal tax liability created by their ownership in the company. Since they all have significant incomes (that's why they were able to invest in our business in the first place), each dollar earned from their investment in our company has always been taxed at the highest level (31%). The average state tax in the various states we do business is 8%. Thus, 39% of our income was required to cover shareholder taxes. For every dollar we earned, $.39 went to taxes and $.61 went to business development. No one has become rich taking wheelbarrows of money to the bank.

Now that the bill has passed, due in part to your vote, we are faced with a challenging situation. Since our investors' individual income taxes have increased significantly, it will now require 47.6% of our earnings to cover shareholder taxes—39.6% for federal and an average of 8% for various states. In other words, we have just lost nearly 10% of our income we had planned to use for business development. For every dollar we now earn, $.48 will go to taxes and $.52 can go to business growth. This year alone, the amount of income we must distribute to cover these new taxes will cost the company 3 new stores and 36 new jobs.

Though I was discouraged when the bill passed, I hung on to one hope—President Clinton's promise of tax credits for companies willing to invest in themselves. My hope was that credits for buying equipment, developing products and creating jobs would offset the increased taxes our shareholders have incurred. If any small business qualifies for tax credits, certainly ours does. This year we will spend $800,000 on new equipment, $200,000 on product research and development, and thousands of dollars on employee

training and development. In addition, we will create approximately 100 new jobs.

After the bill passed, I asked both our controller and our accounting firm to study the summary and advise us on the impact of the new taxes as well as the credits that might be available. Both parties agreed, the new bill essentially asks us to "bend over, grab our ankles, and receive the federal paddle." In other words, this is a tax bill, masquerading as a recovery act. There are no new or significant tax credits for growing companies like ours. Here is their summary:

Targeted Jobs Tax Credit—Existed before, was simply extended. Has no new effect on our company.

Investment in New Equipment—Amount eligible increased from $10,000 to $17,500, but is phased out for companies investing $200,000 in equipment for any one year. Effect is insignificant in our company since we spend approximately $800,000 on new equipment each year.

Research & Development Credit—Extended retroactively but applies primarily to research of a technological nature. Does not apply to the development of products like ours in a non-technical field.

Reduction in Capital Gains Tax—Reduces capital gains by 50% for original owners who sell their original stock. Does not reduce our annual tax burden nor help with our annual growth and development. Applies only to investments made after August 10, 1993.

We are waiting for your "talk, talk, talk" about how we will all be better off because you voted for the bill. However, I am afraid it will be like telling a child you just paddled that the spanking didn't feel that bad. Our company has definitely been hurt by your vote. The analysis of our financial advisors shows the new taxes will cost us 28 new stores and approximately 336 new jobs over the next five years. In addition, all the businesses that support us—contractors, subcontractors, manufacturers, distributors, brokers, etc.—will now have less work. Perhaps most significant, even though tax rates have increased, our company will pay $500,000 less in state and federal taxes over the next five years because our growth capital has been slashed. This is an important point! We will actually pay less income tax, sales tax, payroll tax, and FICA tax (because our growth has been inhibited by the new taxes) than we would have paid if the bill had failed to pass. Does this sound like economic recovery to you?

Not only will the new taxes affect our company, I believe they will have an impact on business in America in general. As you know, 80% of the jobs in this country are created by small business. Most small businesses are sole proprietorships, partnerships or sub S corporations. All of these forms of business require owners, partners and shareholders to declare business income as individual income. When you raise the taxes of owners and partners who are able to fund and develop businesses, businesses have less capital to grow, develop products and create jobs. In the case of the new bill, the credits offered are not broad enough or significant enough to offset the impact of the new taxes for most small companies that are serious about growth and development.

I believe the greatest tragedy of this tax bill passing is that it shifted the focus from the most serious problem we have in America—the national debt. While promises have been made to reduce the annual deficit, which may reduce the amount by which the debt grows each year, the bill has no impact on the staggering amount of debt currently existing. Had the bill failed, the message would have been clear—Americans are not willing to pay more taxes until the national debt is seriously addressed. Taxes are not the answer for solving this problem. Congress could raise taxes every year for the next 10 years and it wouldn't make a dent in the national debt. The solution lies in sound financial management (reducing costs, cutting wasteful spending, eliminating programs, etc.) even though it will be painful.

How the government developed this pattern of spending more than it takes in year after year is beyond me. Businesses that follow this pattern go bankrupt. They do not have the luxury of raising prices at will because they choose to spend more money than they make. Of all the companies I have consulted with, the least healthy are those that need most of their earnings to service debt. Even though their concepts and management may be sound, because they lack cash flow they are unable to develop new products and technology, create jobs, and stay competitive. Governments that require a large amount of their revenue to service debt have the same problem; they cannot adequately educate their people, develop their nation, or invest in their future. Shouldn't our government be a model of excellence, efficiency and sound management? Imagine how strong our country could be if the annual budget now required to service debt was spent strengthening education, improving health care, developing technology and cultivating natural resources.

Before concluding there are two issues on which we need your help—health care and the minimum wage. If businesses are asked to bear the burden of these two costs, the health and survival of our company may be threatened. Our business, like most fast-food establishments, is a low-ticket industry. The average purchase in our stores is approximately $1.50. This means we need a lot of employees to serve a lot of customers who don't spend much money. The vast majority of our employees are 16 to 20 years old, they live at home, they attend high school or college, they work 15 to 25 hours a week for spending money, they are covered by their parents' health plan, and they earn between $4.25 and $5.00 per hour.

I realize some people may not value these jobs because they are not "high paying" career positions. However, we take great pride in teaching a young work force, many in their first job, effective work habits and career skills. We view our business as a company school; we provide extensive training in business management, customer service, store cleanliness, inventory control, cash management, and marketing. Once trained, we let our employees run their stores as their own businesses. We share the profits with them and provide cash bonuses for excellent performance. Being a former university professor, it is very rewarding to teach young people important career skills, influence their attitude toward work, and improve their lifetime employability while they are with us. While most stay with our company one to two years (until they graduate, get married, move away, etc.), some do rise to higher paying career positions as team leaders, regional managers, marketing director, etc.

We are in favor of allowing all Americans access to needed health care. Our company provides an attractive health plan for our permanent career employees. The new government plan, however, must make allowances for young, part-time employees who already have coverage through a family plan. If we are forced to pay a percentage of our payroll into a national health plan for employees who already have access to health care, it will essentially add a new tax to our business. This will contribute one more cost to our financial statement that is beyond our control—a cost that will continue to increase each year, particularly if funding for the plan is based on faulty assumptions about the growth of the economy. I have already outlined how the new recovery package has affected the future growth of our business.

In addition to new health care costs, if the minimum wage is increased for our young workforce (and indexed as some have suggested), we will have yet another item on our financials we cannot control. We are all for paying people a fair wage for skill level and contributions made. Our employees, like most minimum wage earners in America, are teenagers with no dependents learning initial career skills. If this significant cost of doing business is increased, we will have two alternatives available to us, neither of which is attractive for our business: (1) lay off 20% of our workforce and figure out how to provide superb service with smaller crews, or (2) pass the cost on to our consumers by significantly raising prices. Since our product is not a basic staple of life, there is a price point where people stop buying it. We work very hard to keep our costs down so we can keep prices low. In fact, we have not raised our prices for nearly four years because our customers are so value conscious. If we incur additional costs, we may need to raise prices to stay in business. If we do raise prices, we may struggle to stay in business anyway because our sales will be affected. Would you pay $3.00 for a small cup of yogurt?

In a recent executive planning meeting we all agreed the directions taken by the current administration will require us to pursue two new business strategies: (1) look for ways to increase sales without the need for capital investment, and (2) look for ways to grow the business without the need for employees and human resource costs. Clearly, our business, and I believe many other small businesses in America, will not fare well from the new tax burden nor the incentives offered (perhaps I should say not offered) in the President's plan.

It is very discouraging when our greatest threat to survival is not the competition, the Japanese, etc., but our own government. Why are we as entrepreneurs targets of a financially irresponsible government? Shouldn't we be encouraged to create healthy, desirable products? Shouldn't we be applauded when we create new jobs and train the youth of America? Shouldn't we be heros when we grow our businesses and create net increases in taxes paid to the federal and state governments?

In conclusion, I have tried to be factual and objective in this letter. My hope is to provide insights that may influence your thinking on future votes in Congress. We need you to vote for us and other small businesses on these critical issues. You represent one of the most conservative districts in the country where citizens are concerned about living and governing responsibly. In addition, small business is the prototype of our state. It will be difficult for you to maintain your office if you vote against small business and the constituency you were elected to represent. Please, vote for programs and bills that allow us to grow, create jobs, and generate long-term revenue for state and federal governments. Vote against programs that burden us with new costs and threaten the

survival of our business—a business we feel has become a Utah tradition!

Mr. HATCH. Mr. President, this amendment may be a small one, but it is an important amendment. It is a strike for freedom. It is striking out to try to get our country under control from the tax standpoint, and it certainly says this retroactive tax increase has not been fair.

So I commend the distinguished Senator from Texas. It takes a lot of guts to stand up here on this floor and try to reverse something that is clearly incredibly bad for the country. So I commend her. I thank her for doing this. I am happy to support her, and I hope all our other fellow Senators will do so as well.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, let there be no mistake, this is an amendment that can have only one effect, and that is to deny unemployment benefits to 1 million American workers. It can never become law itself. The House will not consider it. But it can kill extended unemployment benefits.

Mr. President, I yield 5 minutes to the distinguished Senator from California who understands this issue and who would like to speak to it from the vantage point of the Nation's largest State. I believe about a third of a million Californians will receive unemployment benefits under this measure.

That issue is at risk and will be decided in 25 minutes on the floor of the Senate.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the chairman of the Finance Committee, the Senator from New York.

Mr. President, this legislation is the first Hobson's choice I have had to vote on, being a Member of the U.S. Senate.

I begin by paying my compliments to the Senator from Texas; originally I had wanted to be a participant in this because no more than anyone else do I like the retroactivity. Mr. President, you and I discussed this matter, and I know you do not like the retroactivity. Nonetheless, I am faced with a Hobson's choice because it is my information that if this amendment passes it kills the unemployment compensation extension bill.

Let me ask this of the chairman of the Finance Committee, perhaps the most knowledgeable person in this body:

If this point of order passes, if it gets 60 votes and if this amendment passes, does it, in fact, kill the extension of unemployment insurance?

Mr. MOYNIHAN. I would say to the distinguished and experienced Senator from California, that if this measure passes it kills the Extended Unemployment Compensation Program and kills the prospects of a third of a million Californians who are entitled to it and will get it instantly. The President will sign this bill tomorrow if it is passed. If not, it is over.

Mrs. FEINSTEIN. I thank the chairman.

Let me explain my Hobson's choice. When the tax package was before this body, I called the Franchise Tax Board of the State of California. I said how many people would be affected both by higher taxes and lower taxes?

What I was told is that in California there are 13 million personal income taxpayers; 300,000 were affected by the higher taxes—in other words, 250,000 were heads of households and families with adjusted gross income of $140,000 or more, and 50,000 were single taxpayers with adjusted gross incomes of $115,000 or more.

I was also told that as a product of the budget reconciliation bill, because of the earned income tax credit, taxes for about 2 million people in the State of California would be reduced.

Now, I am looking at an unemployment extension and I want to know how does it affect the State of California? California's unemployment rate is 9.4 percent. The national unemployment rate is 6.7 percent. You clearly see the difference.

Additionally, in the first 7 months of this year, 327,000, nearly 1 out of every 4 unemployed Californians—we have 1.4 million unemployed—327,000 have been out of work more than 6 months. These workers depend on this benefits program.

Let me read a letter that came in from a man in Riverside, and this is the dilemma.

DEAR SENATOR FEINSTEIN: Please extend the Federal jobless benefits program which is due to expire shortly.

Although the Federal Government is pleased that unemployment in the Nation as a whole is under 7 percent, we in California, especially in Riverside County, are not seeing any relief in sight. Our unemployment rate is around 11 percent, and there are very few jobs to be had.

I am a casualty of the cold war victory. I am an aerospace engineer who has been diligently looking for a job for many months with no success. In fact, after responding to approximately 20 want ads relating to my specialty and sending out approximately 100 resumes to Los Angeles area companies, I have done one interview where I was rejected, and no other positive responses; lots of rejections. I am concerned about the people in my situation who need more than the usual 6 months of unemployment benefits to get situated. Please help us by extending the Federal jobless benefit program.

I might say, Mr. President, in California's defense industries we have a one-third payroll diminution to date, way beyond any expectation. The defense cutbacks in California have had a much deeper impact than anyone has estimated. That is part of the need for the extension of this unemployment insurance; 327,000 people depend on it going ahead.

So, Mr. President, that is my Hobson's choice: Do I vote to eliminate retroactivity for 300,000 of the wealthiest Californians or do I vote to continue unemployment insurance for 327,000 people out of work? It is a terrible choice, but it becomes a clear choice.

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

Mr. MOYNIHAN. Mr. President, may I say to the distinguished and experienced Senator from California, there is, in fact, no choice from her perspective and from that of the people of California.

In no way will this amendment ever become law. Not one person's taxes will be changed in any way. The only thing the success of this amendment could do is to kill extended unemployment benefits for a third of a million Californians, a third of a million like that aerospace engineer from Riverside, who are experienced, capable workers. He is a victim of victory in the cold war. Are we to say to him, "sorry," on a meaningless quest to make a symbolic statement? Are we to say, "we are going to take away what you have left in the way of a livelihood until the economy picks up more?"

Certainly, we are not going to do that, Mr. President. This amendment will fail. It must be defeated.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 11 minutes, 30 seconds; the Senator from New York has 6 minutes, 51 seconds.

Mrs. HUTCHISON. Mr. President, I yield 2 minutes to the Senator from Mississippi, Senator LOTT.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Texas for showing the leadership she has shown in this particular instance. It sounds to me, from what I have heard this morning and from the debate I heard yesterday, that the whole approach is to distract attention from what is really involved here.

We need to talk about the real issue: What this particular amendment does. It would repeal the unfair job-killing retroactive income, estate and gift taxes from the tax bill we passed earlier this year, the so-called reconciliation package. These retroactive taxes will affect 1.1 million taxpayers in this country this year. Of the total taxpayers affected, 675,000 are small businesses. What do you think this does to a small businessperson who has budgeted a year in advance? The business has no choice but to pay the tax. So, then what do they cut? Jobs. We should

be encouraging job creation through our policy—not layoffs.

I know my colleagues here in the Senate go home and talk to their constituents as I do. I do not believe any part of that tax bill made the people, the taxpayers, madder than the retroactivity of the tax increases in that bill. We have all heard it.

We have retroactively raised taxes back before this Congress was sworn in, back before the President was sworn in, to get more revenue in an unfair way. It is destructive to business planning.

I went home after that tax bill and people were saying: What does this mean? I made plans and business decisions based on what my taxes would be under current law. Now, I have to go out and come up with more money.

The Senator from Texas is trying to repeal this unfair tax. Her amendment is not a killer amendment. The important thing is to focus on what we are trying to accomplish, and that is to get rid of this unfair tax.

Most of the debate has focused on how is it going to be paid for, how we would make up for the lost revenue here. It is done in a responsible way by reducing Government overhead expenses by a small percentage.

I urge my Senate colleagues to listen to our constituents and vote for this Hutchison amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Mr. President, I yield 2 minutes to the senior Senator from Texas, Senator GRAMM.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, when we debated this retroactive tax, at least a dozen of our Democratic colleagues got up and said, "We wish it weren't retroactive. If we could get rid of this retroactive tax, we would do it."

The Senator from Texas has given us the opportunity to do it and, in the process, put our words to the test to see if our deeds live up to it.

At least a dozen of our Democratic colleagues said, "We should have cut more. The President didn't cut enough." Well, the Senator from Texas has given us an opportunity to cut another $9 billion of Government spending so that we do not have to impose a retroactive tax on the people who do the work, pay the taxes, and pull the wagon in America.

Now, some of our colleagues are saying, "How could we cut $9 billion out of Government spending?" Well, the President proposed $108 billion of savings from reinventing government. What we are doing here is simply taking $3 billion a year of those savings to eliminate a totally outrageous and unfair tax increase.

So if you are against retroactive taxes, put your vote where your mouth is. If you are in favor of cutting more, vote that way, do not just talk that way.

This amendment gives us a choice to do what the American people want to do.

I thank my dear colleague for her leadership on this issue. I believe that the American people are for this amendment. If they could vote, it would win.

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

Who yields time?

Time will be charged equally against both sides.

Mrs. HUTCHISON. Mr. President, I want to reserve to myself 5 minutes to close, but I would like to have that at the end.

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

Mr. MITCHELL. I ask unanimous consent that the time be charged equally.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to thank the Senator from New York for working with me on this amendment, although not on the same side, obviously, but by being very helpful in working through the time requirements. I appreciate that very much.

Mr. President, in closing, I want to say first and foremost, we want this bill to pass. We are not putting an amendment on a bill that we want to kill. We are putting an amendment on a bill we want to pass, because we want our unemployed workers to get the help they need. But we want the added benefit of righting a wrong done to 675,000 small business people, and that wrong is the retroactive tax increase that could add to this country's unemployment.

This is the time that we can correct that wrong—that retroactive tax increase that no taxpayer set aside for because they did not know it was coming.

I want to correct the RECORD from yesterday from the debate that we had. We have heard many numbers discussed, but the important ones are these: By repealing the retroactive income and estate taxes, our amendment would lose $10.5 billion in new revenue over 5 years. In order to prevent this from increasing the deficit and in order to reduce the deficit further, our amendment cuts Federal administrative spending by $3 billion each year for the next 3 years and it reduces the spending caps by such amount to make sure that we do not spend the money for something else. We want the amendment to be a permanent cut.

So $3 billion comes off the spending caps in 1994, $3 billion in 1995, and $3 billion in 1996. There are no additional spending cuts in 1997 and 1998, but the spending caps are reduced in those years so that we will not spend money in 1997 and 1998 that will add to the deficit. So by keeping the spending caps in place at the new lower level, we will keep the deficit down by $25.5 billion, which is a goal I know every Senator supports.

We have also heard much discussion about where these cuts come from. The cuts are made from agency spending in administrative expense categories called "object classes." I did not make up that term, I assure you—the Office of Management and Budget did—but I used it in order to cut administrative expenses.

But because we appropriate by account, not by object class, and there are no administrative expense categories for appropriations accounts, our amendment requires the head of the Office of Management and Budget to establish obligation limits for each agency. Although some have argued that this puts too much discretion in the Director of OMB, the President of the United States, in fact, did the exact same thing earlier this year in his Executive order proposing administrative expense spending cuts, because, I assume, he could not find a good alternative either.

Frankly, one thing surprises me about yesterday's debate. In 3 hours of discussion about this amendment, not one Senator protested that we were not cutting enough of our administrative expenses. Some protested that we were cutting program spending, but that is not true. They protested that we are not making the cuts in the right way, but they did not propose an alternative. And they protested that we were cutting so much that it might hurt services. But if that is the case, how can the National Performance Review propose cutting 252,000 Government workers without hurting services?

Surely the administrative expenses of employing these workers can be cut. Do we think the Government is so efficient now that we cannot tighten our belt and be more efficient in a minuscule amount—$3 billion, out of a total $250 billion budget? If the Government is so well managed, why are we running a $260 billion deficit for 1994? We have that deficit because Government is not run as efficiently as we know it could be. Let us address this problem now before we go on borrowing more money.

Let us start by cutting administrative spending.

One more thing to correct the RECORD from yesterday. We heard at great length that our amendment so offends the Constitution as to be an illegal act. As many of you are aware, Congressmen LAMAR SMITH and RALPH HALL from Texas and Congressman BOB INGLIS from South Carolina have introduced this amendment as original legislation in the House. The House has not taken action on their bipartisan legislation yet. But if we pass this amendment and show the House how important we believe repealing retroactive taxes is, the House will do so.

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

Mrs. HUTCHISON. Mr. President, how much time do I have left on my side?

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent for 2 more minutes on my side.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I have no objection, provided that this side gets an additional 2 minutes, as well.

Mrs. HUTCHISON. Absolutely.

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

The Senator is recognized for 2 additional minutes.

Mrs. HUTCHISON. Mr. President, if we agree to this amendment, the House, which has the original legislation before it, will certainly follow our cue because they have about 100 cosponsors for a retroactive tax repeal bill there as well.

To close, let me say that I do not think this is a constitutional issue. We can work it out with the House. The issue is one of fairness. America's small business owners—675,000 of them—were hit right between the eyes with an unfair, unexpected retroactive tax.

Eighty percent of the businesses in America pay taxes as individuals. These are the people who invest their own money for our future and create 80 percent of the new jobs in America. Yes, we may help a few people who are rich in doing so, but let us not hurt those small businesses that are creating the new jobs in our country to prevent that.

As my friend from Arkansas said yesterday, a former Attorney General may be working to get into the top income bracket now that he is out of Government service. But I think the other side of the aisle wants to put him there by raising the rates. We want to put him there by raising everyone's income: rich, poor, and middle class.

If we play fair, if we do not change the rules of the game in the middle of the year, we will put people back to work and we will not need any more extended emergency Band-Aid unemployment compensation bills.

I urge my colleagues to do the right thing for the unemployed workers, for the employed workers, and for the small businesses that are the engines that drive our economy in America. It is they alone who will create the real jobs that are the hope for our future. I urge my colleagues to vote for this amendment by voting to waive the provisions of the Budget Act.

Mr. BAUCUS. Mr. President, I rise today in opposition to the amendment offered by Senators HUTCHISON, NICKLES, and SHELBY. If enacted, the amendment has the potential to unravel a budget plan that has helped stabilize our economy during its fragile recovery from recession. The revenue shortfall caused by this amendment would be offset by a host of unspecific, unrealistic ghost cuts.

1993 RECONCILIATION BILL

The revenue reconciliation bill signed into law by President Clinton on August 10, 1993 has bolstered the confidence of the financial markets, serving to keep long-term interest rates at historic low levels. As we all recall, the budget package reduces the deficit by $496 billion in 5 years. It provides investment incentives to small business, relief to lower income taxpayers, and support for cities suffering from urban blight.

The income tax increases included in the budget plan affect only the top 1.2 percent of all taxpayers—those couples with over $180,000 in adjusted gross income. Many of the taxpayers that fall into this category are small business-owners, 90 percent of whom benefit from retroactive tax cuts such as: an increase in annual expensing from $10,000 to $17,000, extension of the 20 percent research and development tax credit, extension of the 125 percent self-employed health deduction, extension of the targeted jobs tax credit, and on and on.

Any wealthy taxpayers who find themselves with a tax increase for 1993 after taking into account the retroactive tax breaks, are allowed to pay the excess tax liability over 3 years. No interest or penalties would be charged during the installment period.

The proponents of this amendment state that if enacted, the amendment would "repeal the retroactive increase in estate taxes." Let us set the record straight; there is no increase in the estate tax rate. An estate established in 1993 will be taxed at the same rate as one established in 1992. The bill merely extended the top rate on estates of over $2.5 million, the same rate that was retained and extended in 1984 and 1987 in bipartisan legislation.

Mr. President, at the risk of repeating points made during the debate on the budget bill, I want to emphasize that the 1993 reconciliation bill is fair. It asks all Americans to sacrifice to get our economy back on the right track.

It is fair to working families. It combines an expanded earned income tax credit with an increase in income tax rates on corporations and the wealthiest Americans. It is fair to middle class Americans and senior citizens. For example, a Montana middle class family will pay $31 a year extra. That is about 12 cents every working day—a fourth of the price for the Billings Gazette—and not a penny on weekends and holidays.

DEFICIT REDUCTION/UNEMPLOYMENT BENEFITS

A vote for this amendment is a vote to attack a reconciliation bill that is the most progressive proposal in recent history. It is a vote against the receipt of emergency unemployment benefits by the neediest Americans. It is at the same time a vote against President Clinton's deficit reduction plan, and a vote against unemployment insurance for 1 million Americans.

For the past 12 years, Republican administrations have taken a walk on the deficit. Their policy of borrow and spend blew up the Federal debt. Our debt grew from under $1 trillion in 1980 to about $4.5 trillion today. And because of those 12 Republican years, it is still growing at a rate of almost $1 billion per day. Today the proponents of this amendment ask us to impair a budget plan that reverses this trend, and to take a walk on 1 million needy Americans.

CONCLUSION

Let us have the courage to stick by the hard choice we made in August, and the courage to do the right thing for a small group of unemployed Americans. The 1993 revenue reconciliation bill is real. It contains real deficit reduction. It has real cuts. It is fair to all Americans. We did the right thing in August. Let us do the right thing today—and defeat this amendment.

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

Mr. MITCHELL. Mr. President, I believe all time on the side of Senator HUTCHISON has expired. I have been advised the Republican leader wants to speak on the amendment. Of course, he could use his leader time. I am advised he is on the way. I will suggest the absence a quorum. Following his remarks I will make the closing remarks.

I suggest the absence of a quorum and ask the time be charged equally against the time of the two leaders until such time as the Republican leader arrives.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I will just take about 2 minutes. I know we should have been voting on this at 11:30.

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

Mr. DOLE. I did speak on the issue last night, but I wanted to speak just very briefly. I want to congratulate Senators HUTCHISON and SHELBY for raising this issue. It is a bipartisan effort to repeal the retroactive income asset and gift tax rate increases included in the budget reconciliation bill. We had a lot of debate on it at that time. There was a lot of discussion on it. I think most people generally do not think retroactive tax policy is a good idea. It has not been done in the past. There have not been retroactive rate increases in the past several years. The Senator from Arkansas indicated we had done this in 1982. That is not an accurate statement. We did not change the rates between the eighties and nineties, did not make them retroactive.

I think this effort is not about delaying the unemployment bill or trying to avoid dealing with the issue. It is about trying to create an environment where small business and others can create jobs and opportunities for Americans across the country.

As I have said many times, in the Russian constitution which has been proposed—it has not been adopted yet; they have had some other problems there as we all know—but one article in the Russian constitution would prohibit retroactive taxation. This is a new, emerging democracy, the Russian Republic. They ought to recognize it is bad policy. I hope we will recognize it is bad policy.

It is also about $10 billion, as I recall, being sort of sucked out of the economy. In a lot of places, in a lot of cases, people did not know it was going to happen. They are going to find it out next year at tax time.

It is also on gift taxes, also on estate taxes. It applies, as we said before, to the living and the dead, and we believe it is unfair. It is unfair policy. It is bad policy. The taxes are bad enough in the bill we passed on a 51-to-50 vote in this Chamber, but this provision is particularly bad.

As this Senator indicated yesterday, Senators HUTCHISON and SHELBY are to be congratulated for proposing this bipartisan amendment to repeal the retroactive income, estate and gift tax rate increases included in the budget reconciliation bill.

This amendment is not about delaying the unemployment bill or trying to avoid dealing with that issue—it is about trying to create an environment where small business and others can create jobs and opportunities for Americans across this country.

There is no doubt in my mind that the retroactive tax increase will stifle small business.

Instead of investing in their companies and expanding their work force many small businesses are now going to have to cut back on their plans and may even reduce their work force as they face the additional burden of paying taxes on income that was already earned when the budget bill became law.

The retroactive tax provisions are bad policy and bad law, and clearly a step back from our common goal of economic growth.

And finally let me address once again the claim of the senior Senator from Arkansas that this Senator has supported retroactive tax increases in the past.

In 1982 the top marginal rate stayed at 50 percent. You will recall that the 1982 bill followed the 1981 bill which actually lowered rates from 70 percent to 50 percent. The 1982 bill did not touch individual income tax rates either prospectively or retroactively.

Do not be fooled, the retroactive tax increase contained in the 1993 bill hits everyone, not just the rich. It is the small businessman and woman who will suffer most from our action if we fail to pass the Hutchison-Shelby amendment.

We want to pass this bill to assure unemployed workers will get the help they need. We want the added benefit of righting a wrong done to 675,000 people—mostly small businesses—that is a retroactive tax increase.

Mr. President, in closing, I would first like to correct the record. We have heard many numbers discussed here today, but the important ones are these: by repealing the retroactive income and estate taxes, our amendment would lose $10.5 billion in new revenue over 5 years. In order to prevent this from increasing the deficit, and in order to reduce the deficit further, our amendment cuts Federal administrative spending by $3 billion each year for the next 3 years, and reduces the spending caps by such amounts: $3 billion, 1994, $3 billion more 1995, and 3 billion more in 1996. The amendment does not cut additional spending in 1997 and 1998, but it reduces the spending caps in those years in order to keep the amounts saved in the first 3 years from being spent again. By keeping the spending caps in place—we will keep the deficit down by $36 billion. A goal I hope everyone will agree is worthy.

We have also had much discussion over where these cuts come from. The cuts are made from agency spending in administrative expense categories called object classes. I did not make up that term—OMB did—but I had to use it in order to cut administrative expenses. But because we appropriate by account, not by object class, and there are no administrative expense categories for appropriations accounts, our amendment requires the head of OMB to establish obligation limits for each agency. Although some have argued that this is putting too much discretion in the hands of the OMB Director, the President has done the same in his Executive order proposing administrative expense spending cuts; perhaps he could not find an alternative either.

Frankly, one thing surprises me about yesterday's debate. In 3 hours of discussion about this amendment, not one Senator protested that we were not cutting program spending—we are not; they protested that we are not doing it right—without proposing their own alternative; and they protested that we were cutting so much as to hurt services. But if that is the case, how can the National Performance Review propose cutting 252,000 Government workers without hurting services? Surely, the administrative expenses of employing these workers can be cut.

Do we think that the Government is so efficient now that we can not tighten our belts and be more efficient? If the Government is that well managed, why are we running a $260 billion deficit for 1994? We have that deficit, Mr. President, because the Government is not well run. Let's address this problem now, before we can not borrow any more. Let's start by cutting administrative spending.

One more thing bothers me from yesterday. We heard at great length that our amendment so offends the Constitution as to be an illegal, imprudent act.

As many of you are aware, Congressmen LAMAR SMITH and RALPH HALL of Texas, and Congressman BOB INGLIS of South Carolina, have introduced this amendment as original legislation in the House. The House has not taken action on their bipartisan legislation yet, but if we pass this amendment, and show the House how important we believe repealing retroactive taxes is, it will put the burden on the House to do so. Let's not fail to show them the way.

To close, let me say that I do think this is a constitutional issue, an issue of fairness. American small business owners, 675,000 of them, were hit right between the eyes with an unfair, unexpected retroactive tax. Some 80 percent of business in America pays as individuals. These are the people who invest their own money for our future and create 75 percent of the new jobs in America. Yes, we may help a few people who are rich in doing so—but let's not hurt small businesses to prevent this. As my friend from Arkansas stated yesterday, a former Attorney General may be working to get into the top income bracket, but the Democrats want to put him there by raising the rates—we want to do it by raising everyone's income, rich, poor, or in the middle. If we play fair, if we do not change the rules of the game in the middle of the year, we will be able to put people back to work and we will

not need any more extended, emergency Band-Aid unemployment compensation bills. I urge my colleagues to do the right thing for the unemployed, for our workers, and for the small businesses that are the engines that drive our economy. It is they alone who will create the real jobs that are the hope for our future. I urge my colleagues to vote for my amendment by voting to waive the provisions of the Budget Act.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator controls 7 minutes 22 seconds.

Mr. MITCHELL. Does that include the additional 2 minutes we received?

The PRESIDING OFFICER. Yes, it does. The Senator is correct.

Mr. MITCHELL. Mr. President, I encourage all of my colleagues to join in voting against this amendment for several reasons. First and foremost, this amendment is a hoax. It is a hoax from beginning to end.

The title of the amendment says, "repeal of retroactive application of tax." But nowhere in the amendment does the word "repeal" appear. It does not repeal retroactive taxes. It applies taxes retroactively, back to the beginning of the year just as the bill passed earlier this year does. It simply does it at a different rate. So no one should be under the illusion that, if you vote for this amendment, you vote to repeal retroactivity. You are voting for retroactivity, just at a different rate.

Not only is this amendment a hoax, it is a cruel hoax, because this amendment cannot become law. Even if 100 Members of the Senate vote for this amendment, it cannot become law. That is because it is a tax amendment and the Senate has no constitutional authority to initiate tax measures. The underlying bill is not a tax bill. So, if this amendment is put on the underlying bill, the only effect is to kill the underlying bill. This amendment, if adopted, will join the underlying bill in being killed. That is really the motivation here. It is a circuitous attempt to kill the unemployment insurance bill.

That is what makes this a particularly cruel hoax: To present a tax amendment that, if adopted, would benefit only the 1 million American families whose gross incomes exceed $200,000 a year and to use that as the stake driven through the heart of the unemployment insurance bill which provides unemployment insurance to 1 million American families who, through no fault of their own, have lost their jobs.

What a bitter irony, to say that just to make a gesture for the 1 million Americans who, filing jointly, have gross incomes in excess of $200,000 a year—we cannot even really help them because it is not going to become law—but just to make a gesture in their behalf, and the price of doing that is to kill the unemployment insurance bill that is for a different 1 million American families, those who, through no fault of their own, have lost their jobs and are going to be denied extended unemployment insurance benefits.

Mr. President, I think any Senator ought to be ashamed to vote for this amendment under those circumstances. Let us be clear about this. Over and over again we have heard, like a mantra: Small business, small business, small business. There is nothing in the tax bill that says the higher rate applies to small business. The tax applies to income. If a family filing jointly has a gross income of more than $200,000 a year, they pay a higher tax rate whether they have 1 employee or 1 million employees. As the Treasury Department has made clear, of all the small businesses, only 4 percent of them have income of over $200,000 a year. The other 96 percent will benefit from the tax bill because they get a greater deduction when they purchase plants and equipment.

So, once again this is an effort to benefit a very tiny minority and, at that, those persons best off in our society. The average annual income of those who will benefit from this amendment, if it were adopted, exceeds $300,000 a year.

I ask the Members of the Senate, are those whose annual incomes are over $300,000 a year so desperate in need of help that the Senate has to rush in here and help them out and in the process kill the unemployment program for 1 million unfortunate families who have a work history, who have lost their jobs through no fault of their own, and are seeking but cannot get another job?

That is the choice being made here today, and our colleagues are making clear their choice. Their choice is with those families whose incomes exceed $300,000 a year who, according to them, so desperately need this help. Even though it cannot become law, it is a statement. So any Senator who votes for this can go back to his or her State and say to that handful of very wealthy people in their State: "Well, now, I sure tried for you. I tried to help you. I know your income is only $300,000 this year, and I tried to help you out and, oh, what about that other million American families who have unemployment insurance that is lost as a result of this? Well, tough luck for them."

Mr. President, there could not be a clearer choice. There could not be a clearer choice before this Senate. This amendment does not repeal retroactive taxes. It applies the tax increase retroactively just at a different rate. This amendment cannot become law. If adopted here, it will kill the underlying bill and go down with that bill. So it is nothing more than a political and economic statement. This amendment, even if it could become law, will only benefit those whose incomes exceed $200,000 a year and who, on average, have incomes in excess of $300,000 a year and in the process kill a bill that provides unemployment insurance extension for up to a million families who will desperately need it in the coming winter.

Finally, let me say, this talk about where these cuts are going to be, there has not been any discussion of that. I think we ought to make additional cuts, and we are going to make them. The President is going to make the proposal, announced today and next week, and all these Senators who say they are for cuts will have a chance to vote for them. I think what happens on cuts, Mr. President, is——

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

Mr. MITCHELL. Mr. President, I use my leader time.

What happens on cuts is something we all know here in the Senate. It is a law that is as certain as the law of gravity. And that law is the law of deficit reduction speeches; that those who make deficit reduction speeches most often and longest and loudest are the ones who will not vote to cut spending. They will talk about spending cuts, they will wear buttons that urge spending cuts, but when the roll is called for spending cuts, their vote is no.

Oh, there is always a reason: This is an important project; this has to do with something special; this provides unique benefits. It is always something else that ought to be cut. It is always somewhere else that ought to be cut.

So, Mr. President, I say, that we ought to reject this amendment because it is unfair, it is wrong, it will not do what the sponsors say it will do. What we ought to do is when we get the spending cut bill up here next week, let us have those who give the speeches on spending cuts actually vote to cut spending. That would be a revolution here in the Senate. That would be a surprise. That would be an eye-opener: Deeds to match words.

Mr. President, I yield the floor. Have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion to waive the Congressional Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. President, I would like to announce as a separate statement that Senator LAUTENBERG is absent due to the religious ceremonies associated with the birth of his first grandson.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 44, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—50

Bennett	Durenberger	Lugar
Bingaman	Faircloth	Mack
Bond	Gorton	Mathews
Boren	Gramm	McCain
Brown	Grassley	McConnell
Bryan	Gregg	Murkowski
Burns	Hatch	Nickles
Chafee	Heflin	Packwood
Coats	Helms	Pressler
Cochran	Hutchison	Roth
Cohen	Jeffords	Sasser
Coverdell	Kassebaum	Shelby
Craig	Kempthorne	Smith
D'Amato	Kerrey	Thurmond
Danforth	Kohl	Wallop
Dole	Lieberman	Warner
Domenici	Lott	

NAYS—44

Akaka	Feingold	Mitchell
Baucus	Feinstein	Moseley-Braun
Biden	Ford	Moynihan
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Harkin	Pell
Bumpers	Hatfield	Pryor
Byrd	Hollings	Reid
Campbell	Inouye	Robb
Conrad	Johnston	Rockefeller
Daschle	Kennedy	Sarbanes
DeConcini	Kerry	Simon
Dodd	Levin	Wellstone
Dorgan	Metzenbaum	Wofford
Exon	Mikulski	

ANSWERED "PRESENT"—2

Simpson	Specter

NOT VOTING—4

Lautenberg	Riegle	Stevens
Leahy		

The PRESIDING OFFICER. On this vote, the yeas are 50, and the nays are 44, two Senators having voted present. Three-fifths of the Senators present and voting, not having voted in the affirmative, the motion to waive the Budget Act is rejected.

The point of order is therefore sustained, and the Hutchison amendment falls.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I rise to explain, my vote of "present" on Senator HUTCHISON'S motion to waive the Budget Act as it related to her amendment to retroactively repeal tax increases included in the Budget Reconciliation Act.

On June 11, 1993, my dear father, Milward L. Simpson, died. The conference report to the Budget Reconciliation Act was signed into law by the President on August 10, 1993. Certain taxes, including an extension of certain estate tax rates—originally set to expire on December 31, 1992—were retroactively imposed by this legislation to January 1, 1993.

The estate tax for my father's estate has not yet been filed. I am an heir of that estate. Accordingly, the amount of the tax—if any—on his estate would be directly affected if the Hutchison amendment became law.

Because of my direct financial interest in the outcome of this amendment, I voted "present" on this budget waiver.

AMENDMENT NO. 1081

Mr. KOHL. Mr. President, today I voted to allow consideration of an amendment to repeal the retroactive tax increases in the Omnibus Budget Reconciliation Act of 1993. I strongly believe that retroactive tax increases are bad policy and bad precedent. To make clear that considerations of public policy are the sole basis for my decision on this afternoon's vote, I ask that a copy of a letter I sent to my accountant today be placed in the RECORD.

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

U.S. SENATE,
Washington, DC, October 26, 1993.

Mr. MIKE BURR,
825 N. Jefferson,
Milwaukee, WI.

DEAR MIKE: Today the Senate is debating and will vote on a measure to repeal the retroactive individual and estate taxes enacted in the Omnibus Budget Reconciliation Act of 1993. If this repeal becomes law, I would ask that you figure my personal tax liability under the *unamended* reconciliation legislation and under that legislation as amended by the repeal. I would ask further that you prepare a check to the U.S. Treasury for the amount by which my liability under the unamended bill exceeds my liability under the amended bill. My intention is to return to the U.S. Treasury any reduction in my personal tax bill due to the repeal of the retroactive tax increases.

Thank you for your help in this matter.

Sincerely,

HERB KOHL,
U.S. Senator.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order, the Senator from Oklahoma [Mr. NICKLES] is recognized to raise a point of order against the bill.

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

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

Under the previous order, the Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, according to the Congressional Budget Office score, H.R. 3167 increases the deficit by $1.04 billion in fiscal year 1994.

Therefore, pursuant to section 12(c) of House Concurrent Resolution 64, the first concurrent budget resolution for fiscal year 1994, I raise a point of order that H.R. 3167 would increase the deficit in fiscal year 1994 beyond the level provided for in that resolution.

The PRESIDING OFFICER. The Senator from New York.

MOTION TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. MOYNIHAN. Mr. President, I move to waive the Congressional Budget Act of 1974 and section 12 of the budget resolution, House Concurrent Resolution 64, for the pending bill, H.R. 3167, in the form received by the Senate, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, debate on this motion to waive the Budget Act is limited to 1 hour, which will be equally divided and controlled in the usual form.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I hope my colleagues will pay attention to this debate and realize that we are debating not just a point of order, but we are debating several important budget issues.

The point of order I just made was created by the concurrent resolution on the budget that passed earlier this year. Maybe a lot of our colleagues are not aware of this point of order, but this is part of the Senate budget resolution that passed earlier this year enforcing pay-as-you-go budgeting. I will read from the resolution. It says:

> Any time after the enactment of the reconciliation bill, pursuant to section 7 of this resolution, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would increase the deficit in this resolution for any fiscal year through fiscal year 1998.

And it goes on.

Mr. President, I just looked at the cost estimate prepared by Mr. Robert Reischauer, who is Director of the Congressional Budget Office.

Mr. President, I ask unanimous consent to print in the RECORD a table entitled "Unemployment Compensation" and a table entitled "H.R. 3167, 'Emergency' Unemployment Benefits CBO Cost Estimate."

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

UNEMPLOYMENT COMPENSATION

[Dollar amounts in billions]

Year	Outlays	Growth	Percent growth
1970	$3		
1971	6	$3	87

UNEMPLOYMENT COMPENSATION—Continued

[Dollar amounts in billions]

Year	Outlays	Growth	Percent growth
1972	7	1	16
1973	5	(2)	−27
1974	6	1	14
1975	13	7	129
1976	19	6	45
1977	14	(4)	−23
1978	11	(4)	−24
1979	10	(1)	−9
1980	17	7	72
1981	18	1	8
1982	22	4	21
1983	30	8	34
1984	17	(13)	−43
1985	16	(1)	−7
1986	16	0	2
1987	16	(1)	−4
1988	14	(2)	−12
1989	14	0	2
1990	18	4	26
1991	25	8	43
1992	37	12	47
1993 [1]	36	(1)	−2
1994 [1]	28	(8)	−22
1995 [1]	25	(3)	−11
1996 [1]	25	0	0
1997 [1]	25	0	0
1998 [1]	25	0	0

[1] Estimated.

H.R. 3167, "EMERGENCY" UNEMPLOYMENT BENEFITS, CBO COST ESTIMATE

	1994	1995	1996	1997	1998	Total
Emergency unemployment compensation	1,070	.....	.....	.....	.....	1,070
Worker profiling and job search assistance	0	(17)	(105)	(270)	(372)	(764)
SSI & Medicaid alien sponsors	(30)	(120)	(180)	0	0	(330)
Total direct spending	1,040	(137)	(285)	(270)	(372)	(24)
Unemployment administrative expenses	30	.....	.....	.....	.....	30
Worker profiling and job search assistance	0	34	169	344	350	897
Advisory council	1	0	0	0	0	1
Total appropriations	31	34	169	344	350	928
Total all spending	1,071	(103)	(116)	74	(22)	904

Mr. NICKLES. Mr. President, this table clearly shows, in 1994, next year, we are increasing outlays $1.70 billion. There is also a reduction from Social Security income and Medicaid alien sponsors, a savings of $30 million, for a net increase in outlays of $1.04 billion. Thus, the deficit is going up next year $1.04 billion.

That is in violation of the budget resolution that we agreed to earlier this year. I know I heard a lot of my colleagues saying at that time: "Boy, this is fiscal integrity. This has real teeth. These rules are going to get the deficit down. These rules mean you cannot spend any more money unless you pay for it."

Mr. President, H.R. 3167 is not paid for. The financing mechanism in this proposal to pay for these emergency unemployment benefits is a gimmick. It is a sham. And I hope that everyone is aware of it.

We have had a lot of people in the past say, "I want to support the unemployment program, but I think we should pay for it." This bill does not pay for it. All the money in this bill will be spent in 4 months. It will be spent by January and February next year, but to pay for it we have savings that are projected all the way out to 1998. That is ridiculous.

Concerning the so-called savings—Mr. President, this is really where it is a sham—this bill mandates worker profiling and job search assistance to save $764 million over 5 years.

It is interesting to note, though, that the Congressional Budget Office says it is going to cost $897 million in appropriations to come up with $764 million in savings. Think about that. Only the Federal Government would come up with a scheme to spend $897 million so we can save $764 million. Taxpayers will lose $133 million in the process.

If you calculate the fact that we are going to spend $897 million, it is clear this bill is flagrantly in violation of the budget rules—not just the budget rule I quoted, but also other budget rules, as well—clearly a violation of the budget; clearly a point of order is needed.

My friend and colleague moved to waive the budget. He has to have 60 votes. I do not know if he can get 60 votes or not. I know unemployment compensation benefits are important. I know they are popular. But for crying out loud, we ought to at least be honest and say we are going to increase the deficit by $1 billion. We should tell the American people what we are doing. This bill is not paid for.

What this bill also contains is a massive unfunded liability on the States. And it is interesting to note—maybe it is just a coincidence, but I understand that the Governors have declared tomorrow to be unfunded mandates day. They do not want the Federal Government to mandate unfunded programs on the States.

I just urge my colleagues to look at the bill.

I look at H.R. 3167 and places mandates on the States. If my colleagues would look at page 4, it talks about worker profiling. And if you look down at the very bottom of the page at (j)(1), it states:

> The State agency charged with the administration of the State law shall establish and utilize a system of profiling all new claimants for regular compensation.

It goes through how the States shall do that, and it mandates that it be done. If you go all the way down to the bottom of the next page, all of page 5 is a mandate; the top part of page 6 is a mandate.

Look at the bottom of page 5:

> Until the Secretary of Labor is so satisfied, he shall make no further certification of the Secretary of Treasury with respect to such State.

In other words, if the Department of Labor is not satisfied, they can cut off all funds, period. This is a heavy unfunded mandate; a mandate that is estimated by the Congressional Budget Office to cost $897 million, not an insignificant sum.

Now the purpose of this mandate is supposedly to save $764 million. That is not very good math and it proves this bill is grossly underfunded; a very heavy mandate, a very unfair mandate.

What should we do? I have been bothered by the fact that now it seems as if we are addicted to the so-called emergency unemployment compensation program.

Let me just explain the facts, Mr. President. All States have unemployment compensation programs. Those are paid for through payroll taxes by employers within the State. Those programs are designed and managed by the State. They determine eligibility. They determine the length of time available. They determine the amount of money available. Those programs are all run by the State, and usually provide services up to 26 weeks.

In 1970, we passed a new program called the Extended Benefits Program that allows the States, if they have high unemployment, to receive an additional 13 weeks of unemployment compensation. That program is paid for by a 50–50 match.

Now, mind you, the first 26 weeks, that is paid for by the States. That is paid for by the employers. The next 13 weeks, the Extended Benefits Program, if they have high unemployment, is paid for by the States and matched by the Federal Government, a 50–50 share.

Since 1991, we have had this Emergency Unemployment Compensation Program, and basically that is paid for 100 percent by the Federal Government. Well, sure the States do not want to use the Extended Benefits Program if they can get a free lunch, if Uncle Sam is going to pay for all of it, and that is what we have done.

So you have seen the cost of unemployment compensation benefits explode in the last 3 years. And the reason is primarily because the States realize that Uncle Sam is going to pay for all of it.

I wonder if my colleagues are aware of the fact that the Federal Government Unemployment Compensation Program in 1991 grew by 43 percent. I wonder if they are aware in 1992 it grew by 47 percent. That is because in the last couple of years we created the Emergency Unemployment Compensation Program where the Federal Government is going to pay for it all.

Now, I seriously object to and question the wisdom of that action. That is the reason you see the cost of these programs rising, and rising dramatically.

I might mention to my colleagues at least President Bush vetoed one or two extensions because they were not paid for. I remember many on this side of the aisle would not support the program unless it was paid for.

Earlier this year, we passed a program, Emergency Unemployment Compensation benefits. We called it an emergency, so we did not pay for it. We just added it to the deficit. At least, that was honest budgeting. No one contested that bill was clearly adding to the deficit.

This program is not honest budgeting. This is misleading, and I am being kind using that term. This is more than misleading. This program is going to spend $1.070 billion in the next few months. It provides for savings over the next 5 years, and those are hypothetical, at best.

This program does not fund the mandates that are called for on the States. This program mandates to the States that they have to set up the so-called worker profiling programs, but it does not provide any money. If you read the bill—and I encourage my colleagues to read the bill—it has no money in here to pay for this, no money whatsoever.

So we mandate to the States. And the Congressional Budget Office estimates that mandate is going to cost $897 million.

Now some people are assuming the Federal Government is going to pay for that. But if the Federal Government pays for that $897 million, wait a minute, how are we going to save money so we can pay for this program? You cannot have it both ways. The numbers do not add up. This bill does not add up.

This bill is going to add $1 billion to the deficit in 1994. That is exactly what the Congressional Budget Office says.

If you look at the committee report they submitted accompanying the House bill on page 14, the Congressional Budget Office says that it will add $1.040 billion to the deficit in 1994. That is the reason why the budget point of order stands. That is the reason why there will not be any contesting the budget point of order. The budget point of order is correct.

The Budget Act which was passed this year very clearly states that it is out of order to pass a bill that will increase spending without paying for it. This bill does not pay for it. I think the point of order is well taken, and I urge my colleagues to vote against the motion by my friend and colleague from New York to waive the Budget Act.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. It is with some difficulty that I rise to state that my friend from Oklahoma is simply not correct in his assertions as to the fiscal impact of this extension, this routine extension of unemployment benefits during a prolonged period of above average unemployment.

I have here a letter, dated today, from Leon Panetta, the Director of the Office of Management and Budget.

I ask unanimous consent that it be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

October 26, 1993.

Hon. PATRICK MOYNIHAN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The administration urges swift passage of H.R. 3167. This legislation would assist the unemployed and their families in two significant ways.

First, it would extend the Emergency Unemployment Compensation (EUC) program, which provides benefits to unemployed workers who have exhausted their regular unemployment benefits. These claimants would receive 13 weeks of EUC benefits in high unemployment States and 7 weeks in all other States.

H.R. 3167 also would establish a system of worker profiling in each State to accelerate the reemployment of permanently dislocated workers by linking them with reemployment services early in their period of unemployment. As Secretary Reich discussed in his October 5th letter to you, carefully evaluated demonstrations have shown that this kind of system gets claimants back to work sooner, reducing the stress and financial hardships of being unemployed and creating real savings for the Unemployment Insurance system.

OMB estimates that the costs of extending the EUC program would be offset by the five-year savings in mandatory spending that would result from H.R. 3167. Furthermore, under the rules contained in the Budget Enforcement Act, enactment of H.R. 3167 would not cause a sequester.

The administration opposes the amendment that has been offered by Senator Hutchison to H.R. 3167. The amendment would change the effective date of the individual income and estate tax rate changes in the Omnibus Budget Reconciliation Act (OBRA) of 1993. In addition, the amendment would reduce the discretionary spending caps, mandate reductions of "administration expenses" of the departments and agencies (excluding the Department of Defense), and empower the Director of the Office of Management and Budget to establish obligation limits for each agency and department.

H.R. 3167 is an inappropriate vehicle for the consideration of the complex issues raised by the amendment. First, the administration is pursuing significant savings for departments and agencies through Executive Orders released earlier this year to trim administrative and personnel expenses and through the implementation of the Vice President's National Performance Review, and looks forward to working with the Senate on the implementation of the NPR proposals.

Second, the approach used by the amendment to reduce spending could subject substantial portions of many important programs with high contractual, supply or travel expenses to significant reductions. Programs with high levels of contractual expenses include NASA, Atomic Energy Defense Environmental Restoration, Superfund and the Atomic Energy Defense Weapons program. For example, under the definitions used in the amendment, 85 percent of total NASA spending, over 50 percent of the Superconducting Super Collider termination funds, and 74 percent of the Superfund program could be subject to reduction.

In addition, under the amendment, 30 percent of the Veterans Affairs Medical Care budget and 27 percent of the Drug Enforcement Agency budget could be subject to reductions, as these agencies have high levels of supply and travel expenses.

We would ask that the Senate reject this amendment to H.R. 3167 so these issues may be carefully considered in a more deliberate fashion.

H.R. 3167 would help achieve the dual goals of providing essential job search assistance services and critical income security to unemployed workers and their families. The administration respectfully requests that the Senate pass the bill as soon as possible.

Sincerely,

LEON E. PANETTA,
Director.

Mr. MOYNIHAN. Mr. President, I will read to the Senate the key paragraph.

OMB estimates that the costs of extending the Emergency Unemployment Compensation program would be offset by the five-year savings in mandatory spending that would result from H.R. 3167. Furthermore, under the rules contained in the Budget Enforcement Act, enactment of H.R. 3167 would not cause a sequester.

That completes the paragraph.

It is entirely true, as my friend from Oklahoma says, that we will pay for this program over a 5-year period in specific savings in unemployment compensation. The profile measures that the Secretary of Labor, Secretary Reich, has come forward with are genuine. One must wonder how it has taken us a generation to get around to this idea.

I speak as having served as an Assistant Secretary of Labor in the administrations of President Kennedy and President Johnson. We were, at that time, ready to establish the Manpower Development Training Act of 1962, in which the Federal Government would take on the issue of retraining workers who have lost jobs that are not going to come back, who need skills they do not have.

Yet, in our unemployment program, we have continued to have people come into the employment office to apply for unemployment, and establish that they are covered as they need to have been under the Federal Unemployment Training Act [FUTA]. This is a provision of the Social Security Act of 1935. We were thinking in 1935 of cyclical employment, and cyclical unemployment as well: As the business cycle went up, employment went up; as it went down, employment went down. Conversely, unemployment went up and unemployment compensation was meant to tide workers over until the cycle began moving upward again.

In the present world economy plants can close and they are not ever going to open again because that work has moved to another part of the country, or to another part of the world. In the meantime, new plants requiring new skills elsewhere are opening. The idea behind profiling is to look at the worker seeking unemployment compensation and what their job was, and say, "What is the likelihood we are seeing a cyclical movement?" There are a lot of seasonal industries in the country

where people get laid off in the winter or laid off in the summer, whatever the case is. And they are going to go back to work. Their job has not disappeared. Rather, it is just the cycle of the seasons that puts them out of work for the moment.

Alternately, there is the person who arrives whose plant has closed, whose economic sector is shrinking, where sectoral changes and shifts are taking place such that the job is never going to be back. The job he or she held will not be held again. That industry has left the region or it is downsizing, which results in the need for 300 workers where 1,000 were necessary. The other 700 are not going to be needed back in that work.

So right the first day we say, "Training is what you need. This is the kind of training that makes sense. This is where you ought to go. These are the programs we have." Profile that worker straightaway and do not wait until 13 weeks have gone by. The plant, having closed, has obviously not reopened. It is never going to open again. There has been a change in the economy, a dynamic change. You want to keep up with it and keep your work force up with it. That is what the Department of Labor is going to be doing.

As I say, I would have thought this would have occurred to us 30 years ago, but better late than never. Secretary Reich is a hugely inventive, creative Cabinet member. We have this idea before us. This profiling will be a permanent aspect of our manpower policy and it will be part of our training programs. We will integrate unemployment compensation with retraining in a mode that makes a great deal of sense.

It has taken us 30 years to get to this moment of integration—fine. Not a moment too soon. If it should pay for a limited extension of the unemployment compensation, so much the better. The savings in other programs are a matter of record. They were very extensively debated in the House. We know very well that these are in order and the savings would be, in fact, realized. They are a reduction in certain activities. What you do not do you do not have to pay for.

So we feel this is good legislation. There is an urgent need. There are 1 million American workers, many of whom will be watching us because they are not working today. I hope they will watch how we vote. This is a program put in place by Franklin D. Roosevelt's Secretary of Labor Frances Perkins. We do not have to apologize to the American people for doing this. This is keeping faith with the American people.

This bill will help the workers like the aeronautical engineer from Riverside, CA, who Senator FEINSTEIN talked about today. This is a skilled worker out of work in his defense-related firm, a man who answered 21 ads and had only 1 interview and was turned down for that. This is a man capable of productive high-level technical work, a man caught in a political cycle as well as an unemployment cycle. The end of the cold war has been a great event, the end of its consequences—this bill will help ease them.

The worker writes Senator FEINSTEIN saying, "Can we just keep the benefits going? I will get a job but I have not found one yet." I hope he is listening. I hope the Senators are listening. We are talking about the lives of 1 million workers and their families. I hope they are watching, for we are trying to do what we have done consistently from the administration of President Eisenhower, which is that when unemployment rises above the accepted levels and stays there for an extended period we extend the original 13-week grant.

Mr. President, I do not know what else needs to be said. I see my friend has risen. I certainly want to listen to him.

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

Mr. MOYNIHAN. I am happy to yield for a question.

Mr. NICKLES. Under the current program, the Federal Government pays for all benefits. Current law provides for an extended benefit program, that my colleague I am sure is aware of, that dates back to 1970 that allows the 13 weeks to be funded 50 percent by the States, 50 percent Federal Government. But since 1991, since the Federal Government has extended the emergency unemployment compensation, where the Federal Government pays for all of it, a lot of the States have been reluctant to join the extended benefit program. They would much prefer to have the Federal Government pay for all of it.

Is it the Senator's intention at the end of these 4 months —if the Senator from New York is successful, will he be coming back and requesting another emergency, where the Federal Government has to pay 100 percent of the extension again?

Mr. MOYNIHAN. I say to my friend from Oklahoma, with the candor that this occasion requires, that we will do so if we can find the money. It has been difficult to find this money.

One part of it we wanted to do anyway, the profiling of persons in their initial application for unemployment compensation. That is a good idea. We would be doing that regardless. It will save money. But it will save money once. You cannot do it twice.

Mr. NICKLES. Will the Senator yield? Would the Senator not agree with me it would make more sense in the future for high unemployment States to use the extended benefit program which requires a 50–50 match than having the emergency program, which is 100 percent Federal Government?

Mr. MOYNIHAN. I do not know whether I can speak to the merits but I can speak to the realities, which is the Federal Government does not have the money, under our present budget constraints, to extend this program beyond the 4 months we are proposing. It is not that we only need it for 4 months. We need it for longer than that. I would expect we do. Unemployment is down but long-term unemployment is not down.

I wish I could say to him with confidence we will be able to pay for another extension in February. I cannot. I do not know that we will be able to. That is the reality. But that is one reality. The other reality is that there are 1 million workers who will get this benefit.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Oklahoma.

Mr. NICKLES. I appreciate my colleague's answer. I would like to have his attention just to make a couple of comments.

No. 1, the Federal Government is broke right now and States are not using the extended benefit program because that requires a 50–50 match. They are eligible. If they have unemployment above 6.5 percent, they are eligible. We amended that program in 1992 to make more States eligible for extended benefit programs. So we lowered the percentage to improve a program where individuals can receive up to 13 weeks of additional compensation. But it requires the States to put in a 50–50 match.

The problem we have here—and my colleague from New York mentioned this—he said this is a routine extension of unemployment compensation.

It is unfortunate, but this has actually happened from 1970 until 1990. We only did it three times in 20 years. We did it in 1971, we did it in 1974, and we did it in 1982. But we have done it almost continuously since 1991. In 1991, 1992, 1993, we have done it several times.

In 1991, the Congress passed the bill; the President did not sign it, so it did not take effect. That was August 17, 1991. On October 11, 1991, President Bush vetoed it because it was not paid for. On November 15, 1991, the President signed unemployment compensation extension because it was paid for. This was all 100 percent Federal Government cost. February 7, 1992, the President signed an extension. The bill was paid for. July 3, 1992, the President signed an extension. The bill was paid for, but it was 100 percent Federal Government. March 4, 1993, President Clinton signed a bill, and it was not paid for. It was declared an emergency, and we had a very partisan battle over that. Many thought we should not be adding to the deficit.

My point is, we really should be encouraging a program that has worked, and that is the extended benefit program that is shared equally between

the Federal Government and the State. This bill does not allow that to happen. This bill is the reason why it is becoming routine: The Federal Government is going to pay for it all. The States do not want to cooperate in an extended benefit program where they have to pay for half of it if the Federal Government routinely now—several times in 1991, 1992, and 1993—will extend it. They say, "We'll pay for all of it; we'll pay for all of it." That is the problem. It is becoming routine.

As a result of that, unemployment compensation costs have exploded by 47 percent in 1992 and 43 percent in 1991. This program is expensive, and we do not have the money to pay for it.

So I make a couple of points to my colleagues. This bill is clearly in violation of the budget. It will add $1 billion to the deficit. It is not paid for. It is not paid for in the first year; it is not paid for in any year. These so-called savings are ridiculous because they are predicated on the fact that the Federal Government is going to have to spend $897 million to save $764 million. That is a loss of $133 million over the next 5 years.

So this program is not paid for. It is nothing but increasing the deficit by $1 billion in the next few months. I hope everyone understands that. I would have thought that the Congress would be a lot more honest if they would have just said we are going to declare this an emergency, but to use—I am going to say figures—we are going to pay for this 4-month extension over 5 years with theoretical savings. That is, on the assumption Congress appropriates $897 million to make management savings, is hypothetical and may be hypocritical. It should not be done. It will add that much to the deficit.

Mr. MOYNIHAN. Can I ask my friend to yield for a second?

Mr. NICKLES. I will be happy to.

Mr. MOYNIHAN. Surely, the Senator from Oklahoma knows that the moneys we will spend on unemployment compensation, extended unemployment compensation in this proposal, those moneys are already in the Extended Unemployment Compensation Act trust fund. They have already been paid by employers in the mode of Social Security, and the trust funds that go to them. It is just because we so mismanaged our affairs in the 1980's and have this huge deficit that we have to find under the Budget Act compensating offsets in the way of savings and other programs altogether—well, profiling a relating program. But, Mr. President, I ask my friend, he does know that these moneys that will be paid out have already been collected and are in the trust fund.

Mr. NICKLES. I will be happy to respond to my colleague. I see two or three problems. In the Federal budget, as my colleague knows, all money goes into one pot and all money comes out of one pot. So the net effect is you are adding $1 billion to the deficit and you are paying for it out of a program that requires 100 percent Federal Government payment instead of 50–50, State-Federal Government which I think is important. This is a State program. States define the benefits, States define the number of weeks, they define the amount of money, they define eligibility. Why in the world have the Federal Government pick up 100 percent of the responsibility? And, as my colleague, I am sure, will agree and I will be happy to insert this into the RECORD, the cost of this program has exploded by 43 percent in 1991 and 47 percent in 1992 as a direct result of Congress passing these so-called emergencies several times since 1991, and we only did it three times in the 20 years before it.

Mr. MOYNIHAN. I repeat my question. Somebody told the Senator this is 100 percent Federal expenditure. It is not. Most trust funds set up in the 1930's were meant to be that; this is, contributory insurance. The work force has insured itself against unemployment. And if the technicalities of the Budget Act require us to offset outlays for the trust fund, so be it, but the money has been paid in in the manner that was anticipated and has been in place for more than half a century.

I think that is simply the record, Mr. President. I do not know how to say it differently. Those are the facts.

Mr. President, I was simply addressing a question to the Senator. I will stand down now if I am not going to have an answer.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES. Mr. President, I apologize to my colleague. I know my colleague from Idaho wishes to speak.

Mr. KEMPTHORNE. Mr. President, I have a question that I would like to ask the Senator from Oklahoma.

Mr. NICKLES. I will be happy to yield to my colleague 4 minutes.

Mr. KEMPTHORNE. To clarify, did the Senator from New York complete his question?

Mr. MOYNIHAN. I made a statement in the form of a question and answered it.

Mr. KEMPTHORNE. Mr. President, as I understand the unemployment benefits program and look at it, it is my understanding that in order to make it work, someone needs to appropriate $897 million. And the question is, No. 1, is that correct? Am I accurate in that assessment?

Mr. NICKLES. To respond to my colleague from Idaho, the $897 million is the estimate that the Congressional Budget Office has made in order to comply with the worker profiling. In other words, the House-passed language assumes that we are going to have $764 million of savings under worker profiling over the next 5 years. They are saying to make that happen, the Federal Government will have to appropriate $897 million. If the Federal Government does not do that, the States still have to because we are passing a mandate on the States. It says the "States shall" several times in here on pages 4 and 5. This is a heavy mandate on the States.

So if the Federal Government does not appropriate the money, then the States are going to have to do it anyway, so it is an unfunded mandate.

Mr. KEMPTHORNE. In other words, if we vote for this measure, then we are agreeing to a mandate which perhaps implies the Federal Government should provide the $897 million, but there is no provision for that, and so right now it is a question of where that money will be appropriated from, and if it is not done by the Federal Government, then it must be provided by the States; is that correct?

Mr. NICKLES. The Senator is exactly right, there is no money authorized or appropriated under this bill. There is a mandate on the States. It is an unfunded mandate. The State is going to have to do it. If the Federal Government pays for it, then the States might be removed from that liability. This bill does not pay for it. This bill does not authorize paying for it. It is a mandate on the States and estimated by the Congressional Budget Office to cost $897 million in the next few years.

Mr. KEMPTHORNE. I appreciate so much the Senator from Oklahoma bringing this to the attention of the U.S. Senate. Here we have another mandate that is going to be placed and imposed upon all States in the Union with perhaps a suggestion that the Federal Government may or may not pay for it. But the fact of the matter is, if the Federal Government chooses not to pay for it, and we have made no provision to do so, then the States in the Union will have another $900 million Federal mandate.

Tomorrow, over 1,000 mayors in this country, hundreds of county commissioners, Governors will hold press conferences in front of their city halls or county courthouses and their State houses pointing out that we need to stop this approach of unfunded Federal mandates.

This is another excellent example of the dilemma of these unfunded Federal mandates. I think the Senator from Oklahoma should be commended for pointing it out to us, and I think we need to support him in his efforts.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES. Mr. President, I have other obligations. I do not know if my colleague from New York does as well.

How much time do we have remaining?

The PRESIDING OFFICER. The Chair informs the Senator from Oklahoma he has 8 minutes, 20 seconds remaining; the Senator from New York has 16 minutes, 48 seconds remaining.

Mr. NICKLES. Mr. President, I would be happy to yield back the remainder of my time, but I know Senator DOLE wishes to speak on this as well. So I will reserve the remainder of my time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Just to keep the debate going, I wish to say, first of all, that what is at issue is providing 4 additional months of unemployment benefits for persons who have been out of work for almost a year. There are a million such persons.

The moneys for these payments have already been collected from employers and paid into a trust fund, that kind of trust fund that pays for disability insurance, old age insurance, survivors insurance. This is insurance, unemployment insurance. It has been paid for. It is a risk of the market, of the economy that some people will lose their jobs in the ups and downs, some people will be disabled, happily most of us will reach retirement age and retire. You contribute to this system.

Now, I have to say, Mr. President, that the Social Security system has not received the attention it has needed in recent years. A majority of nonretired adults in this country do not think they will get Social Security benefits when they reach age 65. That is the responsibility of the Social Security Administration which has not reminded them.

For a negligible cost, the Social Security Administration could mail out, once a year to everybody paying into the system, a statement of their payments over the years and the benefits they would receive if disabled, if they should die, their family survivors, and what they probably more or less could expect at age 62, 63, 64, 65, when they retire. The largest cost would be that of the stamp.

The Social Security Administration has not done so. It has been negligent. We have had 11 commissioners, or acting commissioners, in 17 years. We just finally, after 1 full year, emptied the Social Security Administration and got a new Administrator.

The unemployment compensation system is greatly in need of restructuring. We have a regular 26-week benefit, then a 13-week extended benefit when State benefits trigger on when levels of unemployment are too high.

I repeat, the monies that will be expended come from a trust fund that has been paid by employers for this purpose. It is insurance. It was clearly understood in the 1930's. We are getting away from it.

Secretaries of Labor have not paid enough attention to this three-part system which is hard to explain, hard to understand, and which could easily be revised into a simpler system. We have a three-tier system, surely two would be enough. I do not know but that one would be ample.

This is paid insurance. We are losing touch with that.

It is just like the Social Security trust funds. As the Republican leader will attest, we put in place a Social Security surplus back in 1977 of some $6 trillion, enough to purchase the New York Stock Exchange. Every penny of surplus to this day—it keeps growing—is being used as general revenue, not something to increase confidence in the system. And that is a task for this President and the President after him and the President after that President.

But for the moment, I would ask that we do the decent thing, which is give 4 months more extended unemployment benefits for people who have been out of work longer than anyone ever should be.

Mr. President, I see the distinguished Republican leader is in the Chamber. I look forward to listening to him, so I yield the floor.

Mr. DOLE. Will the Senator from Oklahoma yield just a minute or 2?

Mr. NICKLES. Mr. President, I yield the minority leader such time as he desires.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, here we go again. For the second time this year, we are debating an extension of unemployment benefits that is not paid for.

The proponents of this measure claim that this bill is paid for over 5 years, but what they are really doing is reinventing smoke and mirrors.

Since November 1991, Congress has acted to extend unemployment benefits four times, with the most recent extension coming in March 1993. Add it all up, and these extensions have cost a total of $25 billion.

The first three extensions, under President Bush, were paid for each year on a pay-as-you-go basis. But, with a Democrat in the White House, we were told in March, do not worry, just dial 1-800-DEFICIT and place a free call that will add $5.7 billion to the deficit.

According to the Congressional Budget Office—President Clinton's handpicked budget scorekeeper, all of the new spending in this bill—an estimated $1.07 billion—would occur this fiscal year. CBO says that the bill is not paid for until 1998. In fact, CBO projects that this year, this bill would increase the deficit by more than $1 billion.

Even then, the major offset in this bill is a gimmick. It converts an entitlement program into a discretionary program that appropriators must make room for under the discretionary spending cap by cutting somewhere else.

ACTIONS SPEAK LOUDER THAN WORDS

We have heard a lot of tough talk from the White House and those on the other side of the aisle about deficit reduction and spending controls, but in Kansas, people know that actions speak louder than words. Despite all the tough talk, this bill fails to meet the budget rules that were established when the Clinton budget plan was enacted this summer.

It is important to remember two things about this year's budget debate: first, despite all the provisions that Republicans opposed in the Clinton budget plan, Republicans helped the distinguished majority leader and the chairman of the Budget Committee impose these budget rules on the Senate.

We could have objected to these rules and defeated the conference report on the budget by subjecting the Clinton budget plan to a 60-vote point of order, but we did not. As a group, Senate Republicans decided that a bad budget bill with some enforcement provisions to limit new spending was a lot better than a bad budget bill with no enforcement mechanisms. Again, actions speak louder than words.

Second, do not forget who drafted these rules and cast the votes to put them in place—President Clinton and the Democrats in Congress.

Mr. President, in September, OMB Director Panetta said, "We're not going to submit [a proposal to extend unemployment benefits] * * * unless it's paid for."

Director Panetta was one of the authors of the original pay-as-you-go requirements. He knows what they mean. Perhaps that is why the administration never submitted a formal proposal to extend unemployment benefits.

The administration can do better. The administration should do better. I urge my colleagues to vote no on the motion to waive the Budget Act on this issue. At the very least, we should be able to do is prevent this $1 billion spending increase from adding to the deficit.

I will just summarize, because we have a policy luncheon in progress. I think we may have some policy to discuss. The chairman of the luncheon is in the Chamber.

Mr. President, this is a difficult area because we want people who deserve the benefits to have the benefits. We do not want to delay the process. But I think the question that Senator NICKLES has raised is whether or not we are really paying for it and if it is real. I think that is what the debate is all about.

We do not think it is. In fact, we do not think it is paid for, maybe, until 1998 as I understand it. It is way out there. We think there is a lot of gimmickry involved, in any event.

We have had a lot of debate in the past several years about extension of unemployment benefits, not that they should not be extended; I share the views expressed by the distinguished chairman of the Finance Committee,

but whether or not they should be paid for. The proponents say they are going to pay for this over 5 years, but it seems to me that we have been that track before. We have had four extensions of the unemployment benefit package since 1991. The most recent extension came in March 1993. You add up all these extensions and it is a total cost of $25 billion. It is a lot of money, $25 billion.

Now, we did pay for the first three, and we had generally bipartisan support for paying for the first three. Then we added about $5.7 billion as an emergency, as part of the President's stimulus package.

This is not a lot of money; it is over $1 billion, slightly over $1 billion, and we ought to find a way to pay for it, really pay for it.

I would hope we could do that and do it quickly so that those who should have their benefits receive the benefits. We have had a number of calls from people in my State, and I am certain other Senators have, whose benefits have expired. They have asked us to vote for the package. We have explained to them that the big question is paying for it.

I must say, based on my conversation with my staff that has talked to these people, in most every case when they realize it is not paid for, they are in agreement we ought to pay for it, even though they are going to be the beneficiaries, they are going to receive the payments.

Mr. President, I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Before the Republican leader has to leave, may I just say that there is no dispute about the fact that we are paying for a 4-month extension over a 5-year period. I have moved to waive the Budget Act to make that possible. We agree. We are broke. But the trust funds are not. Those obligations are in place.

Mr. NICKLES. Will the Senator yield?

Mr. MOYNIHAN. I will be happy to yield.

Mr. NICKLES. Does the Senator have the latest amount of what is available in the trust fund? Does the Senator have that figure available?

Mr. MOYNIHAN. If the Senator would give me 3 minutes, I will have it for him.

Mr. NICKLES. I just mention that because I looked under the President's budget in the beginning of this year and it showed the trust fund had less than $500 million, for my friend's edification.

Mr. President, I want to thank the Republican leader for his comments, and he is exactly right. The biggest objection I have to this legislation is that it is unfunded, that it is not paid for, that it pays 4 months of benefits. And to take 5 years to do so is not responsible. I mention that the 5-year savings are not real. I do not like budget gimmickry. I do not like trying to say something is paid for when it is not. It bothers me.

I want to acknowledge to my friend from New York that, if worker profiling is a good deal, I am all for it. But I am bothered by the fact that we say we are going to save $764 by worker profiling, getting people off welfare and to work. That sounds very good. But when the Congressional Budget Office comes back and says, yes, that is going to cost the Federal Government $897 million and the Federal Government does not pay for it, the States are going to have to pay for it, that is unfunded mandate. That is an expensive mandate on a lot of States. We need to look at that.

I personally do not want to be passing unfunded mandates on to the States. That is exactly what we are doing. This bill is full of mandates on the States. It provides no funds whatsoever to pay for it. Maybe the intention is, or the goodwill is, that it will be paid for over the next 5 years. I am not sure who will be here in 1998. If they will remember the commitments made on this 4-month extension we mandated to the States, going way back to 1993, I seriously doubt.

Mr. President, I just mention this program is not paid for. It is not responsible. Clearly, it is in violation of the budget agreement which was agreed to earlier this year. The enforcement of that budget agreement, section 12, says it shall not be in order in the Senate to consider any bill that would increase the deficit in this resolution for any fiscal year. And, clearly, according to the Congressional Budget Office, this increases the deficit in 1994 by over $1 billion. Therefore, in my opinion, Mr. President, the point of order should be upheld. I hope my colleagues will vote against the motion to waive the Budget Act.

I yield the floor and the remainder of my time.

Mr. MOYNIHAN. Mr. President, I have undertaken to establish the current level of the unemployment trust fund. It will take us another 2 or 3 minutes. The Senate should have this information. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. 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. MOYNIHAN. Mr. President, our latest information—and we will have to get the Secretary of Labor to confirm this—is that the trust funds have a balance of approximately $1.4 billion. This is a monthly computation. We will get it. And I ask unanimous consent that I may place a statement in the RECORD from the Secretary of Labor at this point in this debate when it is received.

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

SECRETARY OF LABOR,
Washington, October 26, 1993.

Hon. DANIEL P. MOYNIHAN,
Chairman, Senate Finance Committee, Washington, DC.

DEAR SENATOR MOYNIHAN: We estimate that, as of October 1, 1993, the Extended Unemployment Compensation Account has a balance of approximately $1.9 billion, which is available to pay Emergency Unemployment Compensation benefits under H.R. 3167. Please let me know if you have any questions in this regard.

Sincerely,

ROBERT B. REICH.

Mr. MCCAIN. Mr. President, I strongly support the point of order against the Unemployment Insurance Benefits Extension Act offered by my friend and colleague, Senator NICKLES.

Mr. President, we cannot continue to spend money we do not have. We are mortgaging our children's futures, and it is wrong. Simply, if we are going to spend money, we should pay for it—not used borrowed funds.

The public has correctly demanded that we show the courage to prioritize where we spend their money. This unemployment benefits extension is important, and it should be passed. But, Mr. President, it should be paid for with existing money, not by increasing the debt.

To be specific, the bill as it is now drafted would raise the 1994 deficit by $1 billion.

I want the Senate to know that should the Nickles point of order be sustained by the Senate—and in the name for fiscal sanity, I hope it is—my colleagues and I are prepared to offer the appropriate offsets to pay for this extension of benefits.

We must stop the insanity of increasing the debt to pay for programs. Mr. President, it is time we show fiscal discipline and pay for these programs.

I yield the floor.

Mr. PRESSLER. Mr. President, I rise in strong support of this amendment to repeal the retroactive increase in income estate, and gift tax rates made by the Budget Reconciliation Act, also known as the President's tax package. I commend the Senator from Texas, the Senator from Alabama, and the Senator from Oklahoma for providing this opportunity to set right a glaring fault in the tax package.

Under the guise of deficit reduction, the bill put into place the largest tax increase in history. The increase in taxes and user fees totals more than $250 billion over 5 years. Included are increased rates on the income of individuals, higher taxes on gasoline and motor fuels, repeal of the cap on earnings subject to the Medicare payroll

tax, and an increase in the percentage of Social Security benefits subject to income tax.

Spending cuts included in the tax measure total only $120 billion. The Congressional Budget Office confirms that while the deficit is expected to decline in the near term, it will go up again in 1997, reaching $360 billion in 2003. In fact, the President's tax package will add about $1 trillion to the national debt during the next 5 years.

I agree 100 percent with my colleague, the distinguished Senator from Texas, that we ought to repeal all of the $250 billion in new taxes included in this tax package. In any event, we should act today to repeal its retroactive tax provisions.

As ranking member of the Senate Small Business Committee, I am most concerned with the effect these tax hikes have on small businesses and the self-employed, including farmers and ranchers. Tax increases are bad enough. To make them retroactive is unconscionable. It is grossly unfair, particularly when there was no public awareness that the tax increase would be rolled back 7 months prior to enactment of the legislation. Small businesses and self-employed people struggle every day to meet payrolls, build a future, and, hopefully, earn a profit. A steep retroactive tax really is hazardous for many of them.

This amendment prevents the repeal of the retroactive taxes from adding to the deficit, by cutting Federal Government overhead expenses by $3 billion each year for fiscal years 1994, 1995, and 1996, and reduces the discretionary spending caps in each of the next 5 years. It is a fiscally sound proposal that cuts excessive Government spending to reduce the deficit, rather than impose an unfair extra tax burden on American taxpayers. In the cause of fairness, Mr. President, I urge my colleagues to vote for repeal of the retroactive tax increase.

REPEAL OF RETROACTIVE TAXATION

Mr. PELL. Mr. President, I was torn as I prepared to vote on the motion to waive the Budget Act with respect to Senator HUTCHISON's amendment to repeal the retroactive tax provisions of the Budget Reconciliation Act.

In my mind, the overriding consideration was the need to enact the Emergency Unemployment Compensation Act. My home State of Rhode Island has suffered from high unemployment for far too long. In fact, under the provisions of the bill, Rhode Island is one of a handful of States to receive 13 weeks of additional benefits. So I was not inclined to support an amendment that would have jeopardized the underlying bill.

At the same time, however, I am very concerned about the unfairness of levying taxes retroactively. To do so, as I see it, is to deny our citizens their rightful opportunity to plan their economic affairs in an orderly way. And the result is an unanticipated confiscation of assets that is not only blatantly unfair but in many cases unreasonably burdensome.

It is my hope that in the near future we will have the opportunity to reconsider this provision of the Reconciliation Act in a responsible way, without jeopardizing our basic commitment to deficit reduction. Hopefully, we can find some more savings and spending cuts to offset the revenues anticipated by the retroactivity provisions.

Mr. President, the margin of the vote on the motion to waive the Budget Act with respect to the Hutchison amendment demonstrates, I believe, that a great many of our constituents share my misgivings about retroactive taxation. We should heed them and act to correct this unfair legislation.

Mr. ROTH. I support the emergency unemployment compensation bill that we are currently debating. In September in my State of Delaware, the unemployment rate reached its highest point this year—20,800 residents had no jobs. In fact, the unemployment rate has increased from 4 percent last summer to almost 5.5 percent now. This is a major concern for me and I intend to vote for extending unemployment benefits.

As we all know, the 1990 Budget Act distinguishes between discretionary and mandatory moneys. What this bill does is to spend $897 million in discretionary moneys to save $764 million in mandatory moneys. While this complies with the text of the Budget Act, it clearly is not consistent with the spirit of the act.

To pay for unemployment benefits this bill would include a new means of profiling workers for unemployment benefits. Unfortunately, $133 million more will be spent to administer the program than its expected savings. There must be a better way to proceed.

Despite these misgivings about the funding, I feel it is important to move forward with this proposal and to insure that benefits get to those in need without further delay.

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time. I believe that means we have a vote scheduled for 2:30. I ask that we stand in recess until the vote is called at 2:30.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. All time having been yielded back, under the previous order, the Senate now stands in recess until 2:30 p.m.

Thereupon, the Senate, at 1:14 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DORGAN].

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

VOTE ON MOTION TO WAIVE BUDGET ACT

The PRESIDING OFFICER. The business before the Senate is the question on the motion to waive the Budget Act made by the Senator from New York. The yeas and nays have been previously ordered. A three-fifths vote is required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

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

The yeas and nays resulted—yeas 59, nays 38, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—59

Akaka	Ford	Moseley-Braun
Baucus	Glenn	Moynihan
Biden	Gorton	Murray
Bingaman	Graham	Nunn
Boxer	Harkin	Packwood
Bradley	Heflin	Pell
Breaux	Hollings	Pryor
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Byrd	Johnston	Rockefeller
Campbell	Kennedy	Roth
Chafee	Kerry	Sarbanes
Conrad	Kohl	Sasser
D'Amato	Lautenberg	Shelby
Daschle	Levin	Simon
DeConcini	Lieberman	Specter
Dodd	Mathews	Warner
Dorgan	Metzenbaum	Wellstone
Feingold	Mikulski	Wofford
Feinstein	Mitchell	

NAYS—38

Bennett	Durenberger	Lott
Bond	Exon	Lugar
Boren	Faircloth	Mack
Brown	Gramm	McCain
Burns	Grassley	McConnell
Coats	Gregg	Murkowski
Cochran	Hatch	Nickles
Cohen	Hatfield	Pressler
Coverdell	Helms	Simpson
Craig	Hutchison	Smith
Danforth	Kassebaum	Thurmond
Dole	Kempthorne	Wallop
Domenici	Kerrey	

NOT VOTING—3

Leahy	Riegle	Stevens

The PRESIDING OFFICER. On this question, the yeas are 59, the nays are 38. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I will just mention out loud the statements that I have made with the chairman of the Finance Committee, Chairman MOYNIHAN, as well as with Senator MITCHELL and Senator DOLE.

It is my willingness to cooperate with them. My biggest objection to the proposal that we are voting on right now is the fact that it would add $1 billion to the deficit in 1994. I stated then my willingness to work with them to try and find a real method of paying for this proposal.

I will be happy to cooperate with them over the next day or two—whatever is necessary—to try and come up with significant spending cuts to pay for the provisions under this bill so it would be legitimate under the rules of the Senate.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I just would like to join with my friend and colleague in this matter to say we obviously have a different view as to the legitimacy of measures before us to pay for the bill. The Office of Management and Budget says they are sufficient. The Senator from Oklahoma does not think so, and is sending the Senate on to perhaps find a better solution. We may be able to do that; we may not.

We are in a difficult situation, obviously, but I certainly am prepared to try, and I have every confidence—the good faith of the Senator from Oklahoma is a given, and I hope I will be thought in equal relation to him. We will do our best, I say to the majority leader.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as Senator MOYNIHAN said, there are disagreements. We do not accept the characterizations that the bill would add $1 billion to the debt. That is the kind of thing we now have to try to resolve in a way both sides can agree on, if that is possible.

Both the Senator from Oklahoma and the Senator from New York have represented to myself and the minority leader that they are prepared to make a good faith effort to do that; that they need about a day to go over it to run some numbers with the help of the committee staff, and others.

Accordingly, I now ask unanimous consent that the pending matter be set aside until 3 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, and I will not object, Mr. President. I would like to ask the majority leader, what is the status of the bill right now if it is not set aside?

Mr. MITCHELL. The status of the bill is that a motion to reconsider the vote has been made.

I will make a parliamentary inquiry of the Chair as to whether or not that is, in fact, a nondebatable motion which, upon returning to the bill, the Senate would immediately vote on?

The PRESIDING OFFICER. The Senator is correct. It is a nondebatable motion.

Mr. BUMPERS. And if the motion to reconsider failed, the bill is dead?

Mr. MITCHELL. Since 59 Senators voted to waive the Budget Act, and it takes only 51 to gain reconsideration, the likely outcome is that the motion to reconsider would prevail and we would then have another vote on the motion to waive the Budget Act with respect to the point of order.

I ask the Chair whether that is a correct interpretation?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Therefore, we would be right back in an hour or so where we were on this vote.

Now, it is possible that we might get 60 or 61. It is also possible we might get 56 or 57. A very clear majority of the Senate favors proceeding with the bill, but under the rules 60 votes are necessary to obtain a point of order, as was the case on the previous point of order. The vote on the previous point of order I think was 50 to 44. But that did not prevail because the 60 votes were needed.

Mr. BUMPERS. Further inquiry, Mr. President, of the majority leader. Assuming we do get 51 votes to reconsider, at that point is the only permissible business of the Senate then a renewal of the motion of the Senator from New York to waive the Budget Act?

Mr. MITCHELL. I direct that question to the Chair. I believe that would be the pending business—in the absence of unanimous consent to set that aside, that would be the case, but I inquire of the Chair.

I will restate the question. The Senator has asked, if the motion to reconsider is approved by a majority of the Senate, at that point is the pending matter the motion to waive the Budget Act, or could other business such as another amendment be offered at that point?

The PRESIDING OFFICER. The pending question at that point would be the motion to waive the Budget Act.

Mr. MITCHELL. And so it would then take consent for the Senator, or any other Senator, to offer an amendment.

I think, if I might say to my friend and colleague, this is probably the best result. My hope is that given the nature of this bill and the scope of the amounts—and it is possible that there is not disagreement on every aspect of the funding but perhaps on some part of it—our colleagues can reach some agreement.

What we have to bear in mind, of course, is that it then has to go back to the House, and we have to get some indication of what their view is in this. But I would like, if we could, to permit our colleagues to go ahead. I think both are acting in good faith, and it is possible we may be able to resolve it.

Might I point out to the Senator, if that is the case, when the bill comes back up, assuming this is resolved to the satisfaction of the Senator from Oklahoma—and in this regard I inquire of the Chair, am I not correct in my understanding that the bill then would be open to further amendment and the Senator from Arkansas could offer an amendment at that point?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. One further inquiry, Mr. President. The motion to waive, is that an amendable motion?

Mr. MITCHELL. I believe it is not, but I direct my inquiry to the Chair.

The PRESIDING OFFICER. Motions to waive are amendable.

I believe the Senator asked about debatable.

Mr. BUMPERS. Did I say debatable?

Mr. MOYNIHAN. No, amendable.

The PRESIDING OFFICER. Motions to waive are amendable.

Mr. BUMPERS. I thank the majority leader.

Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader? If not, that will be the order of the Senate. The pending motion is set aside until 3 p.m. tomorrow.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

Mr. MITCHELL. Mr. President, am I not correct that under the previous order the pending business will become the resumption of debate on the Interior appropriations conference report, and that there will be 30 minutes of additional debate on that subject and then a vote on a motion to invoke cloture on that conference report?

The PRESIDING OFFICER. The Senator is correct. The 30 minutes set aside for debate is to be divided equally.

The clerk will report the bill.

The assistant legislative clerk read as follows.

Conference report to accompany H.R. 2520, an act making appropriations for the Department of Interior and related agencies for the

fiscal year ending September 30, 1993, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator DOMENICI be recognized to control the time on this side.

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

Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. I yield 4 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for up to 4 minutes chargeable to the Senator from New Mexico.

Mr. CAMPBELL. I thank my colleague from New Mexico.

Mr. President, everyone in the West knows that ranching remains a key component to the rural western economy. For every dollar a rancher yields, $5 is multiplied in economic activity throughout the West.

A recent study done in Colorado estimated that about 43,000 jobs are dependent on ranching in just the western part of the State alone, and in fact one-third of the total economic output of the western side of that State is determined by ranching. With this conference report, 26,000 families in the American West are at risk.

There is a family by the name of Dufurrena I would like to talk about just for a moment that is in the district of my friend from Nevada, Senator REID. Mr. Dufurrena started 30 years ago as a youngster following the sheep camps, taking out some of his pay in land, and over the years he supported himself, was married, and raised some youngsters who also want to go into ranching. They are also at risk because these grazing permits under the Babbitt proposal as codified in this Interior Appropriations Conference Report will result in a 50-percent surcharge on the subleases of a man who wants to lease land to his own sons. According to Mr. Dufurrena and his wife, their life work in that ranch is done if that passes.

I might mention, according to another study done at the University of Reno that was just finished this month, the proposals contained in this bill would mean tougher times for all ranchers in that State. According to that study, even if a ranch has low or moderate debt, if this proposal is adopted, about 50 percent of the ranches in southern Nevada would have a limited chance of surviving and 22 percent of the ranches in northern Nevada would also have a very limited chance of surviving. I know that is not Senator REID's intention but unfortunately that is going to happen.

I know there are a number of other people who wish to speak, Mr. President, so I will not belabor this. I have been in the Chamber two times to speak on this issue already. But I ask unanimous consent to have the analysis of Fort Lewis College printed in the RECORD.

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

ANALYSIS OF THE ECONOMIC IMPACT OF THE LIVESTOCK SECTOR ON THE WESTERN SLOPE OF COLORADO FOR CALENDAR YEAR 1990

Economic impact category	Western slope livestock industry impact		Western slope total private sector	Livestock percent of west slope totals
	Direct	Induced		
Total direct personal income	$141,973,000	$142,000,000	$3,127,659,000	5
Total direct employment	11,695	12,000	180,948	6
Total induced personal income	533,818,000	534,000,000	3,127,659,000	17
Total induced employment	42,698	43,000	180,948	24
Total industry output	1,510,351,000	1,500,000,000	[1]	
Total induced output	3,957,119,600	4,000,000,000	[1]	

[1] Not available.

Sources: Direct income and employment from Bureau of Economic Analysis [BEA] using livestock/farm ratios from BEA farm data reports.
Induced income, employment and industry output based on BEA generated regional input/output modeling [RIMS] for the southwest Colorado recreational region produced for the Colorado Department of Local Affairs.

INTERPRETIVE COMMENTS

1. The Western Slope Livestock Industry directly provides 12,000 jobs and $142 million dollars in personal income (i.e. 5 percent of personal income and 6 percent of total private sector employment on the Western Slope.)

2. The number of Western Slope jobs that depend on livestock is 43,000 jobs (24 percent of total private sector West Slope employment).

3. The amount of Western Slope personal income that depends on the livestock industry is $534 million dollars (17 percent of total private sector West Slope income.)

4. The direct output of the Western Slope livestock industry in 1990 is estimated at $1.5 billion dollars. The total economic output generated by the livestock sector was $4.5 billion dollars.

5. All primary data and Regional Input/output multipliers are from the U.S. Bureau of Economic Analysis. Compiled by Michael Preston, Office of Community Services, Fort Lewis College. (303) 565-8317

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator controls 12 minutes 20 seconds.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator from Colorado, Mr. BROWN.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized for up to 5 minutes.

Mr. BROWN. I thank the Chair.

I thank the distinguished Senator from New Mexico, whose leadership on this I think has been very helpful in this debate.

Mr. President, I ask unanimous consent to enter into the RECORD at this point a letter from the Governor of the State of Colorado and a letter from the attorney general of the State of Colorado.

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

THE STATE OF COLORADO, DEPARTMENT OF LAW, OFFICE OF THE ATTORNEY GENERAL,

Denver, CO, October 25, 1993.

Re grazing reform and H.R. 2520.

Hon. HANK BROWN,
Hart Senate Office Bldg.,
Washington, DC.

DEAR SENATOR BROWN: I am writing to express my grave concern about certain provisions in grazing reform legislation currently before the Senate. On its face, H.R. 2520 purports to address grazing management on Bureau of Land Management lands. However, it contains several broad and vaguely worded provisions on water which are unnecessary to accomplish the stated goals. Further, the provisions may have unintended and devasting effects on western states, including Colorado.

A few facts will show you the reason for my concern. In the 11 western states, almost half of the land is owned by the federal government, and more than 60% of the average annual water yield is from federal lands. This means that the reservoirs, canals and pipelines needed to supply water to our cities, farms and industries often must be located in whole or part upon federal lands. Nevertheless, the federal government has recognized that decisions on water allocation and administration are best made at the state level. Once waste rights are developed under state law, they become vested property rights, entitled to protection. Such certainty in water use is the foundation of both public health and economic welfare in the western states. Language proposed by Senator Reid in H.R. 2520 threatens to undermine state primacy over water allocation and administration in the arid West, and subjects private property rights to the use of water to unwarranted uncertainty.

First, section 406(d) categorically states, "Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States." This provision was not included in the regulatory reforms proposed by Secretary of the Interior Babbitt, and thus has

not been subject to public review and comment. Second, section 406(i)(2) states, "The United States shall assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon." Both sections sweep far too broadly. My understanding of the policy proposed by Secretary Babbitt was that, for stock tanks and spring developments used for livestock watering in connection with grazing permits, the Bureau of Land Management and not the permittee would file for any necessary water rights. The above sections expand that concept dangerously. As I explained, many water supply facilities cross or occupy federal lands. Sometimes these involve only a few acres or a narrow right-of-way. Owners of those facilities should not be forced to cede water or water rights to the federal government because they supply water to ranches, farms or feedlots. Yet it might be argued that the sections support such an interpretation.

Finally, section 406(o) requires new standards and guidelines for permits, including restoration of riparian areas and fish habitat. Recently, the United States Forest Service has threatened to deprive several cities in the Colorado Front Range of up to one-third of their existing water supplies as a condition of renewing permits for water facilities that have been in existence for decades. In light of these recent threats, I oppose anything which could be interpreted as authorizing or encouraging similar actions on the part of the Bureau of Land Management.

The above provisions should be eliminated from the proposed legislation. If necessary, narrower provisions to accomplish stated goals could be crafted. In addition, a provision expressly recognizing and protecting existing state water laws and state-created water rights should be included. Long-standing federal water policy vital to the well-being of the arid western states should not be summarily discarded under the guise of grazing reform.

Thank you for your attention. I believe this matter deserves the highest priority, and hope to discuss it with you further.

Respectfully,

GALE A. NORTON,
Attorney General.

STATE OF COLORADO,
STATE CAPITOL,
Denver, CO, October 25, 1993.

Hon. BOB DOLE,
Senate Minority Leader, Hart Senate Office Building, Washington, DC.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATORS MITCHELL AND DOLE: I am writing to express serious concerns about the Reid Amendment to the fiscal year 1994 Interior Appropriations bill. This Amendment addresses grazing fee and rangeland management reform issues. I urge members of the Senate to oppose this legislation in its current form.

While I agree that the grazing system should be reformed, the potential long-term consequences of these reforms on Colorado ranchers and the public land resources demand a far more deliberative and constructive process for the formation of rangeland management law than has been used in developing the Reid Amendment.

We need an open and deliberative process to solve this complicated set of issues. The Reid Amendment is not the product of those informed viewpoints of all the constituents whose lives they would affect, including ranchers, water users, environmentalists, western governors, and many others.

I am particularly concerned with the provisions of the Reid Amendment pertaining to water. As written, the Reid Amendment would inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come.

For over a century, the allocation and administration of water rights have been the province of the States. In Colorado, as in other Western states, we have worked hard for decades to remove the cloud of uncertainty created by unknown and unquantified federal reserve rights over state water rights. In that regard, laws have been passed that require the United States to proceed in accordance with State law to obtain rights to water for uses on federal lands. We in Colorado have spent considerable time and money over the past two decades in efforts to quantify the federal water rights on our public lands.

If passed in its present broad and ambiguously worded form, the Reid Amendment could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well. Such an outcome unnecessarily exceeds the scope of rangeland management reform, and could undermine State water allocation laws and the rights created under those laws.

The Reid Amendment would also direct the Secretary of the Interior to incorporate standards and guidelines into permits and leases that, among other objectives, would provide for the "protection and restoration of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." While it is necessary to take steps to improve riparian habitats throughout the West, the Reid Amendment would appear to place undue reliance on the regulatory process of permit issuance to achieve this important goal. Collaborative, voluntary efforts that involve all affected parties are far preferable means to achieve riparian restoration than is unilateral reliance on regulation. In contrast, the Reid Amendment clearly exceeds the appropriate scope of rangeland management reform and seriously erodes the prerogative of the States to protect riparian values within the prior appropriation system.

The Western governors, through the Western Governor's Association, have asserted among other things that if rangeland reform is to succeed, it must result in healthy land and sustainable and economically diverse communities. Most westerners would agree that fees need to be raised in a way that protects the range and the resource; however, a fee increase that drives family ranchers off the land is not practical or acceptable.

We need to develop such important and far reaching laws and policies in the full light of public participation and scrutiny.

Beyond the need for a sound policy making process, rangeland management reform and other efforts to reform federal land policies should be approached in full recognition of the need to protect both rural economic vitality and diversity to sustain rural economies. This fundamantal point must be understood and embraced if we are to successfully reform federal land policies.

The grazing fee issue is but one of a number of concerns that affect public lands. We need to do more to examine these impacts and support a comprehensive effort to diversify the economies of the rural west.

Sincerely,

ROY ROMER,
Governor.

Mr. BROWN. Mr. President, Gov. Roy Romer is a very prominent Democrat in terms of national politics, very active supporter of the President, and favors the increase of grazing fees. His concern about the proposal that has come out of Congress has nothing to do with the lack of enthusiasm for increasing grazing fees or lack of enthusiasm for the Secretary of the Interior. He is a strong supporter of both. But he is concerned, as is our Attorney General, about the language.

Mr. President, earlier today the distinguished Senator from Arizona noted that there was an exemption for existing water rights in the particular language that has been suggested to this body. Indeed, Mr. President, it is accurate. In subsection 406(d) there exists this language: "Subject to valid water rights existing on the date of enactment."

Mr. President, that parallels language that is in other bills. It is a common trait, whenever you are passing new legislation like this, to grandfather in or to exempt out water rights that are already established. The problem in this measure is that while that language is in section 406(d), it is not in section 406(i), and it is very clear that existing water rights are subject to this new standard. And most importantly of all, that protecting language, which is normal in these circumstances, is not in section 406(o).

Mr. President, section 406(o) is very basic. Whenever you renew a permit or a lease, you have to meet the new standards that will shut down many of the activities that now transit public land. Some think that this measure only affects the mountain west. It is not true. It has enormous impact in West Virginia. It has a huge impact in the State of Virginia. It has a big impact in the State of Indiana. It affects both Vermont and New Hampshire. It has a big impact in Georgia, Alabama, and Mississippi. It has a huge impact with regard to Tennessee.

Everywhere there is a Federal permit that has to be renewed these new standards apply. And they do not grandfather in existing standards or existing rights. This is an enormous change in terms of the impact by the Federal Government on permit holders. This measure was not included in the House bill. It was not included in the Senate bill. It has not been the subject of hearings. It is one of the most significant changes in public land policy in the history of the Nation.

Mr. President, literally, what this does is shut down existing permits and leases to meet the new standards. The new standards are such that many of those activities will simply be eliminated. We are talking about drinking water in already established reservoirs. We are talking about roads where there has been a permit. We are talking about leases. We are talking about gas

lines. We are talking about water lines. We are talking about oil lines. We are talking about a major disruption.

I have here on my left a breakout of the public property in the United States. One can see the barrier that runs along the western portion of Virginia and the eastern portion of West Virginia. Without the ability to transit across public property, rangeland, to use improvements that run over grazing operations under this measure, without the ability to get special use permits or renew them, since this standard applies to both existing and renewable permits, you literally shut down many of the vital activities that are so essential. When I say vital activities I mean water and sewer, I mean roads and highways, I mean gas and oil lines, and a variety of things that are absolutely devastating if they are shut off.

Mr. President, I have just a short memo. It lists some of the water projects that will be impacted in Nevada. One project under discussion is a $2 to $3 billion pumping proposal. That project would be eliminated if this measure is put into place. Another proposal being discussed in Nevada involves underground storage of surplus mainstream water out of the Lower Basin's share. That proposal would be endangered if this measure is passed. The Virgin River Project in Nevada would be endangered. The Roan Creek proposal would be in danger. The language in sections 406(i)(2) and 406(o) are devastating in their impact.

Let me simply reiterate, I favor higher grazing fees; I do not favor the new standards that will devastate the use of public lands.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, we reserve the remainder of our time.

Mr. BYRD. Mr. President, I yield 1 minute to Mr. REID.

Mr. REID. Mr. President, I have here a letter dated this date to Governor Romer from Secretary Babbitt, which, among other things, states that my good friend from Colorado is basically wrong. For example, nothing in section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public land under State law. This has long been the practice on national forest as well as State land in Western States including my home State, one of the most arid in the country.

I ask unanimous consent that this be printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 26, 1993.

Hon. ROY ROMER,
Governor, State of Colorado,
Denver, CO.

DEAR GOVERNOR ROMER: In your letter dated yesterday to Senators Mitchell and Dole you express particular concerns about certain provisions of Senator Reid's compromise public lands grazing reform (the Reid compromise) being debated as part of the FY 1994 Interior Appropriations bill. I must respectfully disagree with your characterization that these provisions would "inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come."

My staff and I have carefully examined the provisions in question. In my judgment as a former Western State Attorney General, Governor, and private practitioner in water law, these charges simply cannot be sustained. Those parts of the Reid compromise that relate to water are in fact in the mainstream of water law as applied in the western states.

For example, nothing in new section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public lands under state law. It only ensures that, subject to valid existing rights, such water rights be obtained in the name of the United States. This has long been the practice on the national forests, as well as state law in many western states, including my home state, one of the most arid in the country.

Your letter expresses specific concern that the Reid compromise "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well." Apparently you are referring to language in the last sentence of section 406(i)(2). But this sentence does not address federal/state relations in water law. It simply confirms the common sense principle that federal claims and rights to water "developed on public lands [shall be exercised] to benefit the public lands and resources thereon." Moreover, the sentence is part of a subsection addressing grazing-related water rights; more specifically, cooperative range improvement agreements. (It is captioned "Range Improvement Ownership.") There is simply no way a court could read this innocuous language to create broad new categories of federal water rights, whether for grazing or non-grazing purposes, in denigration of state water law.

You have also raised concerns about section 406(o), which directs the development of standards and guidelines that "establish minimum conditions for the protection of rangeland ecological health," and which shall include, among other things, "restoration and protection of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." Nothing in this section addresses water rights or state-federal relationships in the area of water; rather, it merely furnishes direction for the Department in the implementation of existing law. That law (the Federal Land Policy and Management Act, or FLPMA) has for nearly two decades required BLM lands to be managed for "multiple use" and "sustained yield," and defines these terms to require accounting for, among other things, "the long-term needs of future generations for renewable and nonrenewable resources, including recreation . . . watershed, wildlife and fish, and natural scenic [and] scientific . . . values." 43 U.S.C. 1702(c).

Each of the provisions in the Reid compromise about which you have concerns is an amendment of FLPMA. That Act's general disclaimer on water rights (Section 701(g), 43 U.S.C. 1701 Note) remains intact. No court has ever interpreted FLPMA as changing state-federal relations in water law. The experience under it has been exactly the contrary.

You have my assurance that the Department of the Interior will, if these provisions are enacted into law, interpret and apply them in conformance with their intent—not to make drastic changes in state-federal relations in water law, but rather to ensure that water rights obtained under state law for grazing-related purposes on public lands serve federal grazing-related needs, and that the ecological health of federal rangelands is secured.

As a native Westerner I know the sensitivity of water rights issues and the legitimacy of states' concerns that their water law systems be protected. I also know a red herring when I see one. The attempt to portray the water provisions of the Reid compromise as a massive federal water grab is just that. I hope this clarifies the matter.

Sincerely,

BRUCE BABBITT.

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

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 30 seconds to the Senator from Colorado.

Mr. BROWN. Mr. President, I attempted to gain the attention of the Senator from Nevada on the Babbitt letter.

Let me simply quickly add my remarks and summarize. That section 406(d) does, indeed, have a grandfather clause. That is common in these circumstances. The problem with sections 406(o) and 406(i) is that they do not have that grandfather language. That is the offending language. That is the area of concern. I think discussing 406(d) simply does not address the problem.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Would the Senator from West Virginia yield 15 seconds?

Mr. BYRD. I yield the Senator 1 minute.

Mr. REID. The letter, Mr. President, covers those sections also. As I indicated in this morning's debate, this is like Halloween. There are ghosts and goblins everywhere. I suggest to my colleagues that they read the letter from Secretary Babbitt that adequately explains the ghosts and goblins raised by my friend from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 1 minute to Senator PRESSLER.

Mr. PRESSLER. Mr. President, I am very concerned about the endangered species portion of this legislation. I am very concerned about the water rights my friend from Colorado has raised, the new standards. I am very concerned about the property rights issues wrapped up in this bill.

I understand this bill has been reported in the press as a grazing fee issue. This is a broad bill with many aspects. I hope my friend from New Mexico will address the issue that this is not just a grazing fee issue, but that it includes at least three fundamental issues in addition to that.

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I have cosponsored legislation to raise grazing fees. The Reid compromise contains two pages that deal with the establishment of grazing fees that are higher than what I support. It is the 17 pages of rangeland reform that are the controversy. Those reforms are "the devil within the detail."

What's the rush on rangeland reform? These proposals just surfaced in the last few weeks. There have been no hearings or public input on these reforms. I do not support changing current law without first hearing from those Americans impacted by these changes.

What is involved? leasing and subleasing practices, private property rights, endangered species, water rights and States' rights.

Under the Reid proposal, range improvement funds would be established. These funds would be used for things such as fish and wildlife improvements. Under section 406(o), the Interior Secretary would develop standards and guidelines establishing minimum conditions for the protection of rangeland ecological health and restoration of riparian values. This section could open up a Pandora's box of frivolous litigation from environmental extremists and preempt State law at the same time.

Under section 406(i) of the compromise, "the United States shall assert its claims and exercise its rights water develop on public lands to benefit the public lands and resources thereon." Water rights are States' rights. Not under section 406(i). It appears this section would apply to all Federal agencies. Does this mean the Federal Government would lay claim to the water from Bureau of Reclamation projects such as Mid-Dakota, Mni Wiconi and the proposed Lewis and Clark Rural Water System for Sioux Falls? These questions deserve answers.

There are more questions. Private investment by the rancher could be acquired by the Government without compensation. Does this apply to all users of Federal lands, such as utilities, pipelines distributions, miners, energy companies, timber companies, recreationalists, hunters, sportsmen? We need the answers. We do not need to rush blindly into enacting these doubts into law.

Permanent water developments such as wells, reservoirs, and stock tanks would become property of the U.S. Government. Section 406(m) regarding future permanent range improvements states: "all rights to permanent improvements contained on or in public lands are vested in the United States."

Do not be deceived. Section 406(d) contains a grandfather clause protecting existing water rights. Such protection is not afforded under those sections that I have described and which are the most contentious. Without such protection, the questions that I have stated need to be answered will receive the answers we cannot live with. This has happened before. The Clean Air Act contains a volatility waiver for ethanol, but the reformulated gasoline section of the Clean Air Act does not. We all know that without the waiver regulations are being written that will preclude the use of ethanol in reformulated gasoline. The same thing can happen here.

This is the bottom line: Today's controversy has little, if anything to do with grazing fees. The proposal upsets a century's worth of Federal-State relations with respect to water use on public lands. The legislative process is being tossed aside along with the interests of ranchers and landowners. As a result, all decisions are to rest with Secretary Babbitt. I am not sure this Government needs a new cattle czar.

Mr. HATCH. Mr. President, there has been considerable discussion in recent days regarding the impact the Reid/Babbitt compromise contained in the interior appropriations conference report will have on the water rights of our Western States. Earlier today, the Senator from Nevada indicated that the State engineers from the various Western States were silent on those sections of his compromise that deal with water rights, that is sections 406(d) and 406(i)(2).

It is not fair to characterize the silence of our Western States as an indication that there is no interest or concern with these sections. On the contrary, this silence represents an uneasiness on the part of many of Utah's leading water experts who are reviewing the Reid/Babbitt language to determine the specific ramifications it will have on State water rights and State law. If these experts are unsure about these effects, then how can we proceed to formally adopt this language? It does not make sense to me.

However, this silence has now been broken by at least one State water engineer from the West.

I would bring to the attention of my colleagues a letter I received today from Mr. Robert L. Morgan, the Utah State engineer and the director of the division of water rights for the Utah Department of Natural Resources. Mr. Morgan indicates his reservations with section 406(d) and 406(i)(2) and directly states that he "opposes the existing language in these two sections."

In addition, Mr. Morgan recommends these sections be revised to protect the State appropriations process of water rights and has verbally told me that short of adopting these revisions, the language regarding water rights in section 406 should be eliminated. I ask unanimous consent that this letter from Mr. Morgan be printed in the RECORD.

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

STATE OF UTAH, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WATER RIGHTS,
Salt Lake City, UT, October 26, 1993.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I have had discussions this morning with Ted Stewart, Executive Director, Department of Natural Resources, and John Harja of the Governor's Office. Concern is raised as to the grazing reform legislation (HR 2520). Two specific areas in the legislation trouble me. They are Sec. 406(d) and Sec. 406(i) (2). As State Engineer in Utah I would oppose the existing language in these two sections.

State Engineer Eluid Martinez of New Mexico has proposed to Senator Jeff Bingaman suggested language. I have examined his language carefully and endorse his revisions. The language follows. Deletions are indicated by strikeout and new material is underlined.

Sec. 406(d). Water Rights—Subject to valid water rights established pursuant to state law existing on the date of enactment, water rights shall be obtained pursuant to state law for grazing-related actions on public lands in the name of the United States.

Sec. 406(i) (2). The permittee or lessee may hold the title to all temporary range improvements authorized as livestock-handling facilities such as corrals and dipping vats and temporary, readily removable improvements such as troughs for hauled water. The authorization for permanent water developments, such as spring developments, wells, reservoirs, stock tanks, and pipelines, shall be through cooperative range improvement agreements to protect the public interest for multiple use of rangeland ecosystems. For water rights developed pursuant to Section 406(d) the United States will assert its claims and exercise its rights to water on public lands pursuant to state law to benefit the public lands and resources thereon.

I think with the above-suggested revisions that state water rights administration is preserved and that the concerns raised by many of the western state engineers will be appeased.

Should you have any questions, feel free to call me at (808) 538-7371, or materials may be FAX'd to me at (801) 538-7467.

Sincerely,

ROBERT L. MORGAN, P.E.,
State Engineer.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I ask my distinguished friend—I yield whatever time I am using—the distinguished chairman of the Appropriations Committee, does he want to speak with all of his time at one time?

Mr. BYRD. Mr. President, yes.

Mr. DOMENICI. Would he like that we finish ours and then he go to his?

Mr. BYRD. Yes, if you please.

Mr. DOMENICI. I will do that, although I would very much like, if it is not too unaccommodating, to reserve 1 minute just in the event I might have to respond.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes 44 seconds.

Mr. DOMENICI. Mr. President, there is a letter to Senator WALLOP from Sheridan County School District indicating their grave concern that they

will be short of money because there is more discretion in the Secretary to take money from them than in the past and a letter from Farm Credit Services to Senator MCCAIN, which Senator WALLOP received a copy of, that indicates the Farm Credit Services' serious concern about the valuation of the ranches in the future. I ask unanimous consent that they be printed in the RECORD.

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

SHERIDAN COUNTY SCHOOL DISTRICT NO. 2,
Sheridan, WY, October 26, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC

DEAR SENATOR WALLOP: The purpose of this letter is to express concern regarding the passage of the '94 Rangeland Reform Act. Western states, and Wyoming in particular, could be adversely affected by the passage of such legislation.

Since we have ranching interests represented both on our Board of Trustees and as patrons of the school district, we want you to be aware of the potential impact of such legislation on them and ultimately on the school district as well.

Wyoming is facing a time of declining revenues with a projected funding shortfall for education. Because agriculture is one of the major industries in Wyoming, and negative impact on that industry will eventually impact school funding and Wyoming's economy in general.

Some of the concerns with the '94 Rangeland Reform Proposal go beyond the actual increase in grazing fees and include the underlying issues of seizing water rights, limiting rancher input as to the management of the land, and seizing improvements. As you know, water is particularly critical to this state, and the loss of any type of control over the water rights on these lands could have a major impact on the future of this state.

Please use your influence with your colleagues to help them understand the ramifications of this legislation on the state of Wyoming.

Sincerely,

MARILYN KOESTER,
Business Manager.

FARM CREDIT SERVICE,
Tempe, AZ, October 21, 1993.

Re: Public lands grazing fees and proposed rule changes.

Hon. JOHN MCCAIN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: As a member of the Farm Credit System, Farm Credit Services (AFCS) has been intimately involved with the public lands ranching community since the 1920's. We are now following the public debate on the Interior's range use, rule making proposals with keen interest.

I wish to convey in a meaningful yet simple manner how grazing fee increases and the proposed rule changes will impact our continued ability to provide constructive and profitable credit to the Arizona ranching community which depends so much on public lands to earn a livelihood. Our concerns are focused primarily on the proposals' impact to our lending environment and existing collateral values.

The effect of a fee increase will most likely cause high cost and marginal livestock operators to exit the market. Typically, these will be the smaller family operations to whom we have extended credit for many years. Additionally, higher fees that contain the built-in potential for increases by up to 15 percent in the future will pose greater financial burdens to even the most efficient livestock operations. These financial burdens will in turn affect an operator's short and long term ability to repay debt. While we cannot presently predict which of our borrower's will survive or fail, we can plainly foresee an adverse impact to our business in terms of borrower viability and performance.

We have studied the effect of the grazing fee increase and concluded that permit values and borrower net worth could decline by as much as 35 percent by the time the full amount of the fee increase is implemented. This is based on a normal per head net income approach and capitalized at a conservative 5 percent.

The proposal also entails a great deal of uncertainty with respect to permittee tenure, permit renewal, and compliance with a myriad of environmental, conservation, preservation, and other laws and regulations. We are greatly concerned how this uncertainty will affect the value of grazing permits that we hold as collateral. The linkage of "stewardship" with the permit process, renewal, and sanctions is tenuous with respect to our ability to meet the long term credit needs of the industry.

Imagine a scenario in which an operator obtains a ten year lease permit which is, in part, financed by AFCS. According to our interpretation of the proposal a single transgression by the operator can lead to a complete and immediate revocation or suspension of the permit for an indeterminate amount of time. Such an event would render our collateral virtually worthless. This "full force and effect" provision will likely become the chief deterrent to the availability of long term credit and a major contributor to a decline in permit values.

We believe that the proposal as written is detrimental to our ability to carry out the responsibility of providing sound and constructive credit to our borrowers. The rigor of the land-use proposals raises the greatest questions and uncertainties by virtue of their breadth and complexity.

We urge you to take the appropriate legislative actions which will preclude the proposals heavy burden on the Arizona livestock industry; that protects our continued ability to deliver credit without undue fear of collateral deterioration; and that provides assurance of the continued viability of this industry.

Sincerely,

CARL E. WEILER,
Chairman, Board of Directors.

Mr. DOMENICI. Mr. President, I would like to put in the RECORD a letter from our Governor, one of the very early supporters of Governor Clinton for President. Rather than read it, let me suggest that our Governor, contrary to inferences and implications a few days ago, clearly is against the Reid proposal and thinks it will do irreparable harm to our State of New Mexico. I ask unanimous consent it be printed in the RECORD.

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

I would like to take this opportunity to express my concern and opposition to Senator Reid's amendment to the interior appropriations bill concerning the federal lands grazing fee and other issues of rangeland reform. The amendment in its current form will have far reaching and possible detrimental affects on the livestock industry, state and local communities and economies, and the condition of the public rangelands as well as the state and private rangelands in New Mexico.

The proposed amendment does not ameliorate nor consider the concerns that I have previously expressed and submitted to the BLM. It is disturbing to think that the federal lands grazing fee and rangeland reform proposals will be codified without first being heard in the proper authorizing committees of congress. Additionally, as I have previously stated, the reform proposals will be far reaching in their influence and require the oversight and input of those entities which will be directly and indirectly affected.

Mr. DOMENICI. Mr. President, we have one from the New Mexico Bankers Association, which clearly spells out how difficult it is going to be for many ranchers to get financing if, indeed, these amendments are passed as a part of this appropriations bill. I ask unanimous consent it be made a part of the RECORD.

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

NEW MEXICO BANKERS ASSOCIATION,
Albuquerque, NM, October 25, 1993.

Hon. PETE V. DOMENICI,
Dirksen Senate Building,
Washington, DC.

DEAR SENATOR DOMENICI: Rangeland Reform 94 is of considerable concern to the bankers of New Mexico. The economic impact to our State could be devastating.

In some areas of New Mexico up to 75% of the total animal units are on federal grazing land. Current leaseholders have given value and made capital investments by purchasing grazing lease rights based upon the current lease cost of $1.86. Under the proposal this lease amount will almost double and capital investment becomes less or almost non-existent because of the instability or uncertainty of grazing permits. This is compounded by the fact that capital investments made by the rancher to improve public lease lands will be forfeited.

The existing deeded property used in conjunction with the public lease lands will also decline in value, because in many situations both the deeded and public lands are needed in remote locations to economically justify these operations. The decline of public lands would adversely impact private land values as well.

Lending is based upon many factors of which repayment ability and collateral value are two very important ones. With the increased grazing fee costs and loss of improvements and the declining value of lease and private land, both the repayment ability and collateral value would be severely jeopardized and lending to the cattle industry would be almost non-existent.

Water rights are an issue which although addressed in the legislation have not been a major part of the debate. In our view, the language concerning water rights is at best ambiguous and could result in turning western water rights law on its head. As we do not understand the implications of the proposed water law amendments, we would only

plead that hearings be held concerning the matter.

Along with the Wool Act passed earlier, the economic impact could be devastating.

The following could occur in rural America:

(1) businesses who depend upon ranchers may close

(2) merchants in small town USA could close due to lack of business and economy

(3) schools could drop in enrollment

(4) medical facilities in rural America could be closed or federally subsidized

(5) less tax dollars to support small towns

(6) more dependency upon welfare, food stamps, etc. to survive.

Frankly it seems to us imprudent to attach nineteen pages of new law governing grazing fees, capital improvements and water rights to an appropriation bill. Surely matters of such importance to our industry should stand or fall based on their own merit.

Sincerely,

BARBARA K. DAUGHERTY,
Executive Vice President.

Mr. DOMENICI. Mr. President, let me share with the Senate and with my very good friend, Senator BYRD, a few thoughts.

Let me first say to Senator BYRD, to the distinguished Senator from West Virginia, I do not want to kill the Interior appropriations bill. I do not want to see the Department closed down for lack of funding because we cannot get a continuing resolution and cannot pass this bill. My goal is very simple: to see if I can get fair play for the ranchers in my State and across the West.

I plead with the distinguished Senator from West Virginia to listen to one part of my constituents' calls. It is said that there is gridlock and that we from the West are just interested in delaying things. It is almost strange that some kind of simultaneity existed when the Senator from the Dakotas said, "Will DOMENICI please say that this is not just grazing fees."

And about that time, I put up this sign, this little simple sign, "It's Not Just Grazing Fees."

Mr. President, I say to my good friend from West Virginia, I do not think the distinguished Senator from West Virginia would like the appropriations bill that he is chairman of to be used to put 19 pages of new authorizing language that changes the relationship of ranchers on BLM land in terms of the value of their property, the improvements in the water law as discussed here by the Senator from Colorado, Senator BROWN. I do not think the Senator would sit still while the House said it is going to be that way or nothing. I just cannot believe, knowing his sense of fair play for all these years, that he would do that.

We want something very simple, and maybe the Senator can help us. We want 1 year, not 10 years, not gridlock—we want 1 year before these new regulations proposed by the bureaucracy, executed by the executive branch of Government, go into effect. Is that asking too much?

I ask if I might have two additional minutes and I will be pleased to yield.

The PRESIDING OFFICER. The Senator has 45 seconds on the original time remaining.

Mr. DOMENICI. I ask unanimous consent for two additional minutes beyond the time heretofore agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I say the other side should have the same and I so ask unanimous consent.

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

Two additional minutes are added to each side.

Mr. DOMENICI. Mr. President, let me repeat and say it a little differently. I have talked to the Secretary of the Interior just 8 minutes ago. I said:

> We need some time before you put into effect these changes that are not part of gridlock because we have never had a hearing on them. They have never been before the authorizing committee.

His answer was very simple and very profound. He said, "It is out of my hands."

I ask my friend, the chairman, in whose hands is it then? I assume it is in the hands of the U.S. House or maybe in the hands of the U.S. Senate. But I do not think so. I do not think the Senate that gave us 59 votes for a 1-year moratorium on those other portions would deny the West that.

I do not know how we are going to get this across that it is not grazing fees. But it does us no good to negotiate grazing fees if we are going to have all these other rules and regulations imposed without a hearing, without an opportunity by Congress to do something about it.

I have done my best, with the help of many Senators, to lay before this body the egregious nature of these new rules to be executed and entered by Executive order on a Western way of life, on many thousands of families, who use this grazing land as part of their unit of ranching. All I can do now, in a very real sense, is say: Thank you, Senators, for giving us some leverage, and thank you, Senator BYRD, if you will give us some consideration regarding imposing this in an appropriations bill just because certain Members of the U.S. House insist it be that way or they will not let us do anything else.

I hope I have a few seconds remaining as was my previous reservation. But, if not, I yield the floor in any event.

The PRESIDING OFFICER. The Senator retains control of 34 seconds.

Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the distinguished Senator says in whose hands is it? It is in the hands of those who are preventing action on this conference report, may I say to my dear friend.

Let us adopt the conference report and then we can get to the amendments in disagreement. Then those Senators who feel they want to offer an amendment can do so. They can offer an amendment to an amendment in disagreement. Let them debate it, and let the Senate work its will.

So I say, most respectfully to the Senator, it is not in my hands; it is in the hands of those preventing action on the conference report. I urge them to let us vote. It is just that simple.

Obviously, we cannot do anything about it if the Senate has the will to change it. We cannot do anything about it as long as we are in a filibuster on the conference report. We cannot get to amendments in disagreement.

For those who may not understand the procedure around here, we cannot get to amendments in disagreement until we move on the conference report and until we adopt it. We can reject it, in which case the amendments in disagreement will not even come up. If we agreed to the conference report, then we go to the amendments in disagreement. Then let those in whose hands it rests offer the amendment.

I offered my amendment—I have mentioned a number of times, and I may have mentioned again—I offered my amendment, which was referred to as the coal miners amendment. I did not filibuster that bill. I went to see practically every Senator and urged them to vote for my amendment. But I did not say, "Well, let us filibuster." I did not say, "Will you join me in a filibuster? Will you join me in joining against cloture if I filibuster?" I never said that.

We went to a vote. Do you know who lost? The coal miners lost. I lost my amendment.

But I lifted myself up off the canvas, put a few Band-Aids on, rubbed ointment on the cuts, put a little rosewood salve on some of the lesions, and I said, "Let us go, let us go to the next item." That is the way to settle things here in the Senate.

I have engaged in filibusters myself. I spoke 14 hours and 13 minutes on one occasion. And I suppose I can speak that long again, probably at the drop of a hat if we begin early enough in the day.

So I do not say we should take away the rights of Senators to filibuster. But this is not the way to use the filibuster. This will hurt Senators who hope to retain the right to filibuster. It is the same thing that brought on the cloture rule in 1917—misuse and abuse of the filibuster.

I would hope that Senators would let us vote on the conference report and adopt it, and then let them offer their amendments.

So I respect those who feel that the amendment will be injurious to their constituents. I respect them for that. But let us vote. Let us vote.

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

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I have 30 seconds.

Mr. BYRD. Mr. President, how much time does the Senator need?

Mr. DOMENICI. I could use 1½ minutes.

Mr. BYRD. I yield 1½ minutes to my friend.

The PRESIDING OFFICER. The Senator from New Mexico, [Mr. DOMENICI], is recognized for up to 1 minute 30 seconds on time chargeable to the Senator from West Virginia.

Mr. DOMENICI. I thank the Senator.

Mr. President, let me just suggest that from the time the Interior bill came out of committee with this authorization language in it, it kind of shocked this Senator because I really did not believe we would write that into law.

I have tried my very best, and perhaps I have been mistaken, but I have tried to see how we might get some changes that would make this reasonable for the ranchers of the West.

It had been my conclusion thus far that there is no willingness on the part of the House and there was no willingness on the part of the Secretary of the Interior to give, to negotiate; it was that or nothing.

I thought, as did many on our side, that perhaps by delaying this bill we might at least send a signal that we did not intend to get ourselves in the position where it was solely the decision of the House Members as to the fate of our ranchers. I thought this approach to filibuster was appropriate.

I am very hopeful that in due course we could reach some agreement. I do not know how we can when we hear from the Secretary of the Interior, whom the distinguished Senator knows we will work with—I work with him—who said it is out of his hands; that he cannot do this because the House will not give an inch.

So with that, I do not think it has been an abuse of the filibuster. I hope it has worked to bring some sense to this debate, and maybe it will have moved us in the direction of getting something done.

The PRESIDING OFFICER. The time allotted to the Senator from New Mexico by the Senator from West Virginia has expired.

Who yields time?

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia controls 9 minutes and 44 seconds.

Mr. BYRD. Mr. President, I remind all Senators that any resolution of this issue must be approved by both the Senate and the House. Neither body can act as though the other body does not exist.

The Senate should take a position on the proposal. The way to do that is to invoke cloture and get on with the business of voting for the conference report. We cannot make decisions on amendments in disagreement until we act on the conference report. Senators are not giving away anything by voting for the conference report.

May I say to my friend from New Mexico, Mr. DOMENICI, Senators who are engaging in what I shall call a filibuster—and I do not say that in a pejorative sense because, as I say, I have engaged in some myself—are not giving away anything by voting for cloture and voting on the conference report.

If I were in the position of Senators on that side of the question, I would vote for the conference report. Surely, they do not want to kill the conference report. Surely, we do not want to kill this bill and carry that responsibility.

I would vote for the conference report. Then when the amendments come up in disagreement, which will be the next action, I would offer whatever amendment I wanted to offer, and I would debate that until I felt that I had made my case, and let the Senate work its will and get on with something else.

But this thing of just filibustering a conference report without making any effort to amend an amendment in disagreement is getting us nowhere.

Frankly, it casts a cloud over the right to unlimited debate, because there are people who perceive this as becoming, after awhile, certainly, an abuse of the Senate rules.

I know that the Senators on that side, I believe they feel, I think they would understand that this Senator from West Virginia is one of the foremost, if not the foremost, Senators who believes in minority rights. I have been a leader of my party in the minority, and so I respect the need for rules that protect minorities in the Senate. I do not think that during the 6 years that I was minority leader I ever abused that right of unlimited debate.

So I hope that reason will prevail and that Senators will vote for cloture. If they do not vote for cloture today, of course, I will offer another cloture motion. But the continuing resolution expires this coming Thursday night at midnight; 12 o'clock midnight. What will happen then?

I do not know whether the House will send over another continuing resolution or not. I had hoped that all other appropriations bills would be finally disposed of at that hour, we would not have anything left, even if this were left, other than the Interior appropriations bill. And if that time finally arrives that the Interior appropriations bill is the only bill that is left, then the House may not enjoy for the third, or fourth, or fifth time the sending over of another continuing resolution.

And I tell you, Mr. President, at some point in time, if this goes on, I hope that the House, at some point, we have not reached that point yet—"The quality of mercy is not strain'd, It droppeth as the gentle rain from heaven, Upon the place beneath."

But there comes a time when the patience for mercy expires, along with mercy. And at some point, the House could send over a continuing resolution that carries us to the end of the fiscal year, September 30. And the President may, at some point, take the position that he will not sign any more short-term CR's; that he has about had his fill of this, and that he will not sign, he will veto any short-time CR. So we will have to send him down one that extends until the beginning of the next fiscal year. In that case, every Senator in here, practically, would lose—I would say all Senators would lose—and the Senate would lose, the House would lose, the people would lose. The people who are affected by this bill would lose.

Now, I can be a mighty filibusterer. I can wage my sword until the blood drips from it, like the water drips from the mountains in West Virginia. But what would I save by using that sword in that manner?

We are going to hurt a lot of people, and a lot of these are Indians. The Bureau of Indian Affairs, Indian services, health services, schools, et cetera.

We cannot blame the House and say the House started all of this. It was the Senate that amended the bill, put on a moratorium and sent it over to the House. So the Senate opened the door itself. The Senate amended the House bill. It was the Senate that opened the door to further amendments.

And when the Senate sent over to the House the moratorium as an amendment to the House bill, the House saw the door was opened, and it plunged through it and offered an amendment.

And they say, "Well, this is something new in a conference." I will say to my friends, it is not subject to a point of order because it is not a Senate amendment. Rule XVI applies to Senate amendments, not to House amendments.

And I have seen many, many things that the House did not act on and the Senate did not act on sent to a conference and come back looking altogether different.

So I hope that Members will vote to invoke cloture and cut out this filibustering and get on with an amendment to the amendments in disagreement. Let us finish our work on this bill. This is an appropriation bill. We cannot let an appropriation bill die, and every Senator here knows that.

So, I appeal to my colleagues, on the basis of reason, to get on with this matter. At the same time, I understand their feelings. I sympathize with them.

But we have all been in this kind of a fix before at one or another time and there comes a time when we just have to do the best we can, do all we can, and let the Senate work its will and go

home and say, "I did the best I could." That is all one can do. An angel could do no more, and there are not many of them around here.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia controls 55 seconds, and the Senator from New Mexico controls 34 seconds.

Mr. BYRD. I yield my 55 seconds to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for up to 1 minute and 29 seconds.

Mr. DOMENICI. Mr. President, fellow Senators, I have been a Senator not as long as my good friend from West Virginia, but this is my 21st year. And I might say, I have never found myself in this position before with reference to going to a conference and finding that, by law, the lifestyle, the rights and privileges of a very large portion of the people in my State and the West are just changed overnight.

So if I left that conference concerned, if I left that conference dedicated to do anything I could to see that we try to change that, not permanently but just to give us some time to have hearings, then I confess that I am guilty of that.

But the truth of the matter is that this Senator does not intend to deny funding for all of the rest of the Interior appropriations, those that are general and those that are specific.

But I saw no way to get the attention, not necessarily of this body, but of the U.S. House and those who said, "It will be this way or no way. You'll take it this way or you won't get anything."

In a very real sense, they, too, were saying there will be no Interior appropriations bill unless you put this on, keep it on, regardless of the damage.

So I say to my friend, I believe we should, one more time here today, send that message. And, clearly, your words have not gone over this Senator's head. They are right in my mind. I have listened and I am pondering them. I am hopeful that some good results will come from it. But I do hope that, in the meantime, there will be some results and, hopefully, soon, and the Senator from West Virginia can see his way clear to help us with the problem we have of putting all this authorization on an appropriations bill without any hearings when we know it has a big effect on our people.

Mr. SIMPSON. Mr. President, I rise in opposition to the motion to invoke cloture on the conference report to the Interior appropriations bill. We are indeed in gridlock with this issue for the sole purpose of protecting and preserving the fundamental public policy that has governed Federal lands for over 100 years.

The Senator from Nevada wants many to believe that this is a vote for change, a vote for a new West. He has gone to such an extreme to suggest that this is Republican gridlock. The fact is that there is strong bipartisan opposition to this rangeland reform initiative which has been included in the Interior appropriations conference report.

This is about real, honest working people trying to survive an all out assault on the way in which they live and do business with the Federal Government. This is about working to maintain a fair and equitable Federal land policy that benefits all of its users.

The Senator from Nevada stood before the Senate today and stated that he now has broad editorial support across the country for the compromise he successfully negotiated. This is not a compromise. It never was a compromise. He seems to believe that if the major newspapers of this country believe that his proposal won't affect water rights and property rights, then he is speaking the truth. Water rights is not only a western issue. This proposal could even shut down water projects in Alabama. I ask, have the newspapers reported that?

The simple truth is that if we take the Reid proposal, we take Secretary Babbitt's proposal. Yet even worse, we get Babbitt's plan and it is now in statute. It is not an Executive order that can be reversed by sensible folks and rational thinkers.

Don't let the administration fool any of you into believing that these changes must be made in order to reduce the deficit. The Reid proposal, after complete implementation with the grazing fee at $3.45 per animal unit month, will only result in $9.6 million in budgetary savings.

Let's get on to addressing the real waste in Government—entitlement programs, corn and wheat subsidies, the Rural Electrification Administration, the General Service Administration, and many others. Will Senator REID be there to help on these really big ticket items? That's where the real budget savings will come from.

We are only asking that a 1-year moratorium be placed on the rangeland reform provisions. That is fair play. It is not gridlock. It will allow us the necessary time to hold hearings and thoroughly examine and investigate the impact of Secretary Babbitt's plan.

I urge my colleagues to oppose cloture and support us in our fight against destruction of our western livelihoods without even the benefit of hearings. It's plain wrong—and sad to witness, too.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill:

Robert C. Byrd, Wendell Ford, Harry Reid, Claiborne Pell, Russell D. Feingold, J. Lieberman, Paul Simon, Patty Murray, Pat Leahy, D. Pryor, Fritz Hollings, Harris Wofford, Barbara Boxer, Edward M. Kennedy, Paul Sarbanes, Joe Biden, Dan Inouye.

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 conference report accompanying H.R. 2520, the Interior appropriations bill, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—51

Akaka	Ford	Mitchell
Biden	Glenn	Moseley-Braun
Boren	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Chafee	Kerrey	Rockefeller
Cohen	Kerry	Roth
Daschle	Kohl	Sarbanes
DeConcini	Lautenberg	Sasser
Dodd	Levin	Shelby
Exon	Lieberman	Simon
Feingold	Mathews	Wellstone
Feinstein	Mikulski	Wofford

NAYS—45

Baucus	Coverdell	Gramm
Bennett	Craig	Grassley
Bingaman	D'Amato	Gregg
Bond	Danforth	Hatch
Brown	Dole	Hatfield
Burns	Domenici	Helms
Campbell	Dorgan	Hutchison
Coats	Durenberger	Jeffords
Cochran	Faircloth	Kassebaum
Conrad	Gorton	Kempthorne

Lott	Murkowski	Smith
Lugar	Nickles	Specter
Mack	Packwood	Thurmond
McCain	Pressler	Wallop
McConnell	Simpson	Warner

NOT VOTING—4

Leahy	Riegle
Metzenbaum	Stevens

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished President pro tempore is recognized.

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

The supporters of the conference report cast 51 votes today. Three of the supporters who voted last week were absent. So this in essence means there was a gain of three votes today over last week—it was a gain of one, I understand.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, 1993:

Patty Murray, Dianne Feinstein, Harry Reid, Harris Wofford, D. Inouye, Wendell Ford, Carol Moseley-Braun, Russell D. Feingold, Dale Bumpers, Robert C. Byrd, Claiborne Pell, Edward M. Kennedy, Paul Simon, Barbara Boxer, Howard Metzenbaum, Harlan Mathews.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The conference report on H.R. 2520 is the pending business.

Mr. BYRD. On the Interior appropriations bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

The second continuing resolution expires this Thursday at midnight. It is my hope that all the other appropriations bills and conference reports will have been considered in their final form by that time. If that were to be the case, this would leave just the Interior bill in the event that the Defense appropriations bill and the other appropriations bills are finally acted upon.

Then what would happen? There would not necessarily have to be another continuing resolution. The House may take the position that it is rather futile to send over a continuing resolution, so they might just let things take their course, after this Thursday midnight. Senators ought to think about this.

Once the CR expires, there is the possibility that the agencies which receive funding under the Interior bill will be forced to shut down on Friday. How would Senators like that? Those Senators who are voting against cloture, how would they like to have that responsibility on their shoulders? I do not know at this time whether the President would approve another short-term continuing resolution, or whether the House would even send us one.

Do we want to close our national parks? Do we want to close our Indian clinics, the Smithsonian Museums, and other activities funded in this bill over the issue of grazing and its 40,000 permittees in 14 States? Even the people in those 14 States have many other things to lose if this bill is not enacted.

Congress could enact another continuing resolution for the Department of the Interior that maintains current levels for the 40 different agencies funded in the bill. "Current levels," that means fiscal year 1993 levels. And it could extend until next October 1. That would sober some of us up, I am sure.

A continuing resolution that provides the current level for the Interior bill agencies for an extended period of time—6 months, 8 months, or until next October, as I said—would mean curtailments in many areas.

About this time last year, many Senators reacted strongly to announced reductions in national park operations due to anticipated shortfalls in fiscal year 1993. The 1994 appropriation attempts to address these operating requirements by providing increased funding for our national parks. These funds would not be available in the event of a continuing resolution that maintains current levels.

Staying at the current levels would result in continued closure of facilities and areas, reduced hours of operations, fewer services and interpretive tours, less law enforcement, and other such aspects of day-to-day park operations.

Would the parks close? There are parks in almost every State in the Union. Would the parks close? Probably not. Would some areas of the parks be closed? Probably so. Time sensitive projects such as the visitor facilities at the new Martin Luther King, Jr., National Historic Site in Atlanta, GA, could not be initiated in time to ensure completion prior to the 1996 Olympics. I wonder what the Senators from Georgia think about this prospect?

Work would not be started to rehabilitate the structural, mechanical, and utility systems at Constitution Hall and other facilities at the Independence National Historical Park in Philadelphia. How about that, may I ask my friends from Pennsylvania, the Senators from Pennsylvania? How about that?

The conference report proposes an increase over last year of $121 million for the Indian Health Service operating budget. Failure to provide this increase for medical inflation and the cost of a growing service population will mean clinics and hospitals will have to make do with less. How about that, Senators, who have large Indian populations in your States? How do you feel about that prospect? Will they completely close? Probably not. Will they leave vacancies unfilled, reduce clinic hours, provide fewer vaccinations, close some days of the week when they are now open, not see some patients? Probably so.

I appeal to Senators who have large Indian populations in their States to give some thought to this matter. Oh, you say you have already been thinking about it? Well, give it some more thought. Talk to your Indian populations about this.

Under this scenario, a full year CR would reduce funding for Indian Health Services as recommended by the conference report by the following amounts: Alaska, $18 million; Arizona, $23 million; Minnesota, $3 million; Montana, $7 million; New Mexico, $16 million; North Dakota, $3 million; Oklahoma, $15 million; South Dakota, $8 million, just to name a few.

Under a continuing resolution to maintain programs at the fiscal year 1993 level, energy conservation programs would not benefit from the increases recommended in the conference agreement. This means that weatherization grants will be held even and will not increase by the 11.5 percent proposed by the conference agreement.

How does that strike Senators who are from the cold-weather States of the Northeast, Midwest, and Northern Plains? Are the States in those areas more concerned about grazing than about low-income weatherization for the elderly and the handicapped?

Let this Department have to be funded by a CR that extends until next April, and Senators will hear from their constituents back home. Senators are banking on another short-term CR. That is what they are banking on. And there may be one, especially if the Defense Department appropriations bill is not finally acted upon. I am sure Congress would enact another short-term CR to take care of the Department of Defense and it would include Interior with it.

But suppose Defense is wrapped up, as it will be sooner or later, and the poor little old Interior Department appropriations bill is left outside the door in the shivering cold. Cold weather is coming on. We are already seeing frost. "Frost is on the punkin and the fodder's in the shock."

A full-year continuing resolution that would maintain the fiscal year 1993 level would have significant impacts on the funding available for tribal programs funded by the Bureau of Indian Affairs. The $20 million increase provided in the conference report for tribal priority programs would be eliminated, as would the increases provided for contract support, $120 million; education, $55 million; and legislated land and water settlements, $63 million.

Under specific conditions in current law, the Bureau of Indian Affairs must, if requested, begin funding schools where they presently do not provide such service. Without an increase in funding, the only way for the Bureau to deal with this possibility would be to prorate a reduction against all schools currently in the system.

Again, these are individual decisions which Senators representing constituents interested in these programs must weigh. I am sure they have been weighing these matters, but they have been thinking, ah, come Thursday midnight, there will be another continuing resolution. Well, maybe. But at some point there may not be another CR. At some point, the continuing resolutions are not going to be for the short term if this impasse continues.

Another factor to consider if a lengthy CR is approved is that specific projects and programs funded in the conference report would be held in abeyance. I ask Senator X, do you have specific projects and programs funded in this conference report? I ask Senator Y, do you have programs and projects funded in this conference report? What about it, Senator A, Senator B?

The land acquisition and construction projects recommended by the House and Senate would not be funded. Absent specific guidance from the Congress, the agencies would likely not proceed or, if they did, it would be to consider those items preferred by the agencies.

That may be preferable to some Senators, but is it preferable to all? If so, then why does the subcommittee receive so many requests for particular projects from Senators every year? If Senators would prefer that the agencies make the decisions, why do I receive so many letters from Senators asking for moneys for this or that project or this or that program?

Among the items receiving increased funding in the conference report that would not be funded under a lengthy continuing resolution are the following: community assistance and other implementation costs for the forest plan in the Pacific Northwest, $69.5 million; Indian land and water settlements not funded in prior years; new construction initiatives, such as the Columbia Gorge Intrepretative Center in Oregon; and the Skamania Lodge in Washington; the Eros Data Center expansion in South Dakota; new land acquisition on the Gallatin National Forest in Montana; and other important projects.

What are the grazing issues which are at the heart of the current filibuster? A lengthy CR would leave the Secretary of the Interior free to implement his proposed fee increase and rangeland reforms in the intervening period.

Is that what Senators want?

Some may think that this scenario can be avoided by including a moratorium in such a continuing resolution. All Senators will remember that the House will have to approve such a moratorium, which they previously rejected by a vote of 3 to 1.

As I see it—I may be wrong—the only CR likely to be approved by the House, as well as the President—certainly with the House—is a clean CR.

So, Mr. President, these are some of the options, not all of them as I see them. Each Senator must decide how to cast his or her vote based on those factors which are most important.

I think several Senators have done that today, those who are conducting the—it really is not much of a filibuster. There has not been much talk. The Senate has been carrying on other business. Really, you cannot call it a long-winded filibuster. It really has not been much of a filibuster. But it is chewing up time.

So, some of the Senators, of course, have decided that grazing fees are all important; grazing fees and rangeland reform. They do not happen to affect my State of West Virginia. My interest is in letting the Senate work its will. But there are a good many Senators here who are not as affected by the grazing fees and rangeland reform as are Senator WALLOP and Senator DOMENICI, and others.

What about those other Senators? They are going to be affected if we finally end up with a long-term CR.

Nothing has been done in this conference report to prevent the grazing issue from being considered to the fullest extent by the Senate. We can still consider the grazing fee matter to the fullest extent. There have been complaints, "well, we have not considered it, we have not had time to consider it." We do have time. We do have time. Vote the conference report up. Then offer an amendment to an amendment in disagreement.

No attempt was made to fold the grazing provisions within the scope of the conference report so that it would not be amendable. That could have been done. The grazing provisions could have been folded within the scope of the conference report and there would not be any amendments in disagreement. There would then be no way to get at this matter. That was not the case.

If the Senate does not like the proposed compromise, let the Senate vote for the conference report, and then vote on an amendment in disagreement.

Any further action that changes what the House has approved must go back to the House for further consideration. The House has voted twice by margins of 3 to 1 on both occasions—in one instance to reject the moratorium; in the second instance, to approve the compromise pending before the Senate.

If further compromise is desired, Senators should vote to adopt the conference report and then offer an amendment to the amendment in disagreement. Let the Senate vote.

If the filibuster is continued, and another continuing resolution enacted, the Secretary will proceed with his fee and reforms while freezing construction and land acquisition projects and other programs of interest. The choice is up to each Senator.

I remind all Senators that any resolution of this issue has to be approved by both the House and the Senate. Neither body can act as though the other body does not exist.

The Senate ought to take a position, and the way to do that is to invoke cloture, get on with the business of voting for this conference report, and make decisions on amendments in disagreement.

Perpetuating this filibuster does not help resolve the issue. You cannot amend the conference report. How many Senators know that? Conference reports cannot be amended. So all of this talk and, as I say, there has not been a lot of it yet——

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. BYRD. Let me finish the question and then I will be glad to yield.

So we cannot amend a conference report. Let us vote the conference report up and then offer the amendment. We can have a debate, and if the Senate elects to vote for a Senator's amendment, let it go back to the House and put it back up to them.

Yes, I will be glad to yield.

Mr. WALLOP. Mr. President, just a point of clarification. You cannot amend the conference report, but the amendment items in disagreement with the House are amendable, are they not?

Mr. BYRD. Yes, they are. Yes, the amendments in disagreement are amendable. That is why I am saying let us vote the conference report up.

Senators do not lose anything by doing that. Senators who are opposed

to the grazing fee amendment do not lose a thing by voting the conference report up. We can then get to the amendments in disagreement between the two Houses, and Senators can offer one amendment, two amendments, half a dozen amendments if they like, or more.

I will finish shortly and then I will yield the floor.

So perpetuating the filibuster does not resolve the issue. Getting to a vote on the conference report and the proposed compromise or any alternative proposal by way of amendment to an amendment in disagreement is the way to resolve that issue.

Senators are entitled to their day in court. If these matters had been wrapped into the conference report, Senators would not have a chance to amend it then. But there are amendments in disagreement. Senators can have their day in court and offer their amendments.

For Senators who say they are not interested in obstructing the will of the Senate or are interested in a compromise, this is the way to proceed.

Mr. President, I ask unanimous consent that an editorial from today's Washington Post on this issue be printed in the RECORD.

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

[From the Washington Post, Oct. 26, 1993]

COWING THE MAJORITY

A few weeks ago, the House Democrats were shamed by the Republicans into accepting a rule change aimed at making it easier for majorities to force legislation out of resisting House committees. The Republicans said in the course of the fight that they were the party of open government and majority rule; the Democrats were the thugs.

Today in the Senate, a second vote is scheduled on a motion to invoke cloture and end a filibuster against western rangeland reform provisions in an Interior Department appropriations bill. Here again a minority in Congress is using the rules to thwart the will of the majority—but this time the minority is mainly Republican. The party that in September was an advocate of majority rights turns out in October to believe in minority rule as well—when it suits. That's how it almost always is with principled procedural positions on the part of either party. Procedural principles tend to follow self-interest.

Thus a lot of Republicans who were complaining last month about the periodic bottling-up of majority sentiment in the House are also supporters of the so-called balanced budget amendment to the Constitution, which would require three-fifths votes of both houses to adopt an unbalanced budget or raise from year to year the statutory ceiling on the national debt. Minority rule in that case would constitute good government, they say. The Democrats having won back the White House last year, the parties are also both busily reassessing their views of the powers of the presidency. The debate extends all the way from the right to conduct foreign policy to the revival of the independent prosecutor statute.

Some House Democrats are also suggesting that a general restructuring of Congress expected next year in the name of reform should include an end to the filibuster. Republicans say the reforms should include a bolstering of minority rights in the House; the Democrats say fine, but only after there is also a bolstering of majority rights in the Senate. The Interior appropriations bill is their latest text. The rangeland reforms include an increase in grazing fees on federal land, meant in part to discourage overgrazing, and some changes in rangeland management and improvement rules. Some of the latter would reverse decisions in behalf of private use of public land by Reagan administration Interior Secretary James Watt. Clinton administration Secretary Bruce Babbitt has threatened to put them into effect by regulation if Congress won't do it statutorily.

He's right on the merits, but this has become a procedural battle as well. The House voted 317 to 106 for the rangeland provisions; the Senate in its first vote on ending the filibuster last week split 53 to 41 in favor of cloture, which under the Senate rules was seven votes short. Only two Republicans joined the Democratic majority in support of the cloture petition, and only five Democrats, all westerners, joined the Republican minority in voting against it. If Republicans were so in favor of majority rule in the House in September, why aren't they also in favor of it in the Senate in October?

Mr. BYRD. Mr. President, I am going to yield the floor. I will yield the floor shortly.

I respect the views of all Senators, but this is an appropriations bill. We cannot let this bill die. Congress cannot go home. If this matter is still around here when Congress is ready to adjourn sine die, Members cannot go home and leave their stations of duty without acting to keep these departments and agencies running. I know that all Senators are well aware of that.

I urge Senators to bring this matter to a conclusion. We can even do it before Thursday, on which day the cloture motion will ripen. We do not have to wait until Thursday. We can do it in much less time. Let us do it and get this appropriations bill down to the President.

I thank all Senators for their patience, and I respect all of their viewpoints, whether or not they concur with my own.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, there is in this Senate no more earnest fighter on behalf of his constituents than has been the able chairman of the Appropriations Committee, the former majority leader, the Senator from West Virginia.

He would surely understand, as he did last year when fighting for the health benefits of retired miners in his State, the necessity for standing up for your own people. I helped him in that fight.

The Senator from West Virginia says he does not know whether the President will sign or even if the House will send us another short-term continuing resolution. Mr. President, that is not our concern at this moment in time.

The Senator from West Virginia referred to 40,000 permittees as though 40,000 Americans are holding up the interests of all other Americans. That simply is not a fair statement. Forty thousand Americans are important, especially if they live in our State. But if it were only a matter of 40,000 permittees, will the Senator from West Virginia suppose that the Governors of the Western States would be in opposition to this amendment just because of 40,000 permittees; or does he really suppose, with me, that the issue is far broader and their concerns much greater; correctly stated, that in each of those States there are things of personal and specific interest?

Why, then, are the Governors opposed to it? Why, then, are the Governor of my State, Governor Sullivan, and the Governor of Colorado and the Governor of New Mexico, who were early and passionate supporters of the President, and since, so vehemently opposed to this? Were it only grazers, their passion would not be quite as intense as it has been.

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

Mr. WALLOP. I yield for a question.

Mr. BYRD. Mr. President, I do not question the vehemence or the passion which the Senators who are voting for this matter have in their hearts.

I do not question that. And the Senator, in referring to my mention of 40,000 permittees, 40,000 in this matter is of great importance. But there were even less coal miners, may I say to my friend. We do not have 40,000 coal miners in West Virginia anymore. We used to have 130,000, 135,000. We are probably down to less than 30,000, maybe less than 25,000. So even though it is a small number, it did not abate my passion, and the number of 40,000 does not abate the passions of those Senators who are on the other side.

I am not complaining because they argue with vehemence or because they feel strongly about this. I can appreciate that and understand it. What I am saying, though, to those Governors who are very passionate, is: Urge your Senators to at least let us come to a place where we can vote on a correcting amendment that might or might not carry, but at least the effort can be made.

Mr. WALLOP. I would say to my friend, that is exactly their worry.

Mr. BYRD. Exactly; and they will not get any closer to that point by filibustering the conference report, because it cannot be amended.

I thank the distinguished Senator.

Mr. WALLOP. Mr. President, the point the Senator from Wyoming was making is that this is not just a grazing issue. This is not just a grazing issue. I will say it a third time: This is not just a grazing issue.

It is not a question of 40,000 permittees holding up the interests of the

Liberty Bell and a town park and all the other kinds of things the Senator from West Virginia mentioned.

This is a question of a complete and total 100 percent change in the relationship with the Federal Government to the public land States. It is about water. It is about pipelines. It is about reservoirs. It is about transmission lines. It is about property rights. It is about costs to the Federal Government that are unimagined.

This will not return money to the Federal Government. It will cost it, Mr. President.

That is why 14 Western Governors are opposed to this, not solely because 40,000 permittees are putting their interests in front of hundreds of millions of Americans.

Mr. President, it apparently does not register on those folks who do not have public lands in their States what it is like to live with the Federal Government as a neighbor. It is bullying. It is unpredictable. It is demanding.

It is the one who determines the validity of valid existing rules. It is the one who has the right to grant or withhold a special use permit, not the livestock grazers—leave those poor, benighted fellows out of this—but to a city who wants merely to cross public land from private land to private land to deliver water.

Mr. President, surely people who live in other States can understand that the Federal Government ought not to be put into the position of being able, without recourse, to blackmail the behavior of every State in the country. Were there more public lands in other States, they might realize what it means to have a Federal Government that does that.

Mr. President, if this were only 40,000 permittees and all of the rest of the provisions of this bill were harmless, do you think that we would be able to stand in the way of it?

The Senator from Nevada has abandoned his 700 permittees. They will not benefit from this thing. The interest is very specific here, Mr. President. The study quoted by the Senator from Colorado, a University of Nevada study, shows that probably 28 percent of the ranchers in southern Nevada will go out of business. This is not a study that was concocted by some grazing association or some vast group of ranchers. This is a university of the Senator's own State.

Make no mistake about it. The consequences of this are very specific. But 700 is not so important in all of the light of things as are the other grazers in other States whose numbers are slightly greater.

But it is not just a question of grazing. It is not just a question of those permittees.

Now the argument of the Senator from West Virginia works both ways. He has said that our intransigence is maybe going to be the reason by which certain things in Pennsylvania, and certain things in Oklahoma, and certain things in Nebraska, and certain things in North Dakota, and certain things in other States are not going to be funded—Indian health is going to fall apart; parks are going to fall down.

Mr. President, I have been trying to get just a little bit of funding for park rangers. I could not get that done last year or this year; could not even get it authorized. So there are lots of reasons.

But the fact of it is the intransigence is that of the House and the Secretary. Can it not be said equally well that their basis in pride and machoism is just as responsible for holding up the progress of this bill as those of western Senators on a bipartisan basis, Senators on a bipartisan basis even in nonwestern States?

Mr. DOMENICI. Will the Senator yield?

Mr. WALLOP. I am happy to yield for a question.

Mr. DOMENICI. Mr. President, the distinguished chairman from West Virginia has indicated his great concern about the contents of this Interior bill, and many things he has spoken of affect my State. He was very generous and indeed considerate in not mentioning that my State has a lot of Indian people. In fact, I will admit right here on the floor that in our population, percentagewise, we have more native American Indians in the State of New Mexico; that does not mean more Indian people, but percentagewise.

But let me ask you if you would not agree, Senator WALLOP, with the Secretary of the Interior telling a number of Senators on this side and telling me personally that his hands are tied, he can do nothing, who is it that has tied his hands, might I ask first? Perhaps Senator WALLOP would put that on the RECORD.

Mr. WALLOP. I think it is perhaps the Acting Secretary of the Interior, the chairman of the House Interior Committee, Congressman MILLER.

Mr. DOMENICI. I do not think there is any question.

And I again want to ask my friend and, in fairness, ask the distinguished chairman of the Appropriations Committee, is it not just as appropriate for those of us in the West to say: Chairman MILLER and the three or four who are with you—because I am not at all sure that the Appropriations Committee on the House side really understood what was in this, nor did it matter. They were just told it is this, in lieu of a moratorium, a 1-year delay, which is in the Senate bill; it is this or nothing.

Now, if, in fact, people in this country are going to be hurt because we do not pass this Interior bill, why does not a hue and cry go up today to them that very few Members of the U.S. House who, as of right now, have indicated to the Secretary of the Interior, if I am reading it right: No use changing anything because we will not buy it.

Who is more to blame if in fact we close down the funding for the Department of the Interior? Is it Senators on this side or is it just as apt to be those who are intransigent, who have indicated for a number of years that they are going to take this out on grazing permittees in the West?

I assume my friend would say that he believes they are more responsible than those of us who are defending the ranchers here on the floor. Is that correct?

Mr. WALLOP. The Senator makes my point. Intransigence is a two-way street. Except that in this instance I was in the Appropriations Committee when the Senator from New Mexico made the offer to negotiate this. I was on the floor when the Senator from New Mexico made the offer to negotiate this. I have been on the floor when the Senator from Colorado made the offer to negotiate this.

Who will not negotiate but the acting Secretary of the Interior, the chairman of the House Interior Committee?

Mr. DOMENICI. I thank the Senator for that. I want to make just one more point and ask him a question. Does anyone believe that asking for 1 year before the new rules and regulations and Executive order changing the rights and privileges of western grazing permittees and thousands of other people who have permits with the Federal Government regarding water and public land and grazing land——

Mr. WALLOP. And gas pipelines and highways and county roads and other things.

Mr. DOMENICI. Exactly. Does anyone that the Senator has talked to think that is unfair, to ask for 1 year for hearings on that to see where it really is, who it affects? What the economic impacts are? Has the Senator heard anyone around here with us or against us say that is not fair?

Mr. WALLOP. I would say to my friend, sadly, fairness has not been part of this debate. Pride and sensibility have been, from the beginning. That is the reason it was possible to create the back room deal. That was the reason it has been impossible to break the back room deal.

It is so darned frustrating for those of us who have been sitting here offering to try to find a way out of this impasse. There had been offers made and I am assuming other offers could be made. But the fact of it is our western Governors and our water engineers and others have recognized the provisions of this 19 pages of brand new law over which not a single hearing about its specific provisions has ever been held in either House, nor has a vote about its specific provisions ever been held in either House—that is the problem that we face. That is the problem that

brings us to the floor to defend our States; not our ranchers, our States.

In the debate before I put in letters from school boards and from county commissioners and local bankers and others who claim their view of this thing as being destructive. They were not allowed to be heard. What kind of a country have we become? What has happened to us, that in the interests of pride and rigidity we cannot even allow 1 year for these people's voices to be heard?

If everybody thinks they know what is in here in its detail and in its entirety, they either do not care or will not read. Because the fact of it is, there have been very specific disagreements between the Senator from Arizona and the Senator from Colorado, the Senator from Nevada and the Senator from New Mexico, and the staffs on all sides.

Guess why. Because a hearing has never been held to determine which side is valid, or if both sides have a little measure of validity, and if there is not something that can come together in between them.

Our problem is very real. We have heard how business is conducted. We have heard the threat to each of us. Americans have heard it this afternoon, how business is done in the Senate. We have a list of the expenditures in our State. We have the list of the politically sensitive things that are funded by this bill. The supposition is that, somehow or another, those of us who are standing in the way of this are going to block State *x*, tribe *y*—somebody from something that is going to be funded and be damned the livelihood of counties and schools, of banks and purveyors of small business items in the rural West; be damned, you are not to be heard.

Let me just say one more time, because it is offensive to me—it was when we passed the bill—when we have said that Americans could not deduct as legitimate business expenses the costs of lobbying. We have not denied it to big corporate America who can run these fees down as legal bills. We have denied it to my ranchers who are sitting out there in the hall waiting to see whether they are going to be in business next year. We have denied it to our little propane sellers, our small bankers, our State-run insurance companies. They cannot come back here, first, because there was not a hearing; and, second, for some of them it is almost too expensive.

How do they get around it? They have their neighbors pitch in so they can be here to be heard. But not be heard in every office; not be heard in a hearing room; not be heard with a possible television camera or the press present—but be heard by going and knocking on the doors and begging to see staff because Senators will not see them. That is what is happening. That is what my people from Wyoming, and those of the Senator from New Mexico and of Arizona and Idaho and Washington State and others are doing. They are crawling these Halls trying to get to see staff in the hope somebody will hear what these things are doing. They are not ranchers all of them. They are the backbone of the rural economies of a West that was settled by a Government that decided on its own that there would be public lands.

And guess why there were to be public lands? So not one single interest would dominate the economies of them. So we could have ranching and timbering and mining and recreation and hunting. All of those things. We did not ask to be settled in a way different from the rest of America. We were part of a Louisiana Purchase people thought at one time was going to ruin this country. Or we were part of the conquest of Spain. Or we were part of what came in trades with Canada. But we were public lands and the Government of the United States saw fit to reserve big portions of those lands. It is not like it is in Missouri, or may I say in West Virginia, or some other places where all land is in the tax base.

Mr. BYRD. Not in West Virginia.

Mr. WALLOP. A good deal more than there is than the State of the Senator from Wyoming.

What has happened is that all of those interests, forced by circumstances and other kinds of things to be citizens of a public land State dependent upon the whim and judgment of the President of the United States, the Secretary of the Interior, the Congress of the United States—we are dependent on whim. A changeable whim it is.

I have heard the Senator from Nevada and Senator from Arizona say one of the things that will come from this is certainty. Yes, there is a certainty they will not be able to make it.

Mr. DOMENICI. Will the Senator indicate that was Senator DECONCINI from Arizona?

Mr. WALLOP. I would. I meant Senator DECONCINI from Arizona.

What I am trying to say is somehow or another, when the list of expenditures that are not going to be passed if we go into a continuing resolution is read to all of us, we are supposed to feel guilty or we are supposed to be slightly seduced; come a little bit more toward the honey pot that is the Federal dollar. And we are being asked to tell those people who are trying to be heard that you are not as important as my park; you are not as important as my river project; you are not as important as my Indian schools; you are not as important.

Those of us who live in the West find Indian schools important, Indian health services important, grazing important, water projects important, timbering important, national parks important. We are dependent because we do not have the tax base to create the kind of response that is available in other States.

So, yes, we feel it is important and, yes, we feel badly if the Liberty Bell is not funded or some other kind of thing. But, Mr. President, you are talking about the way States relate to the Federal Government, not the way ranchers relate to the Federal Government—States.

Why is it that not a single water engineer from the West agrees with the Senator from Nevada that this does not affect water? They have read it and they know the law. Every State engineer in the West feels threatened by it, and they are our water authorities. Are we to walk away from them and say, "Oh, you don't know. We've been assured it's OK and we can trust Secretary Babbitt"?

The Senator from West Virginia says that we are banking on a short-term CR. I would say to my friend, we are not. We are praying for a reason. We are praying that our Governors will be heard. If they cannot listen to the small people knocking on the doors trying to see them, maybe they at least can hear the Governors. Maybe the President might be able to hear the first Governor of the United States who endorsed him in his campaign, Governor Sullivan, the second one, Governor King or Governor Romer or Governor Andrus. For heaven's sake, Mr. President, these are not irrational, wild-eyed, red-neck Republicans. These are members of the President's own party asking to be heard and being ignored. They are praying to be heard.

They are praying perhaps that we will let the Secretary back into being Secretary of the Interior. It is a pretty embarrassing statement for him to say that his hands are tied and that he can do no negotiating. Is Secretary Babbitt trying honestly to say that if he has the mandate and imprimatur of the President and his own ideas that he is to be denied even a hearing by the Acting Secretary of the Interior, the House Interior Committee chairman? Mr. President, that is ridiculous.

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

Mr. WALLOP. I will be happy to yield for a question.

Mr. BYRD. I hope the Senator will take this as a statement that applies to all of us—all of us—in this Senate, me, as well. The Senate rules provide against referring to the Members of the other body by name or by an inference that is pejorative. Senate rules provide that.

I hope that we all will abide by that rule. I know the Speaker has on more than one occasion cautioned Members of the House not to call names of Senators. We have to maintain a comity between the two bodies, and there are times when I feel my patience has kind

of run its course with some of the Members of the other body, but the rule exists, and I have always tried to live up to it. I think it is a good rule.

Let me ask the Senator one question while he is yielding. Why will the Senators not offer their amendments? They cannot offer them to the conference report, but we could vote the conference report up and then Senators could offer their amendments. Why does the Senator not vote for the conference report and then offer his amendment? He has that right. Is he concerned that he would not have the votes to carry the amendment?

Mr. WALLOP. Mr. President, reclaiming the floor, and in response to the Senator from West Virginia, first, let me say I did not think it was pejorative to call the chairman of the House Interior Committee Acting Secretary of the Interior when the Senator from West Virginia is the one who says he will not yield under any such circumstances. That is all I meant by it.

Mr. BYRD. What did the Senator from West Virginia say?

Mr. WALLOP. You have said, as I understand it——

Mr. BYRD. Mr. President, I think we should address each other through the Chair.

Mr. WALLOP. Mr. President, the Senator from West Virginia has said, as I understand it, that there is no yielding in the House; that Chairman MILLER has made it clear that there is not going to be a change.

Mr. BYRD. The Senator is wrong. I have never mentioned the Member's name whose name has just now been mentioned. Not the Senator from West Virginia.

The Senator from West Virginia said the House, in the opinion of the Senator from West Virginia, will not yield on this matter because the House has already voted 3 to 1 twice. That is what I have said. I have not alluded to any particular Member in the other body.

Mr. WALLOP. Well, Mr. President, it became, I think, obvious to those of us listening to the debate, that is precisely what was intended. I believe the Senator from Nevada has used the name and has been that specific. If it was not the Senator from West Virginia, I apologize. There was no doubt in my mind that is to what he was referring.

Mr. BYRD. Mr. President——

Mr. WALLOP. Mr. President——

Mr. BYRD. If the Senator will yield.

Mr. WALLOP. Is the Senator requesting me to yield?

Mr. BYRD. Without losing his right to the floor. The wicked fleeth where no man pursueth. This man has never pursued by naming any Member of the other body.

Mr. WALLOP. Mr. President, I have just said I yielded on that point to the Senator from West Virginia. I conceded it, but others on your side have, including the Senator from Nevada—I only said it was absolutely clear to the Senator from Wyoming of whom the Senator from West Virginia was speaking when he said the House would not yield.

(Ms. MIKULSKI assumed the chair.)

Mr. WALLOP. Madam President, let me conclude. We have good, honest, hardworking Americans here that are not just ranchers. They are westerners. They are our constituents. They make the economies of small towns function. They educate the children of ranchers and merchants alike and, yes, Madam President, they educate, without much compensation, the children of the personnel of the Bureau of Land Management, and the Forest Service, and other Federal employees. And, yes, Madam President, they provide the police powers, and the fire prevention, and the other kinds of things that are necessary for civilized society. They are good Americans. They are westerners. They are not greedy ranchers. They are not corporate interests. They are not dripping with Federal largess. They are our people, and if the message has not been delivered clearly, our people deserve a defense and, by thunder, they are going to have it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I mentioned this morning that in a few days, Halloween would be here. Well, in the U.S. Senate, it has arrived early because we are not talking fast. For example, we keep throwing around here 40,000 permittees. To be exact, Madam President, there are 18,822, more than twice under what the Senator from Wyoming suggests.

I also think it is time we start talking fast. When our Constitution was established, they set up three separate but equal branches of government: the judicial branch, the executive branch, and the legislative branch.

Those of us in the Senate may not like it, but we have a bicameral legislature. We have the House of Representatives, who has the same ability to pass legislation to us that we have to them. We cannot pass legislation unless they agree to it, and they cannot pass legislation unless we agree to it.

I do not think Secretary Babbitt is some heretic when he tells people that it is up to the House of Representatives; the negotiating is out of his hands. That is not something that is bizarre. The fact of the matter is, the House of Representatives, on two separate occasions, overwhelmingly stated its position on this issue, on a vote the first time of 314. The second time, they picked up steam and got up to 317. By a 3-to-1 margin they approved this issue.

My friend from the State of New Mexico stated that there should be a hue and cry supporting their position. The hue and cry is just the opposite all over this country—all over this country.

Madam President, we need to look, and we have on this floor on other occasions, at the editorial support for this amendment from Western States. I always include first, of course, the State of Nevada with editorial support from a Reno newspaper, a Las Vegas newspaper, but we also had editorial support from a newspaper in Wyoming, newspapers in Denver, and Salt Lake City. And today, there is a new one from a newspaper in Great Falls, MT, which says among other things:

> Frankly, the Senate compromise doesn't seem unfair.
>
> It would increase grazing fees to $3.45 per "animal unit month" from the current $1.86. An animal unit month is the forage needed to feed a cow and calf or five sheep for a month.
>
> Babbitt had proposed a grazing fee of $4.28 per AUM, phased in over 3 years. Baucus is comfortable with the $3.45 figure but wants it to be phased in over 6 years.

This is a Montana newspaper.

> But the Government can't go on losing money on this program. The Senate should go ahead with a compromise that seems a reasonable way to allow the program to break even.

I have stated many times, Madam President, on this floor that even the $3.45 after 3 years will not allow the program to break even. In fact, in 1981, the grazing fee was $2.31. We have been going downhill. Now it is $1.86. So from 1981 to 1993, 12 years, the grazing fee has gone down, not up. There are costs of administration to the taxpayers of this country. We may not like them, but it is a fact. It is a Federal program and there are people who work for the Federal Government who administer the program. We have been losing significant money as taxpayers every year on this program, every year. We are going further and further in the hole.

I would also suggest, in addition to the editorial support from all over this country, there is editorial support coming from nonwestern States now—for example, in today's Washington Post. This is something that the President pro tempore of the Senate, the chairman of the Appropriations Committee, has alluded to on several occasions. There is a time for a filibuster.

But, Madam President, what the newspaper is saying, and what Members of the other body are saying, is it not about enough? Is it not enough that everything which comes over here that an individual or two does not like, he pats his friends on the shoulder and says, "Can we get 40 votes on this? We will hold this up." And they have done a good job. They have held up this, they have held up that. They continue to hold up things. It is time, as indicated in this newspaper column, we get down to legislating, get down to fairness. Let the majority rule at least part of the time.

We have 18,000 permittees holding up an Interior bill of some $14 billion. That is wrong. There are programs that need to go forward in this country.

We keep hearing talk about 14 western Governors. This is part of the Halloween facade that we are working on in this Chamber. There are a number of examples, but let me refer to the State of Washington. This morning, one of the Senators referred to the junior Senator from the State of Washington, saying your Governor signed this letter. The fact is only two Governors signed the letter, and in fact in the RECORD today the Senator from Washington, the junior Senator from Washington entered a statement that says:

> There have been numerous references in this debate to the western Governors' Association and its position on grazing reform. I would like to clear that up. The Governor of Washington, who is a member of the association, was asked to sign the letter mentioned by the Senator from Wyoming. Not only did the Governor of Washington decline to sign the letter, but neither he nor his staff took part in drafting the letter. I have been in contact with him about this. I can assure all my colleagues that he shares my very strong view that it is inappropriate to continue delaying passage of the Interior appropriations conference report.
>
> To underscore the Senator from Nevada's point regarding the disposition of the other body on this question, I also note that Members from the State of Washington voted 7 to 1 in favor of the motion by the ranking member of the House committee to instruct the conferees. The motion passed by a vote of 314 to 109.

As I indicated, it later even got three more votes.

Mr. President, we must deal with facts. We are dealing with a lot of delaying tactics, trying to change the issue, trying to frighten people. I am totally confident that the people of the State of Nevada who are involved in grazing are protected with my amendment.

Why do I say that? Because it is very clear, Madam President, that the alternative that has been proposed by Secretary Babbitt is more severe. It calls for a grazing fee of $4.28 with an increase at the end of the 3-year period of 25 percent. Mine is at $3.45 with only a 15-percent increase up or down at the end of the 3-year period. We have prevented, by law, some of Secretary Babbitt's rules from going forward. We have also modified some of his other rules.

So this is fair. The people of the State of Nevada involved in ranching have a better deal with the Reid amendment than with the Babbitt proposal. I would also suggest that in conferring with ranchers from the State of Nevada, they acknowledge that. I received a letter yesterday from the former president of the Nevada State Cattlemen's Association. He said he understood this.

I think it is time we recognize where we are. My friend from the State of Wyoming said that he prays for a resolution, a compromise. As I have said on this Senate floor, without mentioning House Members' names, to my knowledge, the House has said on numerous occasions what they think should be done on grazing. We may not agree with what they have concluded by a 3-to-1 margin, but they are part of the Congress set up by the Founding Fathers of this country, and they have equal right to an opinion. They have opined that the amendment which has been adopted and is now a part of this conference report is what they feel should be the law of this land.

Madam President, we have the best deal we are going to get. I hope that we do not filibuster, delay, stall this matter until we wind up getting all of what Secretary Babbitt recommended in August this year. I think that would really be unfortunate.

There have been a lot of questions raised on this floor this afternoon, but let me repeat, the compromise is fair. It ends gridlock.

This matter has been going on, Madam President, since 1976. If we approve this conference report and this amendment, next year, there will not be a sound on this Senate floor or in the House about this issue. It will be gone, resolved.

Under this proposal, fee hikes are held to a minimum. In fact, this proposal, as I have mentioned earlier, still subsidizes the use of public land. I am willing to do that. We have scaled back Secretary Babbitt's fee hike by some 40 percent. And under this proposal ranchers can obtain loans. There will be certainty. They can buy and sell property. The rights to water and range improvements are protected.

I want everyone within the sound of my voice to understand there is nothing radical, there is nothing unusual, about the amendment. I say that because there is not a thing in my amendment that is not already included in the Forest Service regulations. Some of them have been in effect since 1906.

I also suggest to the Members who are interested in this issue that we prevented Secretary Babbitt from going forward with some of the things that would make the BLM track with the Forest Service. There is nothing unusual about what we have done. We, in effect, have done what the Forest Service has been doing for a long, long time. They are under the Department of Agriculture. This is under the Department of the Interior.

I would also remind the Members of this Senate that there has been a lot of talk about range improvements and a lot of talk about water rights. BLM was treated just like the Forest Service up until 1983—I have forgotten the exact date—when Secretary Watt came along and said we are going to change things. We are not going to have the Bureau of Land Management like the Forest Service. We are going to allow ranchers to prove up on their water rights and they will own it. They will have ownership of the range improvements.

Secretary Watt did that. We did not have any hearings then. They did it administratively. No one complained at that time about that. But the fact of the matter is that this amendment takes into consideration that fact, and we have grandfathered in, and we have told everyone they have a water right, that it has been proven, they can keep it, give it away, whatever they want. And the same with range improvements.

We simply are bringing the BLM regulations into consistency with the Forest Service. We have been working on this issue for ages. Is anyone to suggest that, "There have not been hearings, we want another year; is that asking too much?"

In 1976, Madam President, maybe that would not have been asking too much. But we are no longer in 1976.

It is never a good time to do this issue. I have been here now for 7 years. Each year in the appropriations bill it is never the right time. The authorizers refuse to do it. They have refused to do anything for over a decade now. So now what we are presented with is the fact that the Appropriations Committee took care of this issue, because every year it is forced on them anyway. We have done it in a reasonable, responsible manner.

But the fact is, Madam President, the other body, even if we do not like what they did, they did it by a 3-to-1 margin. And they, as I have mentioned previously, have as much legislative clout and power as the famous U.S. Senate. The famous House of Representatives can do anything we can do, and they have done it in this instance.

Grazing has been studied to death. This morning, I could not walk down this aisle because we had all the reports stacked here; 376 General Accounting Office reports, university reports, reports from all kinds of think tanks, and congressional hearings—376 of them—average 2 committee hearings per year on grazing, hundreds of studies.

Despite all these studies and the hearings, the bottom line is that nothing has been accomplished. No change in the law, no change in regulation, no change in policy. Why? Because there are certain institutions and certain individuals who want no change, period. Underscore it, underline it, no changes. That is what they want. That is what they have gotten.

Now the time has come that we must make a decision, make a decision whether you are going with Bruce Babbitt and all his regulations or whether you are going with REID, which is a reasonable compromise for the ranchers.

This is unusual that you would have, Madam President, the National Taxpayers Union supporting an amendment along with all the conservation groups in the country. Not a bad reason to support cloture in this instance.

Cloture is going to be voted on again Thursday. After that cloture vote, I do not know. I doubt seriously if we will get another CR from the House of Representatives. Remember, the President can want a CR, we can want a CR, but if our friends in the other body do not want one, we do not get one because that is how the Founding Fathers set up our country.

I think that would be a shame that 18,800 permittees who are going to get a better deal under my amendment than they would under Babbitt, are going to be the fodder for closing up this Government, to try to embarrass the President of the United States. It will not happen. I think those who are pushing that issue are making a mistake.

Already, Madam President, as I have indicated in my remarks here this afternoon, we had wide-ranging editorial support for this amendment. Why? Because it is fair. It is the right thing to do. It is time the American taxpayer should not be asked to put up money, money, money, tax dollars to fund another year of studies and hearings and administering this program. The changes are simple. They are straightforward. They have been tested by the Forest Service. It is time to break gridlock and to act on this issue.

I think it is also important to recognize that the Secretary of the Interior, who has taken a real battering in this Chamber—and I am sorry to say here is a man who was Governor of a Western State, attorney general of a Western State, who is an expert on water rights; he came to the State of Nevada as a private attorney representing rural Nevada when Las Vegas was trying to grab water rights from rural Nevada—it is an unfair characterization of Secretary of the Interior Bruce Babbitt; that his hands are tied.

He fully supports this compromise and thinks it is fair and reasonable. What is, I think, a valid observation is that he cannot go to tell the House of Representatives what to do any more than he can tell us what to do. He lives downtown with the rest of the executive branch of Government, and it is there that the executive branch of Government determines what the policy of this country should be and then submits it to us. That is the bicameral legislative nature of the Senate and the House.

Water rights, the changes that we have in this amendment simply undo, for lack of a better word, the changes made unilaterally by James Watt a decade ago. There is twice as much Forest Service land as there is BLM land and, for example, in the State of Montana, I do not see anyone fighting the Forest Service for what they have done. Grazing permittees have only the privilege, have had only the privilege, to file for water rights for 11 years in the entire history of the Federal grazing, and only on land managed by the BLM and we are protecting them. They are being grandfathered in.

Property values will not be adversely affected. In fact, it will put some certainty into the law. It will allow grazing fees to go forward on an incremental basis. They will know what is coming next year. They have not known for a decade what is coming next year.

The provisions in the Babbitt proposal threaten permit value, changing tenure, and changing provisions not in this amendment. Remember we are talking about public land, land that belonged to us all. Those ranching lands are lands that must be shared with the ranching community and others. It is truly multiple use. That is the way it should be.

So I would suggest to my friends on the other side of the aisle, the time has come that this matter should be accepted. The conference report should be accepted. The amendment should be accepted and we should start working with the executive branch of Government at that time to make sure that those concerns that people have are fully aired with the Secretary of the Interior.

We will be happy to work with the Secretary. We will be happy to work with my friends on the other side of the aisle if they have some concerns that the Secretary can alleviate. We can do that, but we cannot demand from the House of Representatives what they do. We can work with the Secretary.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, let me again this evening, as we wind up, thank the Senators who once again supported the Senator from New Mexico and others in an effort to make our point by not voting cloture and cutting off debate on the bill.

I want to make a few comments about the next few days and even the foreseeable future as it pertains to the Interior Department. First, I understand that every time we get down to the wire on a situation like this, some people, quite properly, call to our attention what might happen under the worst-case scenario.

I gather it is being said that the entire Department of Interior may be closed down. I do not want to talk cavalierly about it because that is serious business. I would be surprised, indeed shocked, if the Senate or House sat by and watched the Department close down. I have been here when we did not have a continuing resolution for any of Government. We were on a CR for all of it. We would threaten that the whole Government is going to be closed down. I think one time or two, we did that for a half day or so, only to find a way to get out of that situation, which was well beyond the contentiousness that caused the situation to arise.

So I know the word is going out that this might cause the Department of Interior to close down, and perhaps in the next 36 or 48 hours, we will be hearing from constituents within the Department saying we ought to close this debate down because their Departments are going to be closed. I think it is extremely early to pass such judgment on this debate and, in particular, when you consider the significance of it for the future of the West.

I believe we were bound this year when the Secretary of the Interior started out with a whole new set of regulations, which were going to be followed by an Executive order, without any public hearings, to change the relationship of the public lands to the ranchers and small communities of the West. I think we were bound to get into this situation, and I continue to be optimistic that we are going to find a more logical and reasonable way out of this than to close down the Department, No. 1; or No. 2, to accept the relationship changes that are in the Reid bill that have apparently been accepted by certain Members of the U.S. House of Representatives.

I think we can do better. I remind Senators how this all started, and I will go into a bit of detail. First of all, a continual carping that this is gridlock puts the Senator from New Mexico in a position where I cannot even understand what the word means anymore. The Secretary of the Interior proposed scores of new regulations, new rules, to be followed by an Executive order, none of which have had a hearing in the Senate. There is no bill here proposing it. Yet, when we come to the floor and beg the Senate to stand for fairness and give us 1 year for hearings, we are confronted with gridlock as the argument against us.

When it comes to grazing fees, we are all ready to acknowledge that we have been at loggerheads, except even during this year, before the Secretary proposed as part of his administrative powers to change the grazing fees, we had two distinguished Senators offer a grazing fee bill that changed those; and indeed we ought to move ahead with some hearings on those. They do not fit everybody exactly right, but to show that there was not even necessarily gridlock there, I cite that for the edification of the Senate, because it is absolutely true.

What happened after the Secretary of Interior proposed a very grandiose plan to raise the fees—in fact, to raise them a dollar more than the distinguished

Senator from Nevada, [Mr. REID] has proposed. And when he proposed all the regulatory changes that he was going to put in effect, in due course, the U.S. Senate—in fact, I must admit here that I had great help from the Senator from Nevada. This body said: That is not fair. That is all we said. It is encapsulated in a very fancy word, a "moratorium" for 1 year. All we said was—59 Senators agreeing—we ought to have a year to look into these major changes.

Madam President, to go from that point to where we are being told you are going to accept changes now written into law that do many of the things that we were demanding and asking and begging for 1 year to have hearings on, seems to me to be rather unusual, especially when those of us who want that year are to be blamed for delaying things.

I know the distinguished chairman of the Appropriations Committee indicated we should not speak of Members of the House in any personal-type terms. But I submit once again that to go from where we were in the U.S. Senate to entering into an agreement of the type that was entered into with members of the U.S. House Interior Committee, and to say then to the Senate that you have to adopt that, and then to say on the floor of the Senate that this has now gone through the legislative process, I mean, if you are looking for Halloween and goblins, that is one; to say this has been through the legislative process because one or two or three House Members and one distinguished Senator have gotten together with the aid and assistance of the Secretary of the Interior on an appropriations bill—drafted, redrafted, and redrafted, because we got three versions of these 19 pages of new regulatory authorizing language statutes, to get together and do that, and then to have appropriators—in all deference to the occupant of the chair, the appropriators are not authorizers. None of them even know what this amounts to. There may be one or two.

But they adopted it because it was proposed by the U.S. Senate, under the leadership of Senator REID, that we do this instead of the 1-year fairness—fairness—holding up of the implementation of the Secretary's proposal. And so the House said: We will take it.

Far be it from this Senator to speculate what anybody knows or understands. But it does seem to me that the appropriators clearly accepted this proposal on the House side, because House Members of the authorizing committee told them they should. Is it not interesting that the very day this happened, the House is otherwise feeling its oats about nonauthorization on appropriations? The very same day, in writing, come letters from the very same people saying: Do not authorize on appropriations. Very interesting. But when it comes to the ranchers of the West, who wanted nothing more than 1 year to have hearings on what these laws would mean, it is all right to authorize, and then to excuse ourselves because we do not want any more gridlock.

I repeat: The grazing fees can be worked out. It does not mean anybody can get exactly what they want, but they can be worked out. The part that cannot be worked out is to unilaterally, without any hearings, in an appropriations bill, change all of the rules, all of the interests, all of the proprietary rights, and to come to the floor and say it does not mean anything, it is not important, because we are grandfathering.

Well, today we had a new Governor added to the list, because the Governor of Colorado saw what the water language is. What did he say? That Governor of Colorado said:

> These are farfetched water rules; they go everywhere. They are going to close down recreation water in our State, and even some water that is being used for drinking water.

Our Senator from Colorado, Senator HANK BROWN, has been saying that. Some in this place roll their eyes up when he talks about it.

They cannot imagine that in the guise of grazing fee changes and language changing the rules and the rights, they cannot believe that we have expanded the water rights issues in our State such that reservoirs can be closed down around our State. And, indeed, they do not even have to be in the West. But the Governor from Colorado believes it now.

The Governor from New Mexico, one of the very early supporters of our President, came out—and we read it; we put it in the RECORD today—saying this series of changes will hurt the West; it is not necessary and it is not fair. I am just summarizing and in my own way putting my words to his. His were far more descriptive, but I believe that is a matter of record.

I believe tomorrow, Madam President—and I say to my friend from Nevada—tomorrow there will be water engineers from across America. They found out about this language on pages 18 and 19 of this huge new authorization text. They found out about it, and they are going to send up their expectations, their conclusions, as to what these water rights changes might mean.

It is not going to be: Do not worry about it; it does not mean anything. It is going to be far more than that. It is going to be: Did you understand and do you know how farfetched and what a big impact these water regulations might have on the West and, indeed, beyond the West?

Why do we have to do this? Why do we have to do this, when the U.S. Senate started out the year and the bill with a very simple proposition? I am sorry that it has such a big name, such a powerful sounding name—moratorium. All it meant was for 1 year, do not take any action to change the rights, the privileges, the proprietary interests of the grazing permittees—their rights, their right to appeal, their right to have advisory groups, and all of those things. Just give them the year. That is what the Senate voted.

Think what we got in exchange for that. In exchange for that, we got many of those regulatory schemes written into law where they are not even going to be done by the executive branch after hearings. They are now law. We have now written into law the future of all of the improvements on BLM land heretofore built by, paid for, and owned pursuant to regulation by the permittees. That is all going to change.

But do not worry about it, some people say, because it is only changing in the future. Well, what happens in the future, Madam President, when the grazing property improvements are not going to belong to nor be paid for by the grazing permittees? Are they going to volunteer to pay anyway, even though they have no proprietary interest? I doubt it.

Who is going to have to pay for it? My guess is, if this becomes law, the U.S. Government is going to have to pay for it. They are going to have to come along and have a brandnew program to share in the expenditures.

Then who is going to police it? I think we are going to come back and have a whole new regulatory scheme to police it.

I can go on and on. But the truth of the matter is that if, indeed, the Interior Department closes down and does not have money to operate come Friday, and that goes on for a day or half a day or a week—and, again, I do not believe it is going to, but if it does—I know my good friend, the chairman of the Appropriations Committee, talked some time ago on the floor about the blood coming off the sword that he was referring to in some historical terms that only he is such an expert at. I do not even want to touch it, other than to say I do not believe the blood will be on the hands of those of us who want 1 year of fairness to have hearings. If it closes down, it will be on those who insist that no changes can be made from this agreement that was reached to take the place of a simple little 1-year moratorium—a 1-year moratorium.

Frankly, I believe there are those in good faith, and I think my friend from Nevada is one of those, who thought you have to do this now or you will never get anything done that has even a semblance of being fair to the ranchers.

Madam President, I do not have that lack of confidence in the authorizing process. I will risk Senator BENNETT JOHNSTON's and Senator MALCOLM WALLOP's authorizing committee here having 6 months or 8 months to bring in

real experts. And instead of us having to believe those within the Interior Department who say it will not harm anything, and maybe not even believing the rancher who says it is going to harm them immensely, let us get the facts.

Frankly, I do not think we yet have made the case that in the Western States of the United States, on Bureau of Land Management land, western American families for decades have built on grazing permits with their own land, with some small portion of State land, with their own water rights, have built improvements on them and, yes, even had enough security out of that to build a nice house which became their home, and the asset value of that family was the sum total of all of it.

There are some, and I say this without any fear of being wrong, who for years have been saying there should be no value in those lands. Those citizens who occupy that, even if it is for decades and even if it is for two or three generations, should have no real value in their families for that grazing land which belongs to the public, even though when put into a permit has carried sufficient vested rights to create an estate upon which they can borrow money to grow and prosper and even build decent homes and improvements.

There are some, and I am not saying they are in this body, who say that it should not be that way. That estate that we speak of, that even the Internal Revenue Service has taxed in the past—and I know that from constituent work—has had a value that is significant to keeping the western way of life alive.

I want to close with a couple of comments, because there are many beyond the floor of the Senate and the staff here who listen and wonder what is the budget of this all about, especially since the Taxpayers Union has entered this fray. To the best of my ability, I have tried to determine how much additional revenue will go to the U.S. Department of the Treasury when the fee, which is $1.86, goes to $3.45. It turns out it is about $19 million.

So for those who think this is a truly monstrous add-on to the Treasury that we ought to be getting, let us put it in perspective. It is $19 million.

Madam President, in addition to that, the truth of the matter is that there is nothing about current American budget policy that says we are going to spend 1 cent less. We are going to take $19 million and put it into the budget and spend every bit of it. And anybody who wants to say to the Taxpayers Union, which I think is mistaken on this one, to say it any different, then I would like to see budget information that says this is going to do anything other than give us $19 million to spend somewhere else in Government. In fact, it will. It is going to be spent. There will be no tradeoff saying now that you have this, can you reduce taxes somewhere, or something like that? That will not even be considered.

Madam President, let me close by saying I do not know where this goes day by day. That is what we are working on. I know I should not be telling anybody beyond myself what they ought to do. But I believe it is time for the Secretary of the Interior to sit down and work to see if we cannot get a grazing fee solution, and then I think everybody from the President on down ought to just say now, look, the ranchers are really not asking for too much when they say just take 1 year before we put in all these new rules. Do not take away anybody's power; just say do not do anything for 1 year.

If you cannot work out something by law up here, it is back to ground zero a year from now. And you have not taken away any authority and you have not sent a signal, a real, live signal, to rural western America that they do not count enough to even have a chance to appear in a formal committee hearing in the U.S. Senate and U.S. House, with perhaps a family member along to make the case to state their facts, to tell us what it is going to mean; and yes, Madam President, maybe, if they can afford it, to bring along an economist who understands, from one of the ag schools, to tell us what it is going to do to the West when we squeeze every bit of value that grazing permits add to the estate of a rancher.

When you have it down to that blood zero, what is it going to mean?

I think we might be shocked at what we are going to hear. I can tell you this. It is not going to mean that people with a lot of money and big corporations are not going to still be in business. It is going to mean that all those small ranchers, those middle-sized ranchers are out, and it also is going to mean—and let me try to use some practical terms.

Here is a 200,000-acre unit ranch and the title is absolutely owned by a ranching couple, and yet the rest is grazing permits from the Federal Government and the State. Do you know what is going to happen? That land that they own absolute is going to be on the market, except it is not going to be on the market to be a ranch, because it will not be worth it.

We will have squeezed any value that the grazing permits bring to it, and it will be there to cut up in parcels, to be doled out, to be bought by others, and the West will be different. But it will not be different like those who now want these changes think. It will be different as I have just described it; it will be less public use, it will be less rural, rather than more.

And then there is no doubt in my mind, as I look at this, to where we are going to go; that there is just one basic, fundamental proposition, and it is that you cannot be unfair to even 27,000 permittees, their families, and the small towns that they support and aid and help and are members of and citizens of. You cannot deal them out on the basis that that is just the way it has to be, because some group has decided here in the Congress that we are going to change all this.

Now, if I really thought the rangeland of this country was in deplorable shape and we needed more intervention by bureaucrats, I do not know if I would be on my feet.

But I close tonight by saying: What is this all about? When the Department of the Interior's own internal memo says Bureau of Land Management only—not talking about the Forest Service. People keep bringing the Forest Service into this debate. The Forest Service is completely different. They have better lands. Most of their lands are not grazed year around and, indeed, most of their lands are not interspersed with private lands and State lands; completely different.

But, when the Department of the Interior's own internal memos say the quality of the range on Bureau of Land Management land is as good as it has been in 100 years; they have even said it better than that: It is in the best condition it has been in 100 years, what is all this about, these requirements that we move next week to change the relationship between the rancher and the land? To what end? Because we have just decided that we do not want them to have any property rights interest, any estate interest, any value, any ability to bring their family up there and raise and own something, part of which is the permits that permits them to live and make a living.

I, frankly, believe we have to ask that question—to what end?

I think there are some who have a different motive. Multiple use has been the way we have governed our public domain. You can use it for recreation, for grazing, for mining, for timbering, all in a reasonable way, but all in some way meshed together in an appropriate quilt that makes it valuable to everyone.

There are some who do not want that anymore. And I do not say the Secretary of the Interior, but I say, without any equivocation, there are many in his department that truly do not believe multiple use, as we know it, as it has been practiced for decades, as epitomized in the language of the Taylor Grazing Act of decades ago, there are many who do not want that and want to find a way by regulation to do away with it.

I must do my share to at least ask that we consider, through the Secretary, through the chairman of our Appropriations Committee, even through the White House, to get that one bit of fairness, to wit: 1 year before you implement these nonfee issues so

we can have some hearings and get to the facts of equity or nonequity as they may exist.

I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Will the Senator withhold? The Chair needs to make one quick announcement.

TREASURY-POSTAL SERVICE APPROPRIATIONS BILL—CONFERENCE REPORT

The PRESIDING OFFICER. Under the order of October 21, 1993, the Senate, having received a message from the House that the House has agreed to Senate Concurrent Resolution 48, as adopted by the Senate, the conference report accompanying H.R. 2403, the Treasury-Postal Service appropriations bill, is considered to have been adopted, and the motion to reconsider is laid upon the table.

Mr. DECONCINI. Mr. President, I am pleased to bring before the full Senate the conference report accompanying H.R. 2403, the Treasury, Postal Service, and General Government Appropriations Act for fiscal year 1994. The bill as reported from conference committee totals $22.5 billion. This amount is $382 million above the Senate-passed bill; $170 million less than the House-passed bill; and $7 million above the fiscal year 1993 enacted level. The reason for the increase above the Senate-passed level is that in conference we agreed to provide an additional $347 million in mandatory funding for the Government's payment for employee and annuitant health insurance benefits. This change was made to ensure that employees and retired employees do not pay unintended increased costs for their premiums for health insurance under the so-called Phantom Six formula.

For domestic discretionary spending, the bill as reported from conference is $34 million above the Senate-passed bill. Mr. President, the Senate-passed bill included an across-the-board cut in all domestic discretionary accounts totaling $173 million. This conference report restores only 20 percent of the amount cut in the amendment sponsored by Senator LOTT. It is a very lean bill—I want my colleagues to listen again, this bill is only $7 million above the 1993 enacted level. It is the closest thing to an actual freeze spending bill that this body has ever voted on and I hope my colleagues on both sides of the aisle give due recognition to the fact that this was not an easy task to accomplish.

In the interest of time, I will not go into great detail on each account in the bill. Suffice it to say, that for virtually every account, the conference report reduces funding below the Senate recommended levels. There are no amendments in disagreement. We worked very closely with the House to reach consensus on all of the amendments without disagreement. Obviously, we had to make sacrifices and weren't able to work the Senate's will on every item. However, the bill as reported from conference, is a good bill. It recognizes the importance of law enforcement and tax collection programs while meeting the Government's deficit reduction goals.

NATIONAL PARTNERSHIP COUNCIL

The conference report includes a provision permitting the administration to establish the National Partnership Council. The conferees recognize that the council may be established under current law with single agency funding.

REVENUE FORGONE

Mr. President, I am happy to report that this conference report contains reforms that will eliminate revenue forgone appropriations for all but free-for-the-blind and overseas voting rights. These reforms will save the taxpayer approximately $500 million a year.

I would like to take this opportunity to commend Chairman CLAY of the House Committee on Post Office and Civil Service for his ability to bring all parties to the table, overcome the many obstacles, and broker a compromise to eliminate the bulk of the revenue forgone appropriations. This compromise is a good solution and I believe opens the door for future discussion on other issues, such as further eligibility restrictions.

This conference report includes the House-brokered compromise with some minor changes made on the Senate side and agreed upon in conference. These changes include a "no rate decrease" for "flats" when revenue forgone is withdrawn. This change will create an additional savings of $45 million per year to the Postal Service.

This language also preserves the access of publishers and book distributors to the library rate of postage when filling orders from schools, libraries and colleges. This will ensure that these educational institutions, which ordinarily must absorb the postage of shipping costs on their book orders, will continue to receive the benefit of the reduced library rate.

The last change delays the implementation of eligibility requirements until December 31, 1993. Many nonprofit groups already have their Christmas material printed and this would allow them to use these materials before the new eligibility requirements are implemented.

As I stated earlier, this is a good and fair solution that finally brings this annual problem to a satisfactory conclusion.

TONER CARTRIDGES

Mr. President, the conference report language regarding the procurement of toner cartridges, inadvertently left out an introductory proviso which would have made a permanent statutory law change. The language included in the conference report is intended to replace the current statutory language in section 6962(j) of title 42 United States Code.

RESIDENTIAL WOMEN/CHILDREN TREATMENT PROGRAM

Mr. President, the conference report contains an earmark of $5 million in the Office of National Drug Control Policy's Special Forfeiture Fund for the residential women/children treatment program in fiscal year 1994. A typographical error in the conference report inadvertently would have the funds for this program transferred to the Center for Substance Abuse Prevention. These funds should be transferred to the Center for Substance Abuse Treatment, which is the agency which currently implements the women/children program.

I urge adoption of the conference report.

Mr. BOND. Mr. President, the Senator from Arizona is to be congratulated for picking up where the House left off, and assuring that the revenue forgone appropriation is eliminated, and that nonprofit organizations are still protected from having their rates increased dramatically.

As in any legislation as far reaching and complicated as this, there are bound to be some areas that are unclear as to the real intent of Congress. One such area is the scope of the new eligibility restrictions for materials mailed third class.

Clearly, we intended that commercial activities by nonprofits, such as in the sale of unrelated retail products by catalogue, should no longer enjoy the preferred rate. But what about situations where third parties offer products or services, such as in a space ad in a nonprofit organizations' third class publication? I am especially concerned about newsletters put out by a church, or a local charity, for example, that might contain an ad for a local business. Does this legislation make such a newsletter ineligible for preferred rate?

Mr. DECONCINI. The Senator poses a very troubling question. The new substantially related test we have created in this legislation could be construed, I fear, to make the church newsletter in your example ineligible for preferred rates—a result we surely have not intended. In fact, we had thought that section 705(b) of the act—new section 3626(m)(2) of title 391—would adequately address the problem. In any case, I believe that our intentions can be confirmed, and a clear answer given to your question, through reference to other sections of this legislation and to mechanisms the legislation establishes.

The legislation and that section in particular exempt periodical publications which are sent by third class mail

from the substantially related test. This legislation does not restrict periodical publications, such as church newsletters, from carrying paid advertisements from other businesses. A church newsletter containing an ad for local business would still be eligible for the preferred nonprofit third class rate.

Mr. STEVENS. Mr. President, it saddens me today to inform my colleagues that I will vote against the conference report on H.R. 2403, the Treasury, Postal Service, and General Government appropriations bill. As a member of the Appropriations Committee, this is not a position I like to take. However, as a representative of the State of Alaska, I have no choice.

Let me first state that I support the bulk of the work done by my colleagues. In particular, I compliment Senator DECONCINI for seeing to it that the Clay compromise to reform the revenue forgone subsidy was included in the Senate bill. As I stated on this floor during our initial consideration of this bill, I support the Clay language—I just don't think it goes far enough. The conferees apparently did not want to make any changes but there will be additional opportunities to address these problems.

But, the conference report before us today includes a provision which I cannot support and which will result in irreparable harm to my State and the Federal employees who carry out Federal programs in my State. I am referring to the decision to begin the phase-in of locality pay but eliminate the 2.2 percent general pay comparability adjustment.

Mr. President, the annual comparability adjustment benefits all Federal employees, regardless of where they live. Locality pay is designed to provide additional compensation to some employees to bring them closer to the salaries earned by their private-sector counterparts.

The conferees apparently decided that Federal agencies should be required to fund only one of these programs. That is an appropriate decision—implementation of both programs would cost Federal agencies $3.1 billion. Unfortunately, the conferees decided to eliminate the general pay adjustment and start the phase-in of locality pay. That seems lop-sided to me. This decision will mean that Federal employees in my State, which was excluded from the locality pay provisions, will not receive a general pay adjustment in 1994.

Without an exemption from the elimination of the comparability adjustment for employees in Alaska and other areas excluded from locality pay, I cannot support this conference report.

Mr. DOMENICI. I rise to make a statement regarding the conference report on H.R. 2403, the Treasury, Postal Service, and General Government appropriations bill for fiscal year 1994, because I have several reservations about the final outcome.

This bill provides new budget authority of $22.5 billion and new outlays of $20 billion to finance operations of the Department of the Treasury, including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and the Financial Management Service, as well as the Executive Office of the President, the Office of Personnel Management, and other agencies that perform central Government functions.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 602(b) allocation. When outlays from prior-year budget authority and adjustments for IRS compliance and mandatory programs are taken into account, the bill totals $22.9 billion in budget authority and $23.1 in outlays. The total bill is significantly under the Senate subcommittee's 602(b) allocation for budget authority and outlays.

I would like to thank the subcommittee for its continuing strong support for law enforcement agencies that are so important to border States such as New Mexico.

I am also encouraged that the subcommittee continued its efforts of the past several years to reform the Postal Service revenue forgone.

However, I would also like to express my concern about the inclusion of language pertaining to Federal pay raises next year. This bill would freeze the annual General Schedule pay adjustment for fiscal year 1994, which would have gone into effect on January 1 of next year. On the other hand, the conferees did nothing to affect locality pay adjustments, also scheduled to be implemented in January under current law.

The locality pay adjustment, expected to average 2.5 percent nationwide, will be more expensive than the now eliminated 2.2-percent comparability adjustment. In fact, in some cities, such as New York City, this increase could be as high as 6 percent.

There is no language limiting the amount of money available for locality pay, as was originally included in the House reconciliation bill. Fully funding locality pay at current law requirements could cost somewhere in the range of $4 billion in fiscal year 1994.

Because the President had requested freezing both adjustments, the request did not include any allowance for pay raises. Even if all the cost-saving provisions recommended by the Vice President's National Performance Review were implemented, the fiscal year 1994 savings would be less than $1 billion.

Speaking as the ranking member of the Commerce-State-Justice Subcommittee, I do not know how personnel-intensive agencies like the Departments of the Treasury and Justice are going to find funding for locality pay adjustments.

I am also concerned that the conferees included implementing language for several of the National Performance Review recommendations. I am very supportive, in general, of the Vice President's efforts. However, I do think the Congress needs to examine the options in more detail before taking any action.

Several Members of Congress, including myself, have requested that the Congressional Budget Office analyze both the individual proposals and any interactive or secondary effects. I am specifically concerned about the out-year outlay impact of allowing agencies to carry over half of their expiring unobligated balances. This action could potentially make it harder for the Appropriations Committee to stay within the discretionary cap in future years.

Mr. BOND. Mr. President, let me first thank the distinguished senior Senator from Arizona, the chairman of the subcommittee, for his effort, hard work, and leadership in bringing this conference report back to the Senate.

Mr. President, as Senator DECONCINI indicated, we are bringing back the conference report for H.R. 2403, the Fiscal Year 1994 Treasury, Postal Service, the Executive Office of the President, and Certain Independent Agencies Appropriations Act.

I do not want to dwell on the fact that this has been a very difficult year for appropriations. We have made efforts in every way to tighten our belts on this subcommittee. All of the other Appropriations subcommittees have been faced with the same problem—not enough money to fund programs to desired levels. This, of course, is one of the reasons the conference report appears as it does today. It is a compromise with the other body and represents our best effort to meet the needs of agencies which fall under the jurisdiction of the subcommittee.

The chairman has outlined the details of this conference report. I want to pay special attention to some key points in this agreement. This agreement is $191.4 million above the fiscal year 1993 discretionary enacted level and $184.6 million below the mandatory level for fiscal year 1993. That is an increase of $6.76 million or .0000003 percent.

Mr. President, I would repeat that number, but I think my colleagues see the point. Some will argue that we did not go far enough, but if one takes into account that we increased the Internal Revenue Service by almost $233 million over the fiscal year 1993 level, all of this funding will go toward further modernization of the tax system and enhanced enforcement efforts.

The conferees also agreed that it was important to continue law enforcement and trade facilitation. As a result,

slight increases have been provided for the Bureau of Alcohol, Tobacco and Firearms, the Secret Service, and the Customs Service.

Some of our colleagues will note that the conference report is significantly higher than the bill that passed the Senate. I want to point out that this can be attributed to the increase of $347 million in mandatory increases which are required to fund the Government's contribution to the Government payment for annuitants, employees' health benefits. This is not the sole increase, as I indicated earlier, but surely the lion's share.

I would like to clarify one point which has arisen since the House adopted the conference report. We have found that a sentence in amendment No. 43 was inadvertently left out of the final language. The conferees agreed to the language in the conference report, but the introductory clause which includes a "strike and insert" clause that would completely strip current sections (a) through (c) was omitted. Unfortunately, because the strike language is not in this legislation, sections (a) through (e) will also appear in the law.

It is clearly the intent of the conferees that sections (a) through (e) be replaced by the new (a) through (c). This oversight might cause some to wonder, but I want to make it clear that the intention of the conferees on this issue is clear. Sections (a) through (e) of 6962(j) are stricken and replaced with the language contained in this conference report.

Mr. President, not all of our colleagues will agree with the provisions of this conference report. In fact, there are items and accounts I would have preferred to be different, but compromise is the heart of conference agreements. This agreement is a compromise. I urge adoption of the conference report.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Colorado may proceed.

(Mrs. MURRAY assumed the chair.)

Mr. CAMPBELL. Madam President, this debate has been going on for some time now. Unfortunately, I think some of us have seen it shift from the collection of revenue in the Western States to the water policy to virtually States rights.

But in watching the last couple of hours—the last hour in particular—in my office, it seems to me that we have entered into a new dynamic in this discussion, and I am sorry to say that it has taken a turn for the worse. Because from my perspective, a number of speakers have come to the floor who repeatedly refer to the devastating effect of not passing this conference report and how it will affect American Indian tribes.

I have gotten three calls this afternoon—in fact, one from the National Congress of American Indians and two from Indian tribes—and there is no question in my mind that there is a clearly defined and orchestrated effort to have Indian tribes call me in particular.

One group, in fact, said that a number of Democratic Senators who were opposed to it were only doing it because I had suggested it, which is absolutely not true. Everyone makes up their mind around here based on what is best for the people that sent them to this office, as I do, too. But to call me with a doomsday prediction of the effects of not passing the conference report, I think is wrong and unfair.

And I must say, Madam President, that this effort to turn Indians against their non-Indian neighbors is the most reprehensible movement I have seen since I have been in the U.S. Senate. Clearly, it is coming from one source, and that is the Secretary's office.

The history of this Nation, Madam President, has been written with the blood of dead Indians. To this date, they are still at the bottom of every statistic, whether it is employment or high school completion, or virtually everything else.

I tell my Indian and non-Indian friends both: Do not let the Secretary scare you. And, furthermore, if this continuing resolution does not pass, if the cloture vote does not succeed this Thursday, there is one person they can blame it on and that is the Secretary.

To try to say that western Senators are trying to produce more gridlock and trying to avoid any kind of a solution to the problem is simply not fair. The burden and the responsibility falls on the Secretary's shoulders. He is playing, in my opinion, the old divide-and-conquer ploy that has so effectively kept Indian people at the bottom of the social scales in years past. It is nothing new to Indian people in this Nation, because it is in keeping with past performance for this whole Congress.

Let there be no mistake, Madam President: No one is more protective of their rights than I am on the floor, and I will continue to fight for them, as many of my colleagues have done, too.

But the doomsday rhetoric used by both the Secretary and some of the proponents of the conference report is unfair, uncalled for, and calloused and mean-spirited, I might add. I resent it. And I want the RECORD to reflect that.

To the President of this country, I suggest that he call off the dogs. It does not help President Clinton to let his Secretary hurt people in the West, whether they are American Indians or white rancher neighbors. They have suffered enough. Indian people are being used as unsuspecting pawns in this battle. Over the years, since the Indian wars have been over, they have worked in harmony with their non-Indian neighbors and want to continue to do so. They do not want any more wars, whether they are water wars or policy wars. So I suggest this President call off the dogs and remind the Secretary that, when he was first confirmed, he made a very pious and enlightened and, to us, a very happy statement about his commitment to helping Indian people. But these unfair tactics are simply going to, in my opinion, make some brandnew Republicans in this body if they do not back off.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I am sorry the Senator from Colorado has left. There is not anyone in this Chamber I have any more respect for than the Senator from Colorado. We all know the mark he has made on the U.S. Senate and will continue to make.

As he has said about me and I say about him, this issue is one that we disagree with each other on, but we disagree on the merits. It is nothing dealing with personalities. Because of my high regard for him, I have studied this issue probably harder than I would have a lot of issues, and I am hopeful the matter will be resolved.

I want to say a couple of things based on statements made by my friend from the State of New Mexico, the senior Senator from the State of New Mexico. He talks about this matter not amounting to much money. But we need not only talk about the money that is collected on the grazing fees, but how much it costs taxpayers to keep appropriating money to take care of problems relating to range management.

On just one simple issue here, the funding history and the Interior appropriation regarding riparian matters, in 1988 we were spending less than $2 million on that. Now, in 1994, $8 million. This is taxpayers' money just on riparian areas alone. We have appropriated, last year, $42.5 million to take care of riparian areas and range management. We are talking about a lot of money. That is why it is important that we collect a little bit more money. That is why the National Taxpayers Union and other groups think this is an amendment that is long overdue.

My friend from New Mexico also said that he does not know what gridlock is. I respectfully say maybe that is the problem, because this is gridlock. We are holding up, by the unending debate on this matter, a very important piece of legislation. The eyes of the world are upon this body. Is it right that while we are talking about grazing fees that affect 18,000 permittees, we are holding up an Interior appropriations bill that

affects everybody in this country? It affects people in the Great Basin National Park in Nevada, Yellowstone National Park. It affects people who want to go to some of the recreation areas that are on BLM lands. It affects, as the Senator from Colorado mentioned, problems on Indian lands—the Indian Health Service, which got a tremendous boost in this appropriation bill.

This body is looked upon, frankly, Madam President, not with good eyes. In this morning's Washington Post they are concerned about what is taking place on this bill. They say, among other things:

> The rangeland reforms include an increase in grazing fees on federal lands, meant in part to discourage overgrazing, and some changes in rangeland management and improvement rules. Some of the latter would reverse decisions in behalf of private use of public land by Reagan administration Interior Secretary James Watt. Clinton Interior Secretary Bruce Babbitt has threatened to put them into effect by regulation if Congress won't do it statutorily. He's right on the merits,

Talking about Babbitt—

> but this has become a procedural battle as well.

It is the procedural battle that we are looking at today. It is not right. Let the majority rule. We all agree there is a time and place for protecting minority rights, but grazing fees is not the issue. Grazing fees is not the time to hold up the Senate. It only focuses on how little we get done over here. I think the time has come to end this filibuster.

I, with great hope and anticipation, believe the Members of the Senate on the other side of the aisle will come forward and support cloture on this. We have carried this forward enough. As the chairman of the Appropriations Committee has so eloquently stated, it is time this matter be done away with, that you wipe yourself off, get up, and fight again.

The chairman of the Appropriations Committee has talked on the Senate floor over the past several months about the danger of the legislative arm of Government losing its power and ceding everything to the executive branch of the Government. That is, in effect, what we are doing here by filibustering and allowing Secretary Babbitt to go forward with all these regulations.

If there is a Member of the other body who is concerned about anything Secretary Babbitt would do with this amendment as part of their conference report, let us talk to Secretary Babbitt. He will be happy, if someone has a concern about, for example, subleasing, he will be happy to tell them subleasing to family members will still be allowed if they live in the State. If they have a specific concern about water he will talk to them about that.

Bruce Babbitt is a reasonable man. He has been Governor of a Western State, attorney general of a Western State. He is willing to work with western Senators or eastern Senators. He understands the West.

Scores of new rules have been talked about here. There are no new rules. The Forest Service has been doing this for decades. It is only in the past 11 years that Secretary Watt interceded and changed the rules. All we want to do is have the Forest Service and Bureau of Land Management with the same set of rules. That does not seem out of line.

I am amazed that my friend from New Mexico, he is talking about—OK, we will now agree on the grazing fee but we want a year's postponement of anything else.

I will repeat, we live in a bicameral legislature. The House has spoken. I repeat, we may not like what they have said but they have said it with a voice that we can hear clear at this end of the Capitol. They are way down the hall, but we can hear them here. How do we hear them? Because they have twice voted by a 3-to-1 margin how they feel. We are going to have to deal with the House. I cannot imagine anyone suggesting that now is the time to start hearings. The hearings should have come a long time ago, 15 years ago, 8 years ago, 7 years ago, 6 years ago. But now we are being told let us have hearings. The 376 reports, hearings, studies—forget about those. Let us start over again.

Madam President, ranchers in the Western part of the United States are going to rue the day that the Reid amendment is not adopted. If the Reid amendment is not adopted, they are going to say, "Why did we not go with the Reid amendment?" I promised the ranchers that is what they are going to say because they are going to wind up with Secretary Bruce Babbitt's proposals and more. They should all contact their Representatives in the U.S. Senate, as the former president of the Nevada State Cattlemen's Association contacted me and said, "We are willing to live with your proposal. It is so much better than Babbitt's that it is difficult to put into words."

We need to move forward. The eyes of the American public are upon us. We can do this, save the taxpayers money, have reasonable land reform, and by next year there will not be a whimper heard out of anyone. There will be quiet. This will no longer be an issue.

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

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

Mr. BENNETT. Madam President, we have had a lot of discussion here on the issue of grazing fees and filibusters. We have heard a lot of people raise their voices that this issue is not about grazing fees, it is about the question of the regulations on land use that many people think would be devastating to the West.

I do not want to multiply the arguments and repeat the words that have been offered by my colleagues from the West. I think I have made it clear from my voting record that I agree with most of that. But I do want to make a few observations from some of the debate that has gone on which I think will help focus exactly why we are where we are.

The Senator from Nevada [Mr. REID], mounted a spirited and, I think, appropriate, particularly from his point of view, defense of Bruce Babbitt on the floor. He pointed out to us that Bruce Babbitt was a westerner, former Governor of a Western State, former rancher; that is, coming from a ranching family.

That might be making a little bit too much of the case. When I talked to Secretary Babbitt prior to his confirmation, and he told me of his requirement, or his decision rather, to sell his interest in a ranching business, he said, I have been out of that myself for quite a long period of time. So that is not really an important thing for me.

But I think it is an appropriate point for the Senator from Nevada to make. Bruce Babbitt is a westerner and can be expected to concern himself with western issues.

If we accept that point, however, Madam President, a second question arises in my mind. Why then is Bruce Babbitt being held out to us as the ogre who will take over and who will punish those of us who are standing as we are on this issue if we do not give in and accept the Reid compromise.

It seems to me we are being asked to have things both ways; either believe that Bruce Babbitt is a benign friend of the West, or believe that Bruce Babbitt is an ogre who will savage the West. We cannot believe both.

I tend, frankly, to believe neither in its final form. I think Bruce Babbitt has given up much of the western orientation that he had when he was Governor of Arizona and has become far more of a creature of the groups that would like to see the West turned to single use rather than multiple use. I think he has moved far down that road.

At the same time, I do not believe that he is the ogre who will then, if we stand firm in our resolve on this issue, savage and punish the West for its temerity in standing up to his demands that we accept the Reid compromise.

Accordingly then, Madam President, it seems to me the logical thing for us to do to break this deadlock and to move forward in a proper fashion is to do that which some of my colleagues have suggested; that is, adopt an increase in grazing fees. I think there is

virtually unanimous agreement in this body, and certainly in the other body, that grazing fees are going to have to go up. The day when we can stand on the floor of the Senate and keep grazing fees at their present level has long since gone.

If we accept that concept, then I think we can rather quickly get to a number that just about everybody can be comfortable with; maybe not everybody but just about everybody. We can certainly break the deadlock that exists over the issue of cloture, if we concern ourselves solely with the question of how much the grazing fee should be.

That means the 19 pages of regulations that we have heard so much about on the floor then became the subject of hearings before an appropriate authorizing committee.

I would ask those who insist that these 19 pages of regulations remain in this appropriations bill, why are you afraid of the authorizing committees? Why are you not willing to put those proposals through the congressional process, let them be the subject of hearings and let them stand or fall on their own merits rather than having them slide through on the emergency circumstances in an appropriations bill?

I suspect that there is a realization here that if those 19 pages were put into appropriate authorizing language and put before the appropriate committees, they would not survive the scrutiny of the hearing process.

If those who have been addressing us are correct, if those 19 pages of regulations were the subject of hearings, we would see a parade of western Governors, Democrats as well as Republicans, come before the authorizing committees to tell us what was wrong with those regulations.

That may be one reason why Senators do not want to see those 19 pages exposed to the light of day of the hearing process.

We would see a parade of economic information demonstrating just how serious the result of those 19 pages would be in terms of economic devastation of parts of this Nation. Maybe that is why Senators do not want to expose those 19 pages of regulations to the process of hearings and examination by the authorizing committee.

I think it is eminently fair and reasonable, and I do not consider it an expression of gridlock for those of us who are opposed to those 19 pages, to ask that they go through the authorizing process. The chairman of the Appropriations Committee—I think very appropriately—stood on the floor earlier this afternoon and said we should not hold up the Senate process on a filibuster, we should take our losses, have our votes, stand up and take whatever happens. I would be perfectly willing, as I believe all of the other Senators from the West would be, to pledge that we will not filibuster the authorization bill if those 19 pages of regulations are given the scrutiny of a full hearing process.

Let them come before the Senate Energy and Natural Resources Committee. Let them be examined in full and open hearings with the full testimony by all of the western Governors. Let them be made the subject of economic analysis. Let them stand or fall on the basis of their merits. And then let us look on them. If we have that process, I would not support a filibuster to stop a vote. If we have that opportunity for full hearing, I would not oppose the Senate moving ahead in proper fashion. And if we were defeated after we had that kind of hearing, I would not try to overturn that defeat with a filibuster.

But now we are being told we must accept an all-or-nothing package—not only the increase in grazing fees which, as I have said, I am willing to negotiate and accept an increase, we must also have the regulations tied to them and have it slip through in this fashion.

I have no problem standing with a filibuster against that kind of procedure, which I think is a procedure of trying to cloak the issue rather than expose the issue.

So, Madam President, I conclude with the same observation I gave in the beginning. If Bruce Babbitt is indeed interested in resolving this problem, is indeed interested in preserving the concept of multiple use in its time-honored fashion, why is he being used as the bludgeon—at least rhetorically—with which to beat us into submission? I believe that there are solutions that are available which could be acceptable to reasonable men and women in both parties, on both sides, and I would hope that the Senate would now move toward consideration of those solutions.

Mr. GORTON. Mr. President, I would like to take a few minutes to explain again why I am voting against the motion to invoke cloture on the Interior appropriations bill.

It is not, as some of my colleagues have implied, because I am flatly opposed to an increase in grazing fees. If this were the only issue at stake, I could reluctantly agree to the fee increases included in the Babbitt-Reid proposal. While the increases are high and will have a significant impact on ranchers in my State, they are more reasonable than those originally proposed by Secretary Babbitt.

But the grazing fee increase is only a minor part of the 19 or so pages of rangeland reform language included in the Interior bill. It is with this other language that I take issue.

I object to this language being included in the Interior bill because it is obvious from listening to today's debate that very few members of this body have any idea what effect the Babbitt-Reid provision will have on the public land states. To be perfectly candid, neither do I. That is precisely the point.

The Babbitt-Reid proposal represents a sweeping change in Federal policy governing public lands, and yet there has not been a single hearing on the issue in this body. There is no committee report, no testimony, and no legislative history. Members of this body have had no opportunity to offer amendments or clarify particular provisions. This proposal was instead negotiated by the administration with a small, exclusive group of Members and presented to the Senate as a fait accompli. I would remind my colleagues that this provision appeared in neither the House nor the Senate bill.

There are a number of reasons why this Senator wants a more thorough hearing of this measure. First, I am very concerned about the potential impacts of the water rights language in the Babbitt-Reid proposal. Particularly worrisome is the provision in the bill that directs the United States to "assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon." Rarely have I seen such a deceptively expansive sentence in a piece of legislation.

This and other provisions in the bill could impact all manner of development, and even prevent use of water derived from public lands. The Energy Committee has provided a partial list of just the hydroelectric projects that could be affected, and I note that the list includes two projects in Washington State. One of these projects, the Rock Island Dam on the Columbia River, is a massive 600-plus-megawatt facility that contributes a great deal of nonpolluting, renewable energy for the Northwest region. I would like to think I could trust the Interior Department not to use provisions of the Babbitt-Reid proposal to impose operating conditions on the Rock Island project, but I can not. I have the greatest respect for Bruce Babbitt, but it is clear that we view public land use issues differently. It is also clear that there will be many other Interior Secretaries after Mr. Babbitt, and that neither the proponents nor opponents of this legislation know how future administrations may interpret this language.

Mr. President, if we are given the chance to consider this issue in the proper legislative process, we will have the opportunity to seek answers to these questions. We will have an opportunity to clearly establish congressional intent, and can avoid the endless stream of lawsuits that will result from the Babbitt-Reid proposal if it is adopted.

This is not gridlock, Mr. President. This is a bipartisan group of concerned Senators that is insisting that Congress do its job properly. I do not generally have an objection to including

authorizing language in appropriations bills when necessary, but it is absurd to include some 19 pages of such language without any compelling reason.

Proponents of the Babbitt-Reid language have argued that we do not have any choice but to accept the conference report, and that to refuse to invoke cloture is to endanger funding for any number of important items included elsewhere in the bill. Mr. President, this is nonsense. Particularly offensive is the notion that we are somehow compelled to accept the position of the House authorizing committee, despite the fact that the House itself has been roundly chastising this body all year long for including any authorizing language in appropriations bills.

If we fail to pass this bill, it will be the fault of those who are so doggedly insisting upon including all 19 pages of the Babbitt-Reid compromise. We have already had two cloture votes on this bill, and it is clear that it is going nowhere unless the Babbitt-Reid language is dropped. In this case, the "guardians of gridlock" are those who insist that the language be maintained.

I have every confidence that if concerned parties begin earnest negotiations aimed at giving the authorizing committees an opportunity to consider the administration's rangeland reform proposal, we can pass the conference report by Thursday evening. If we fail to do so, the blame will lie not with those Senators opposing cloture, but with those who insist upon ramrodding this provision through Congress on this appropriations bill.

ORDER OF PROCEDURE

Mr. KENNEDY. Madam President, I understand that the majority leader will be here momentarily to place before the Senate the Religious Freedom Restoration Act. When he does, as I understand it, the only amendments in order will be the Kennedy-Hatch clarifying technical amendments on which there will be a time limitation of 10 minutes; a Reid amendment on exempting prisons from the bill's provisions, 2½ hours. There will be 30 minutes for debate on the bill, with all time to be equally divided and controlled in the usual form; and that at the disposition of the aforementioned amendments and the use or yielding back of the time, the bill, as amended, if amended, be advanced to third reading.

That, as I understand it, is the current situation. We look forward to the opportunity to begin this extremely important and significant debate on one of the most basic and fundamental rights and liberties of our country. I see the majority leader on the floor.

I yield the floor.

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

Mr. MITCHELL. Madam President, pursuant to the authority vested in me under order No. 163, regarding S. 578, I now ask the chair to lay before the Senate S. 578, the Religious Freedom Restoration Act, subject to the terms as set forth in that order.

The PRESIDING OFFICER. Under the previous order, the clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 578) a bill to protect the free exercise of religion.

The Senate proceeded to consider the bill.

Mr. MITCHELL. Madam President, I understand that there are likely to be two votes as a result of the consideration of this measure, pursuant to this order.

I now state that there will be no further rollcall votes this evening, and that the two votes on this measure will occur no earlier than 10 a.m. tomorrow. And I expect they will be at 10 a.m., but I will consult with the staffs, both Democratic and Republican, with respect to setting that precise time, and I will have an announcement on that shortly, either directly or through the managers.

So there will be no further votes this evening. I am advised that a request has been made by our colleagues that the vote tomorrow morning occur at 10. I want to check that with the staffs, and I will announce that shortly.

Mr. KENNEDY. Madam President, I yield myself 10 minutes.

Madam President, many of the first settlers in America fled persecution abroad in search of religious freedom. The Nation founded by those courageous pioneers holds as one of its most basic rights the guarantee of that freedom.

Freedom of religion is the first right protected by the first amendment. Even before freedom of speech or freedom of the press, the first amendment prohibits government itself from establishing any form of state religion, or from interfering with any citizen's free exercise of religion.

The Supreme Court's 1990 decision in Oregon Employment Division versus Smith dealt a serious setback to this first amendment freedom. Before that decision, under long-established doctrines of constitutional law, actions by Federal, State, or local governments that interfered with a citizen's ability to practice religion were prohibited, unless the restriction met a strict two-part test—first, that it was necessary to achieve a compelling governmental interest; and second, that there was no less burdensome way to accomplish the goal.

The compelling interest test has been the prevailing legal standard protecting the free exercise of religion for nearly 30 years, and the standard had worked well. Yet, the Court in the Smith case saw fit to overrule that test. Instead, it declared that there is no special constitutional protection for religious liberty, as long as the law in question is neutral on its face as to religion and is a law of general application.

It is clear, however, that some general laws can burden the exercise of religion every bit as much as laws that are directed specifically at religious activity. As Justice Sandra Day O'Connor stated in her separate opinion in the Smith case, which sharply criticized the Court's ruling:

[F]ew States would be so naive as to enact a law directly prohibiting or burdening a religious practice as such. Our free exercise cases have all concerned generally applicable laws that had the effect of significantly burdening a religious practice. If the First Amendment is to have any vitality, it ought not to be construed to cover only the extreme and hypothetical situation in which a State directly targets a religious practice.

The reasoning of the Smith decision was also sharply criticized by Justice Souter in his concurring opinion last June in Church of Lukumi Babalu Aye versus Hialeah. Justice Souter urged the Court to reconsider the Smith rule, stating:

"Neutral, generally applicable" laws, drafted as they are from the perspective of the non-adherent, have the unavoidable potential of putting the believer to a choice between God and government.

In other words, a church denied the right to use wine in a communion service is just as adversely affected if the restriction is brought about by a general prohibition on alcohol consumption as by a specific law banning alcohol in religious services.

The Smith decision has created a climate in which the free exercise of religion is jeopardized. At the Judiciary Committee hearings on this legislation, the Reverend Oliver S. Thomas, appearing on behalf of the Baptist Joint Committee on Public Affairs and the American Jewish Committee, testified as follows:

Since Smith was decided, governments throughout the U.S. have run roughshod over religious conviction. Churches have been zoned even out of commercial areas. Jews have been subjected to autopsies in violation of their families' faith. * * * In time, every religion in America will suffer.

The Religious Freedom Restoration Act is designed to restore the compelling interest test for deciding free exercise claims. It does so by establishing a statutory right that adopts the standard previously used by the Supreme Court. In essence, the act codifies the requirement for the Government to demonstrate that any law burdening the free exercise of religion furthers a compelling governmental interest, and is the least restrictive means of achieving that goal.

The act creates no new rights for any religious practice or for any potential litigant. Not every free exercise claim will prevail, just as not every claim prevailed prior to the Smith decision.

The bill simply restores the long-established standard of review that had worked well for many years, and that requires courts to weight free exercise claims against the compelling-state-interest test.

The act is supported by a broad coalition of organizations with differing views on many issues of our day, including the National Association of Evangelicals, the Baptist Joint Committee on Public Affairs, the American Civil Liberties Union, Concerned Women for America, People for the American Way, the American Jewish Committee, and the U.S. Catholic Conference. These organizations don't agree on much—but they do agree on the need to pass the Religious Freedom Restoration Act.

I commend my colleague Senator HATCH for his leadership and his commitment to this legislation. We are pleased to be joined by 59 of our colleagues in sponsoring this bill.

President Clinton has endorsed the legislation, and Attorney General Reno has written to express her strong support. The House of Representatives passed the bill by voice vote on the Suspension Calendar in May. I urge my colleagues to support this important and needed legislation.

Madam President, just before we begin the debate of our friend and colleague, Senator REID, on an important provision relating to prisons, I would like to make just some comments on that matter which we will have further opportunity to discuss this evening and perhaps for a brief time tomorrow before the vote.

The guarantee of freedom of religion protected by the first amendment contains no exemptions, and this legislation should contain no exemptions. We would encourage prisoners to be religious. There is every reason to believe that doing so will increase the likelihood that a prisoner will be rehabilitation.

The U.S. Department of Justice through the Bureau of Prisons operates 73 correctional facilities which house more than 84,000 inmates.

Attorney General Reno wrote to the Judiciary Committee to state that an amendment would be unwarranted and that the Senate should approve the bill without an amendment to exempt prisons from the legislation. I would like to read from that letter from the Attorney General:

Concerns have been expressed that the standard of review of S. 578 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the committee to approve the bill without amendment.

Prior to 1987, the Supreme Court had not distinguished explicitly between the standard of review applicable to the religious claims of prisoners and those of others. In that year, for the first time, it held that a prison regulation that impinges on an inmate's right of free exercise "is valid if it is reasonably related to legitimate penological interests." *O'Lone* v. *Estate of Shabazz*, 482 U.S. 342, 349 (1987), quoting *Turner* v. *Safley*, 482 U.S. 78, 89 (1987). Thus, the Court had abandoned the compelling interest standard regarding inmate claims only a few years prior to doing so for the general population in *Smith*

Prisons had operated under Sherbert for a number of years before O'Lone and Turner adopted a standard that is plainly less accommodating to the prisoners' exercise of religious rights. During that period, prisoners attempted to gain privileges based on fabricated free exercise claims. Not surprisingly, those types of claims have continued even under the standard of O'Lone and Turner. They will doubtless continue whether S. 578 becomes law or not.

In my view, the four dissenters in O'Lone had the better of the argument. They would have required prison administrators to demonstrate that the restrictions imposed in that case—preventing certain Muslims from attending a religious service central to their faith—furthered a compelling government interest and were no greater than necessary to achieve legitimate penological objectives. This standard parallels that incorporated in S. 578.

Certainly, the strong interest that prison administrators and society in general have in preserving security, order, and discipline in prison will receive great weight in the determination whether the government meets the compelling interest test when there is a claim that exercise of religious rights is burdened and whether it has pursued the least restrictive means of doing so. Activities that are presumptively dangerous or carry a demonstrable likelihood of jeopardizing discipline within a prison will continue to be subject to regulation after enactment of S. 578.

Likewise, prison administrators will retain authority, in many instances, to regulate the time, place, and manner of an inmate's exercise of religion. Restrictions that do not deny inmates the opportunity to engage in otherwise permissible religious practice, but merely require them to pursue such activities within the context of prison life, likely will not substantially burden inmates' free exercise rights and will be permissible.

This is the essential part of the Attorney General's letter—

I, therefore, strongly urge the Committee to approve S. 578 without amendment.

Similarly a total of 13 State attorneys general have signed a letter expressing their opposition to the Reid amendment.

I ask unanimous consent that that letter be printed at the appropriate place in the RECORD.

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

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, October 19, 1993.

DEAR SENATOR: The undersigned Attorneys General support the passage of the Religious Freedom Restoration Act ("RFRA"), S. 578, without amendment.

We oppose Senator Reid's amendment exempting prisons from RFRA and believe that the Senate Judiciary Committee's report language regarding RFRA's effect on prisoner claims strikes a proper balance between the right of free religious expression and the critical need for cost effective security and order in our nation's penal institutions.

Based on past experience with RFRA's legal standard, the bill will neither jeopardize prison security nor produce significant increases in costs. Although prisoner litigation is indeed an enormous and growing problem, free exercise of religion claims are made in only a tiny fraction of these cases. In New York, for example, only 1% of all cases involve free exercise claims, and the percentage of such cases has remained essentially constant in recent years even as Supreme Court decisions were substantially changing the applicable legal standard.

We concur with U.S. Attorney General Janet Reno in advocating adoption of RFRA without amendment.

Sincerely,

Robert Abrams, Attorney General of New York; Hubert H. Humphrey III, Attorney General of Minnesota; James E. Doyle, Attorney General of Wisconsin; Scott Harshbarger, Attorney General of Massachusetts; Larry EchoHawk, Attorney General of Idaho; Roland W. Burris, Attorney General of Illinois; John Payton, Corporation Counsel, District of Columbia; Michael E. Carpenter, Attorney General of Maine; Winston Bryant, Attorney General of Arkansas; Richard Blumenthal, Attorney General of Connecticut; J. Joseph Curran, Jr., Attorney General of Maryland; Dan Morales, Attorney General of Texas; Jeffrey B. Pine, Attorney General of Rhode Island.

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, September 13, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. ORRIN G. HATCH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: I write to express my support for passage of the Religious Freedom Restoration Act ["RFRA"] without amendment. I applaud your efforts for passage of this important legislation.

The bill you drafted promises to restore religious freedom to its proper place as a cornerstone of our country's best traditions of liberty, equality and faith. In addition, the Senate Judiciary Committee report language regarding RFRA's effect on prisoner claims strikes a proper balance between interests of religious liberty and religious rehabilitation of prisoners, on the one hand, and prison administration, on the other.

The principal assertion advanced by proponents of a prison amendment is that RFRA will lead to a significant expansion of prisoner litigation. This is a serious charge. As Attorney General of New York, the second largest state, I defend prisoner claims against one of the largest and most diverse prison systems in our nation. Prisoner litigation as a whole is a drain on the resources of attorney general's offices, and prisoners bring a significant number of frivolous claims. We would certainly be concerned about a large-scale expansion of such claims.

However, the significant increase in the number of prisoner cases in recent years has not been due to the standard that RFRA seeks to restore. While I believe that something must be done to address the serious

problems caused by the explosion of prisoner litigation, this bill will, in fact, have little impact on the number of prisoner claims. Claims dealing with religious exercise constitute only about one percent of all prisoner claims in New York State.

I cannot speak directly for other State Attorneys General, but I am aware that a number of those who signed a May 5 letter endorsing a prison amendment have subsequently indicated, either privately or publicly, that the letter no longer represents their point of view on the issue. I would also point out that, at its Summer Meeting in July, the National Association of Attorneys General considered, but declined to adopt, a resolution endorsing a prison amendment to RFRA. Also, as you know, U.S. Attorney General Janet Reno, whose department administers the Federal prison system and handles all related litigation, has advocated adoption of RFRA without amendment.

I have the greatest respect for the men and women who face the unique difficulties and pressures associated with managing a prison. I also share your conviction in the central importance of religious liberty in our constitutional system. Because I believe that RFRA strikes the right balance between both interests, I applaud your efforts and hope that the Senate acts promptly to pass RFRA without a prison amendment.

Sincerely,

ROBERT ABRAMS.

Mr. KENNEDY. Madam President, I point out there are a number of State attorneys general who feel the other way.

Madam President, if I could yield myself just 3 minutes on the clarifying amendment.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. KENNEDY. I think there is a designated 10 minutes on that, and I would like to yield myself from that time.

The PRESIDING OFFICER. The Senator has 10 minutes on the amendment. If there is no objection, the Senator can use his time.

Mr. KENNEDY. I will proceed for 3 minutes. I thank the Chair.

Madam President, this amendment I will offer on behalf of Senator HATCH and myself is intended to make it clear that the compelling interest standards set forth in the act provides only to Government actions to place a substantial burden on the exercise of substantial liberty. Pre-Smith case law which makes it clear governmental action places a substantial burden on the exercise of religion and must meet the compelling interest test set out in the act.

The act would not require such a justification for every governmental actions that have an incidental effect on religious institutions. The amendment we will offer today is intended to make it clear that the pre-Smith law is applied under the RFRA in determining whether Government action burden under the freedom of religion must meet the test.

Mr. President, I ask unanimous consent that it be in order to consider that clarifying amendment at the present time.

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

AMENDMENT NO. 1082

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. HATCH, proposes an amendment numbered 1082.

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

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

The amendment is as follows:

On page 2, line 14, insert "substantially" before "burden".

On page 3, line 5, insert "substantially" before "burdened".

On page 3, line 7, insert "substantially" before "burdened".

On page 3, line 9, insert "substantially" before "burden".

On page 3, line 13, insert "substantially" before "burden".

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, let me say a few words about the technical amendment, and if I could talk about the bill itself I would appreciate it.

The distinguished Senator from Massachusetts has said the technical amendment is intended to clarify the compelling interest required by the Religious Freedom Act applies only where there is a substantial burden placed on the individual free exercise of religion.

This is consistent with the case law developed by the Court prior to the Smith decision, as thus stated in the committee report.

It does not require the Government to justify every action that has some effect on religious exercise. Only action that places a substantial burden on the exercise of religion must meet the compelling State interest set forth in the Religious Freedom Restoration Act.

With the permission of the distinguished Senator from Massachusetts, I urge adoption of the amendment.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. HATCH. I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1082) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah is recognized for 15 minutes under his control.

Mr. HATCH. Mr. President, I am pleased to join Senator KENNEDY as principal sponsor of the Religious Freedom Restoration Act of 1993. I urge its adoption without amendment.

The Religious Freedom Restoration Act restores to all Americans a fundamental right guaranteed by the first amendment: the free exercise of religion. This act is one of the most significant pieces of legislation in support of religious freedom to every come before Congress. It has the backing of one of the broadest coalitions ever assembled to support a bill before Congress. This coalition encompasses a wide range of religious faiths and an ideological spectrum ranging from the American Civil Liberties Union to the Coalitions for America.

Our Nation was founded, in large part, by individuals fleeing religious persecution and seeking tolerance, safety, and protection in the exercise of their religion. Through the wisdom and foresight of the Founding Fathers, the Bill of Rights was drafted and ratified in the first Congress to protect the rights of individuals in our newly formed Republic.

Our forefathers fully understood the need to protect religious minorities. In the very first amendment to the Constitution, they choose to limit the power of Government and the will of the majority from unnecessarily burdening an individual. The first amendment provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

Recently, in Employment Division versus Smith, the Court departed from well established principles embodied in the first amendment when the Court ruled that any valid State interest would supersede an individual's right of free exercise of religion. In a practical sense, the decision eliminated any real protection for religious exercise whenever a law of general applicability burdens such exercise. In my view, the Smith decision does not adequately protect the religious privileges envisioned by our founding fathers and embodied in the first amendment.

The elimination of the compelling interest standard has led to a string of lower court decisions eroding freedom of religion in a wide variety of areas. To date, the lower courts, relying on Smith, have overridden religious liberty interests in over 60 cases.

For example, in a Minnesota case, *Matter of Welfare of T.K.*, 475 N.W.2d 88 (Minn. App. 1991), county government officials were comfortable in seeking the removal of two minor children from their homes and parents when the minors' parents refused to allow their children to take a standardized test in violation of their religious beliefs. The childrens' mother had been home teaching her children in several subjects including reading, writing, literature, fine arts, mathematics,

science, history, geography, health, and physical education. The county government, however, sought and won court approval to remove the children relying on neutral State laws permitting the removal of children determined to be in need of the Government's protection.

In another case, *Greater New York Health Care Facilities* v. *Axelrod*, 770 F.Supp. 183 (S.D.N.Y. 1991), the court summarily rejected challenges to health regulations limiting the service of volunteers in nursing homes despite the fact the services represented a fulfillment of Biblical commandments to honor one's father and mother. Thus, an individual who, because of his strong religious beliefs, desires to volunteer his service to his convalescent parents can be prohibited from doing so. More important, if this legislation is not enacted, an individual would have no basis to challenge Government regulations which infringe on the rights to the free exercise of religion.

This is really an important bill.

In still another case, *Cornerstone Bible Church* v. *City of Hastings*, 948 F.2d 464 (8th Cir. 1991), a court upheld zoning laws excluding all religious organizations from engaging in church-related activities in a city's central business district. The churches' claims which relied on the free exercise clause were summarily dismissed, reaffirming that this clause in the first amendment has been seriously eroded after the Smith decision.

In yet another example of the devastation Smith continues to spread on those dependent on the free exercise of religion, Mr. You Vang Yang suffered a terrible experience when State government officials performed an autopsy on his son despite his deeply held religious beliefs prohibiting the mutilation of the body through an autopsy. Government officials, acting primarily out of medical curiosity, callously ignored the decedent's and his family's firmly held religious beliefs. Once again, after the Smith decision, the victims were left without recourse to challenge effectively the presumptively valid governmental regulations.

Originally, senior district court Judge Pettine ruled in favor of Mr. Yang. In his subsequent opinion, senior district court Judge Pettine explained how the Smith decision left him powerless to protect those asserting their religious liberty. He expressed his deep regret that the Employment Division case mandated the recall of his prior opinion. He stated:

My regret stems from the fact that I have the deepest sympathy for the Yangs. I was moved by their tearful outburst in the courtroom during the hearing on damages. I have seldom in twenty-four years on the bench, seen such a sincere instance of emotion displayed. I could not help but also notice the reaction of a large number of Hmongs who had gathered to witness the hearing. The silent tears shed in the still courtroom as they heard the Yangs testimony provided stark support for the depth of the Yangs' grief.

That is a judge speaking, who had no choice, because of the Smith decision, other than to rule the way he did in his opinion.

This bill is important to our country because it restores to every American the precious balance conceived by our Founding Fathers between the interests of our government and the religious liberties of our citizens. It is important because it restores protection to individuals like the Yangs and others who have suffered needlessly. This bill will restore religious freedom to every American whose free exercise of religion has been infringed upon unnecessarily by our Government.

Mr. President, this is an important bill. This bill involves the rights of every American citizen.

The Smith case was wrongly decided and the only way to change it is with this legislation.

Mr. President, I hope this legislation is not amended in any way, because religious freedom ought to be encouraged in this country. It is the first freedom mentioned in the Bill of Rights. And, frankly, that is what Senator KENNEDY and I are arguing for here today with a wide, vast coalition across the country that believes in restoring religious freedom to the point where it was before the Supreme Court decision in Smith.

Mr. President, I reserve the remainder of our time. We are prepared to move to the amendment of the distinguished Senator from Nevada.

Mr. REID. Mr. President, how much time do the proponents of the bill have?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes 56 seconds, and the Senator from Utah has 7 minutes and 12 seconds.

There are 2½ hours on the Reid amendment.

AMENDMENT NO. 1083

(Purpose: To prohibit the application of this Act, or any amendment made by this Act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility)

Mr. REID. 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 Nevada [Mr. REID], for himself, Mr. SIMPSON, Mr. BRYAN, Mr. SASSER, Mr. MATHEWS, Mr. BURNS, and Mr. HELMS, proposes an amendment numbered 1083.

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

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. . CONSTRUCTION.

Notwithstanding any other provision of this Act, nothing in this Act or any amendment made by this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment regarding laws prohibiting the free exercise of religion, with respect to any individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility (including any correctional, detention, or penal facility that is operated by a private entity under a contract with a government).

Mr. REID. Mr. President, this amendment is being offered on my behalf, that of Senator SIMPSON, Senator BRYAN, Senator SASSER, Senator MATHEWS, Senator BURNS, and Senator HELMS.

First, let me say I am proud to be a cosponsor of this important legislation. I congratulate the authors and the committee for creating a fine bill. This bill will reestablish the judicial test regarding any Federal or State law impacting the freedom of religion. That test is that the Government must put forth a compelling interest, narrowly tailored, regarding any rule, regulation of law impacting the free exercise of religion.

The Government must also show that this rule is the least restrictive alternative. In society at large, this is as it should be.

I am concerned, however, because I have come to realize last year in our Federal system we had 48,538 criminal cases filed. I also learned that in that same Federal system we had 49,939 civil cases brought by prisoners. We had more cases filed by prisoners than the Government filed cases against criminals. I am concerned the criminals are ahead in our Federal court system by 1,401 cases.

What my amendment would do is recognize that the situation in prisons is different. Prisoners should be treated differently.

I have become concerned with what this bill will mean in a prison setting. Putting prisons under the compelling State interest test would permit the courts to second guess prison officials on virtually every decision of prison administration—virtually every decision. The prisoners brag about how many lawsuits they file. There are some jailhouse lawyers who have filed hundreds and hundreds of these cases.

Inmates are litigious by nature, especially with the new rules. They have to be supplied with law libraries with the ability to perform legal services. So applying the compelling State interest test would only exacerbate an already, I believe, deplorable situation. Prisoners would challenge every aspect of their incarceration by merely stating their desires are part of their religious expression, and the lawsuits will be more easily won than in the past.

Courts will no longer be able to dismiss cases by summary procedures, for example, a motion for summary judgment. Rather, there will have to be

full-blown evidentiary hearings to determine whether the prisons have any other means available to accommodate the inmate.

This is going to cause significant financial hardship to a State like Nevada, a State like Colorado, a State like New Hampshire—any State. Already prisoner litigation is the most rapidly increasing type of litigation in our whole country and makes up as much as 40 percent of the docket of some Federal district courts.

Let me give a few examples to the Senate to illustrate some of the problems faced by prison administrators when religion is used as a means of obtaining special privileges or exemptions from the requirement of neutral prison facilities and regulations.

Mr. President, I ask I be advised when I have used 30 minutes.

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mr. REID. In the case of Lawson versus Dugger, the Temple of Love, founded by Yahweh Ben Yahweh—he was recently convicted of conspiracy to commit murder and racketeering. He attempted to send this Temple of Love's racially inflammatory literature into the State prison system by asserting it was religious material, protected by the first amendment. There were gruesome cartoon illustrations of African-Americans being mutilated, tortured, and generally oppressed by whites. And what accompanied this was a text preaching racial hatred and the need for separation, which formed the basis of the religious tracts contained in this material.

The U.S. District Court for the Southern District of Florida, applying the compelling State interest test and the strict scrutiny analysis, ordered Florida to provide this literature to the inmate population.

Hard to comprehend, but true. The final outcome of this case is still pending because it is on appeal. Obviously the passage of this bill, without my amendment and that of Senator SIMPSON and others, will affect the final outcome.

In Indiana a religious group, at Westville Correctional Center, has demanded to meet in groups combining inmates who have been separated for security reasons. Though in an ideal world we would say the congregations should be able to worship together, there are certain very bad people in prisons that should not be in the same room together.

I had a case once—I can still remember the name of it—involving a murder-by-hire case. In that case we brought inmates from the Nevada State prison, from Carson City, to Las Vegas to testify. There were two of them, so bad that they had to testify on the witness stand shackled, arms and legs.

There are certain people in our prison system that for lack of a better word are just bad people. This religious group wanted to meet in groups saying they had no right to separate inmates for security reasons. It is just a fact of prison life; RFRA will create this dangerous situation unless we amend this bill.

In Tennessee, four white inmates convinced prison officials that they were converted Moslems, thereby gaining assignment to a special scheduled labor line the prison had created just to accommodate Moslems. This allowed outside accomplices to place guns at the work site, which allowed the inmates to escape, where they killed a nearby resident.

I am going to talk about a couple of cases here involving the Moslem religion. Having done this, I am only doing this because these are some of the reported cases. I want the record to be spread—I have the highest regard for those who follow that faith. My manager of my Las Vegas office until just a short time ago was a Moslem, a man who is devoutly religious, a tremendous family man, a person whom we could all learn a lot from as to morality. He left my office and went to the State to be its drug czar and now has a very important job with the State in a labor program.

So, even though I mention a number of reported cases dealing with people who practice the Moslem religion, it has nothing to do with my thinking that the religion is not a good one. I believe it is a wonderful religion.

Recently we watched the life threatening situation in Lucasville, OH, where some Moslem inmates demanded, as a condition to the release of their hostages, an exemption from the requirement they be tested for tuberculosis, asserting religious reasons. We cannot allow that to happen. Prison is a closed society with prisoners living very close. They must be tested for contagious disease. Testing is absolutely, unequivocally necessary. Such a group might win a case like this if this bill is adopted without my amendment.

All I am saying is we have to treat prisoners differently than the general populous. I do not think that is really out of line.

Under the least restrictive means clause of RFRA, such a group might be able to win other costly arrangements to separate them from the rest of the prison population. Not only would that be costly to the State, but creates a dangerous situation with jealous prisoners seeing others get special privileges. It is the prisoner who can think up the religion of the week or the day that gets treated the best.

I could go on and on with all kinds of other cases. The cases only get more bizarre, and under RFRA they would become even more bizarre and more winnable by the inmates. We have had all kinds of cases in Nevada.

The one I think I should report to the Senate is, some man said he was in prison for child abuse but he should not be because it was his religion. He believed in abusing children. That was his religion and they should leave him alone.

Suits brought by prisoners in my State have already cost our State over $1 million a year and the price is going up. These are only the cases dealing with religion.

Passage of this bill without my amendment would increase the cost across this country. Prisons already do a good job of accommodating Jewish and Moslem prisoners by providing pork-free meals, and other accommodations similar to this have been made. For example, several prisons have built sweat lodges for native American inmates. The reason for that is they can do it; it is felt it is the right thing to do. So we have, especially in the western part of the United States, a number of prisons that have sweat lodges which is part of the exercise of religion of some native Americans.

A case in 1989, when an orthodox Jewish leader was put in jail in Rochester, MN, demonstrates how far prison systems will go to accommodate religious practice. Talmudic law, according to this Jewish leader who was in prison, forbids carrying anything outside the home on the Sabbath, including toiletries and food. So prison officials sold part of the prison to this Jewish inmate for $1, making it technically his home and allowing him to carry his toiletries to his restroom.

This is how far prison officials have gone to accommodate people's religion. But where do we draw the line? Is every prisoner thereafter entitled to his own room that he purchases? Where do we draw the line? I do not believe that the test should be whether the request is reasonable or not. I do not believe the authors of this bill intend the consequences that I have outlined briefly.

The courts, for the most part, have long given great deference to prison officials when it comes to constitutional rights of prisoners. My amendment is supported by every warden, every prison director in every State in the Union. I ask unanimous consent that a letter signed by all 50, including those from the Virgin Islands, all 50 State prison directors be printed in the RECORD in support of this amendment.

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

ILLINOIS DEPARTMENT
OF CORRECTIONS,
Chicago, IL, September 17, 1993.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: As directors and commissioners of every state prison in the United States, the District of Columbia, the United States Virgin Islands, and various jail systems throughout the country, as well as Norman Carlson, former Director of the

Federal Bureau of Prisons for seventeen years and J. Michael Quinlan, Director from 1987–1992, we are writing to thank you for proposing the amendment of Senate Bill 578 (the Religious Freedom Restoration Act, RFRA). The undersigned prison and jail officials represent systems which employ over 305,000 people and have custody of nearly 834,000 incarcerated persons.

This bill will have a devastating affect on prison safety and security at an enormous fiscal price, unless the Reid amendment is adopted. Rather than a "restoration," RFRA would dramatically change the law with respect to free exercise claims brought to challenge prison regulations. A dramatic change in the legal standard applied in prison litigation will necessarily result in a dramatic increase in the amount and cost of litigation and will have a deleterious impact on security and limited prison resources.

During consideration of this bill in committee, not one single prison administrator was given an opportunity to testify as to the substantial negative impacts of imposing a "compelling state interest" standard and "least restrictive means" test on local, state and federal correctional and detention facilities. Some proponents of the bill argue that the "compelling state interest" standard will not be a difficult standard for prison officials to meet. In the absence of any testimony from individuals with experience in this area, it is difficult to imagine how these proponents can reach this conclusion.

More importantly, this argument ignores the fact that imposition of the "least restrictive means" test will subject the day-to-day judgment of prison officials to an inflexible strict scrutiny analysis by federal courts which are ill-equipped to administer the security of our prisons and jails. This test does not allow for a balancing of individual rights and institutional needs. Rather, it elevates asserted individual inmate rights over the operational needs of prisons and the rights of the inmate population as a whole. In addition, litigation under this test will impose unnecessary costs on the taxpayers of our states and ignores the realities of prison management.

While we applaud your efforts to extend protection to legitimate religious groups in society at large, we ask that you recognize the unique nature of the closed society of prisons, as the United States Supreme Court has long done. The legal standards promulgated by the Supreme Court in the prison context should be preserved. The existing standard requires prison administrators to accommodate the religious practices of inmates in our care and custody. However, it permits individual rights to be balanced against the needs of the prison community as a whole and the overriding need for security and order.

Leaders of illicit prison organizations are sophisticated individuals who will readily manipulate the new standards RFRA would create to perpetuate illegal and dangerous activities under the guise of "religion."

Because of our responsibilities and experience as prison administrators, we are aware that there are thousands of gangs and racial supremacist groups housed in this country's prisons, who claim to be members of religious organizations. Often, we have faced attempts to spread racial hatred and incite racial violence through "religious" materials. Further, religious claims have been used to attempt to gain special privileges. Inmates even have devised their own new religions with tenets tailored to obtain special favors and circumvent security regulations. However, courts are extremely loathe to find that a group claiming to be a religion is, in fact, not a religion. Courts have found that the Church of the New Song (CONS for short), the El Rukns, Satanic cults, and other groups are "religious." Thus, each restriction on their activities will need to be the "least restrictive" and supported by compelling reasons.

If prisons are not exempted from RFRA and the existing legal standard preserved, such groups will be able to conduct congregate services, distribute hate literature, organize, and conduct and promote activities which are now banned. Activities including drug trafficking, racial violence, and gang organizing would be made easier under RFRA. These activities negatively impact on prison order as well as the free community.

Correctional facilities are operating with diminished economic resources and the inmate population is exploding. Prison litigation is already placing a tremendous drain on those limited resources. While inmates litigate at no or little cost to themselves, taxpayers are required to subsidize the filing fees of inmates, pay for paper, law books, legal assistance, postage, Xeroxing, and witness production for prisoners' suits. Out of already strained prison budgets, we must pay for transportation of witnesses, additional security and transportation of inmates to court appearances, legal assistance for correctional officers, and significant amounts of lost staff time spent responding to inmate claims, most of which are spurious. Prison officials cannot afford to divert limited resources to litigate the staggering number of inmate cases which would be spawned by creating a new cause of action, under a more stringent standard, as RFRA proposes to do. In addition, we may be forced to re-litigate all of the cases in which we have already prevailed under the existing constitutional standard.

RFRA would provide inmates with rights even greater than the Constitution guarantees. RFRA would be used by inmates to cripple correctional authorities' efforts to contain illegitimate organizations and to restrict their nefarious activities. Because of the tremendous impact on security and state and local governments' finances, we urge you to support the Reid amendment and preserve the existing legal standards enunciated by the Supreme Court in the prison area.

Sincerely,

Norm Carlson, Director, Federal Bureau of Prisons (Ret.), 1970–1987.

J. Michael Quinlan, Director, Federal Bureau of Prisons (Ret.), 1987–1992.

Howard A. Peters III, Director, Illinois Dept. of Corrections Inmate population: 33,500.

James H. Gomez, Director, California Department of Corrections. Inmate population: 116,200.

Larry Norris, Acting Director, Arkansas Dept. of Corrections. Inmate population: 7,900.

Thomas A. Coughlin, Commissioner, New York Department of Corr. Services. Inmate population: 64,500.

Kenneth L. McGinnis, Director, Michigan Dept. of Corrections. Inmate population: 39,300.

Harry Singletary, Secretary, Florida Dept. of Corrections. Inmate population: 51,500.

Andy Collins, Director, Texas Institutional Division—TDCJ. Inmate population: 60,400.

Allen L. Ault, Commissioner, Georgia Dept. of Corrections. Inmate population: 28,000.

Reginald Wilkinson, Director, Ohio Dept. of Rehabilitation and Corrections. Inmate population: 39,400.

Joseph D. Lehman, Commissioner, Pennsylvania Dept. of Corrections. Inmate population: 25,800.

Franklin Freeman, Secretary, North Carolina Dept. of Corrections. Inmate population: 21,100.

Richard A. Lanham, Sr., Commissioner, Maryland Division of Corrections. Inmate population: 19,900.

Edward W. Murray, Director, Virginia Dept. of Corrections. Inmate population: 17,000.

William H. Fauvar, Commissioner, New Jersey Dept. of Corrections. Inmate population: 23,700.

Thomas Herring, Commissioner, Alabama Dept. of Corrections. Inmate population: 18,238.

Samuel A. Lewis, Director, Arizona Dept. of Corrections. Inmate population: 17,200.

Parker Evatt, Commissioner, South Carolina Dept. of Corrections. Inmate population: 17,100.

Richard Stalder, Secretary, Louisiana Dept. of Public Safety & Corrections. Inmate population: 16,500.

H. Christian DeBruyn, Commissioner, Indiana Dept. of Corrections. Inmate population: 14,800.

Christine Bradley, Commissioner, Tennessee Dept. of Corrections. Inmate population: 11,350.

Chase Riveland, Secretary, Washington Dept. of Corrections. Inmate population: 10,000.

Dora Schriro, Director, Missouri Dept. of Corrections. Inmate population: 16,337.

Walter B. Ridley, Director, Washington, D.C., Dept. of Corrections. Inmate population: 12,000.

Larry DuBois, Commissioner, Massachusetts Dept. of Corrections. Inmate population: 10,000.

Jack Lewis, Commissioner, Kentucky Dept. of Corrections. Inmate population: 10,000.

Eddie Lucas, Commissioner, Mississippi Dept. of Corrections. Inmate population: 9,670.

Frank Hall, Director, Oregon Dept. of Corrections. Inmate population: 6,500.

Ron Angelone, Director, Nevada Dept. of Prisons. Inmate population: 6,400.

Sally Chandler Halford, Director, Iowa Dept. of Corrections. Inmate population: 4,700.

Patrick Fiedler, Secretary, Wisconsin Dept. of Corrections. Inmate population: 8,500.

Gary Stotts, Secretary, Kansas Dept. of Corrections. Inmate population: 6,200.

J. Patrick Gallagher, Commissioner, Philadelphia Prison System. Inmate population: 4,900.

Robert J. Watson, Commissioner, Delaware Dept. of Corrections. Inmate population: 4,300.

J.W. Fairman, Executive Director, Cook County Dept. of Corrections. Inmate population: 9,141.

Eloy Mondragon, Secretary, New Mexico Corrections Department. Inmate population: 3,500.

George ——, Director, Hawaii Department of Public Safety. Inmate population: 2,674.

Ari Zavaras, Executive Director, Colorado Dept. of Corrections. Inmate population: 7,535.

James Gamble, Administrator, Montana Corrections Division. Inmate population: 1,521.

O.L. McCottar, Director, Utah Dept. of Corrections. Inmate population: 2,110.

Larry Fields, Director, Oklahoma Dept. of Corrections. Inmate population.

Orville B. Pung, Commissioner, Minnesota Dept. of Corrections. Inmate population: 4,000.

George A. Vose, Jr., Director, Rhode Island Dept. of Corrections. Inmate population: 3,000.

Harold Clarke, Director, Nebraska Dept. of Corrections. Inmate population: 2,700.

N.E. Pishon, Acting Commissioner, New Hampshire Dept. of Corrections. Inmate population: 1,700.

Richard A. Vernon, Director, Idaho Dept. of Corrections. Inmate population: 2,400.

J. Frank Prewitt, Jr., Commissioner, Alaska Department of Corrections. Inmate population: 2,878.

Nicholas Thin, Commissioner, West Virginia Department of Corrections. Inmate population: 2,000.

Elaine Little, Director, North Dakota Dept. of Corrections. Inmate population: 1,500.

Lynne DeLano, Secretary, South Dakota Dept. of Corrections. Inmate population: 1,550.

Judith Uphoff, Director, Wyoming Dept. of Corrections. Inmate population: 900.

John Gorczyk, Commissioner, Vermont Dept. of Corrections. Inmate population: 900.

Larry R. Meachum, Commissioner, Connecticut Dept. of Corrections. Inmate population: 12,200.

Donald L. Allen, Commissioner, Maine Dept. of Corrections. Inmate population: 1,519.

James E. Aiken, Director, U.S. Virgin Islands. Inmate population: 502 local, 144 mainland; Total 646

Mr. REID. Mr. President, as I said, the courts have long given great deference to prison officials when it comes to constitutional rights of prisoners. There are three cases that provide the test currently applied to the prison situation: The Turner case, the O'Lone case, and the Thornburgh case. All this amendment does is make these cases the law of the land. Prisoners still have rights. They still can exercise their religion, but the standard set is now one already in law. What the bill would do is have that evaporate, start all over, and that is wrong. We should go with what we already have.

These cases establish a four-part test for evaluation of prison regulations which allegedly infringe upon inmates' constitutional rights. They are:

First, a logical connection between the correctional institution's regulation and the legitimate Government interest asserted as justification for the regulation.

Second, if alternative means of exercising the right are available, more deference is owed to prison officials when gauging the validity of the regulation than to the prisoners.

Third, consideration must be given to the impact that accommodation will have on prison personnel, other inmates, and on allocation of prison resources.

And fourth, the absence of ready alternative means to fully accommodate inmates' asserted constitutional rights is evidence of the reasonableness of the regulation.

Four simple standards, and that is all this amendment does is maintain these four standards. I am at a loss as to why the authors of this bill will not accept this amendment. Senator SIMPSON filed a minority report which I think was very lucid and pointed, and I think the committee should have followed him. I think this amendment will be adopted by the Senate because it is the right thing to do.

This standard that I have established in my statement to the Senate tonight and also the amendment I offered gives prison officials clear guidelines on which to base regulations. Under these guidelines, prison regulations which impact on the exercise of first amendment rights will pass constitutional muster if they are—and this is a key phrase—"reasonably related to legitimate penological interests." Very simple.

If these Supreme Court decisions are overturned by this legislation—and this is the stated purpose in the committee report—these clearly stated guidelines will no longer exist. My amendment contains these clearly articulated guidelines in the prison situation by stating that it is not the intent of this legislation to overturn the three Supreme Court cases I have mentioned.

The "reasonably related to penological interests standard," which my amendment maintains, is appropriate in the prison context, due to the closed nature of a society where prisoners live. In prison, the balance between the State's interest and the individual's rights must consider factors far different than those considered in society at large. For instance, drugs, violent behavior, gangs, racism, and bigotry are much more pernicious in prison. Inmates are unable to walk away or avoid offensive conduct. Jews, Catholics, Muslims, white supremacists, Protestants, cultists of all kinds are packed together in close quarters, very close quarters.

An incident that happened in a prison in Tallahassee, FL, demonstrates how heated religious issues can get in close quarters of a prison. Mr. President, a group of inmates formed a pagan religious group which worshipped the Sun and Moon and held elaborate rituals at the vernal and autumnal equinox. They requested a round wooden altar, a sword, and a naked woman to dance in the moonlight.

You will have to admit this religion is interesting, to say the least. Prison officials refused the sword and the woman, but they agreed to the altar and had the prisoners in the woodshop build it. But it turned out that the inmates building the altars were fundamentalist Christians, who decided to hide a Bible in the altar's base. After several rituals, the pagans discovered the Bible and a riot ensued.

This shows that inmates' individual rights must be balanced against those of the prison community as a whole and must yield where security and order reasonably demand.

In Turner, one of the cases my amendment maintains, the Supreme Court summarized the impact of holding corrections to the "compelling State interest" test and the "least restrictive means" standard:

> Subjecting the day-to-day judgments of prison officials to an inflexible, strict security analysis would seriously hamper their ability to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration. The rule would also distort the decisionmaking process, for every administrative judgment would be subject to the possibility that some court somewhere would conclude that it had a less restrictive way of solving the problem at hand. Courts inevitably would become the primary arbitrators of what constitutes the best solution to every administrative problem, thereby unnecessarily perpetuating the involvement of the Federal courts in the affairs of prison administration.

RFRA establishes the same standard for everyone, including prisoners. That is what I object to, and that is what my amendment would resolve. Though incarceration does not terminate the free exercise of religion, it is necessarily restricted. That is not asking too much. According to O'Lone, another of the cases my amendment maintains, these restrictions arise from incarceration itself and from valid penal objectives, including deterrence of crime, rehabilitation of prisoners, and institutional security. The committee report clearly states that it intends to overturn the O'Lone case. I object to that. My amendment would correct that. Remember, we are talking about last year the prisoners being ahead. They are ahead by 1,401 cases. We have 48,538 cases filed against prisoners, against criminals, but the prisoners beat us. They filed 49,939 civil cases in the Federal court system. We have to put a limit to this and give the court some direction and guidelines.

According to the standards of O'Lone, we know what they are, we can follow what they are, and it should be maintained in law.

In 1940, the Supreme Court held in Cantwell that although the first amendment guarantee of free religious belief is absolute, the free exercise of religion is necessarily subject to regulation for the protection of society. There can be no better illustration of this than the prison situation.

Again, in O'Lone, the Supreme Court stated that the right to free exercise of religion does not terminate at the prison gates but is necessarily restricted due to one's incarceration.

As stated by Mary Schnabel in an article in the Willamette Law Review, subjecting prison regulations to the same high standard of review as the laws generally applicable outside correctional institutions is impractical and contrary to two decades of case law.

I could not agree more with this Law Review article.

So I am asking the Senate tonight to not do that. We must recognize incarceration is a special situation. We must keep in mind that my amendment does not take away from prisoners the right to free exercise of religion. It merely maintains the status quo which has been long established by case law.

The intent of the amendment is to head off the rapid increase in religion-related litigation that prisoners will bring if the bill passes without amendment. Whether the suits are frivolous or not, they still take up the court's time and cost the taxpayers money. This amendment is supported by all 50 State prison directors. It is supported by a majority of the State attorneys general. It is supported by the American Federation of State, County, and Municipal Employees, and it is supported by many, many Governors.

Mr. President, why send an invitation to prisoners for more suits? Passing RFRA without my amendment would just be another unfunded mandate for the States.

I reserve the remainder of my time. Prior to doing so, though, I would like to commend and congratulate and applaud the Senator from Wyoming, who is a member of the Judiciary Committee.

As I indicated before he came to the floor, the minority report which was filed out of the Judiciary Committee was a very fine piece of work, an I am proud to join with the Senator from Wyoming in sponsoring this amendment.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON] is recognized.

Mr. SIMPSON. Mr. President, now the item of business before the floor is the amendment of the Senator from Nevada.

The PRESIDING OFFICER. That is correct.

Mr. SIMPSON. I am a cosponsor of that amendment with the Senator from Nevada and I will now speak on that amendment.

Mr. President, this is very interesting business, this issue of the restoration of the religious freedom. The Religious Freedom Restoration Act—with a name like that, how can you possibly turn your back on it?

I had serious concerns on it when it came before the Judiciary Committee. I continue to have the most grave concerns about both the bill's scope and its potential breadth, and its impact, if it is enacted into law. I commend my friend from Nevada on his amendment. This is a fascinating place, we are adversaries one day, and allies the next. That is what makes it such a unique and remarkable institution. I do not think laymen understand that. But certainly anyone who has legislated understands that. That is why it is a pleasure to work with my colleague, Senator REID, and to join him on this amendment.

I hear clearly the arguments about this bill. But I am still not convinced in any way that Congress should properly be inserting itself into the process of judicial review of constitutional challenges to State criminal laws even in an area as vital to our way of life as the freedom to exercise our religion.

There are a couple of important points to discuss. I hope someone out there will hear me. I think my colleagues are perhaps not attentively listening to the remarks on the floor at the present time.

Let us remember that the underlying issue of the Smith decision which created the Supreme Court decision was Oregon's criminal law, which prohibited the possession and use of peyote, with no exception for legitimate religious use—even possession by members of the Native American church.

I would add that I have notified my fine native American constituents, the Shoshone Tribe, and the Arapaho Tribes of Wyoming, that I would indeed support a statute properly constructed creating an exemption for the religious use of peyote.

I am sensitive to their concerns on that issue, always have been. I am ready to support such an appropriate bill. I have relatives who worked on the Shoshone reservation, my grandmother's brother married a full-blooded Shoshone. In my family, Richard Brunett, a native American, and I share a common great grandfather. These are very sensitive things to me. But we are not talking about that here.

The strangest part of our work here is that we do things, you either kill or pass a bill based on a death blend—I have said this about 150 times—a death blend of emotion, fear, guilt, or racism. What a poor way to do the Nation's business.

I support religious freedom. Who does not? I always have. Any thoughtful person does. Yet, I have serious doubts about this bill.

So now not only do we have a death blend of guilt, fear, emotion, and racism, now we can add the misuse of religion to the list.

The Religious Freedom Restoration Act, RFRA—despite its lofty title—has much less to do with the historical and constitutional concepts of religious freedom than with the creation of new rights—ones that could prove particularly helpful and useful to hardened criminals and prisoners. It would, therefore, deeply frustrate prison officials, prison discipline, and the courts.

Rather than protecting religious freedom, RFRA would create another series of rights, private rights that would ignore generally applicable criminal law and otherwise reasonable restrictions on behavior in the prison environment.

For example: Under the proposed legislation prisoners may be able to conduct animal sacrifices in the name of religious freedom. We are beginning now to hear from the animal rights people. They have finally entered the realm of recognition in what we are doing here. We certainly have heard from the prison administrators who have been fully aware of what is happening here.

If I am totally over the wall on this one, then six Justices of the U.S. Supreme Court must be just as wrong-headed and misguided as I am. For that was the vote in the Smith decision, 6 to 3.

Key law enforcement personnel, whose duty it is to be sensitive to prisons, share my concerns about this law. Half of the attorneys general of the United States, including Wyoming's own fine attorney general, Joe Meyer, a Democrat, not of my particular political faith, but a man for whom I have great respect and regard, sent me a letter outlining their fears.

I heeded their views in my vote. So it is a great pleasure to join with Senators REID, BRYAN, SASSER, MATHEWS, and BURNS, to exempt State and Federal prisons from the bill's application. That will remove a very significant budget and prison security impact on our Federal, State, and local criminal justice systems imposed by the bill. Pursuant to the amendment, I expect that other uses of rituals disruptive to prison management will not be allowed in prisons, and the courts will not overrule the prison administrator's prohibition on such behavior.

I think we want to remember that what we are talking about here is a very narrow issue. We are talking about legislation which will make it possible for litigants of many different religious beliefs to challenge these State and Federal laws that somehow burden some of the acts that are engaged in as part of their unique and individual religious beliefs. We must always be mindful that we are not concerned in any way here with the Supreme Court ruling addressing restrictions or regulation of beliefs. We are talking about acts. That is a crucial distinction that was missed in Judiciary, and it was obviously missed on this floor in many other issues raised by the legislation.

I have many, many questions. In committee, I did not delay action, but I am certainly opposed to it. I was the only one that voted against it in Judiciary, and since then, people around the country have awakened from their slumbers with regard to at least this amendment.

We have an extraordinary array of State attorneys general and prison administrators, who were never consulted nor present at the single hearing—that is all there was, a single hearing. While I am not aware of whether any of these

prison officials had the opportunity to give testimony. I do not believe the prison officials really were allowed to be involved in the issue. I do not think people had the benefit of their thoughtful views. I said at the time in the Judiciary Committee that I thought another hearing was in order. But remember the distraction here—the Smith case involved a law which prohibited an act not a belief, and that prohibition burdened the exercise of a religion.

If the intent of this legislation was to require strict scrutiny—an almost insurmountable burden of proof—of laws which prohibit acts in furtherance of a religious belief, why does the legislation not say that? It occurs to me that this language—the burdening of the exercise of religion—would serve to elevate an act, even a repugnant act, to that of a protected belief or a thought. That is certainly a far, far ranging and weird interpretation. But there are other religious followers who have acts as part of their rituals which are considered equally important.

Consider, if you will, a group of people who happen to practice Satanism and believe they can only communicate with their deity through animal sacrifice. It occurs to me that a law of general applicability prohibiting cruelty to animals would be easily challenged under this legislation. I think it would, without question. Either that, or there would have to be an exception written into those laws for satanic practice.

It is easy to envision a great many situations where regulations that our society has always accepted could be called into question under this legislation. Prisoners could demand such things as specially prepared food; the right to pray three times a day; certain types of clothing—indeed the list is endless. Likewise, the military could be challenged to adopt special practices for preparation of food, opportunities to pray on various different sabbaths, clothing, not to mention the extreme situation of an individual, for whatever reason, who wanted to engage in a practice involving a ritual—an act—that would be repugnant, offensive, or disruptive to a majority of observers.

So I shared those views, and I thought—and still think—we should proceed very carefully and, of course, the arguments for the passage of the bill are sometimes often so shrill—that indeed we must correct this hideous and extraordinary thing "in the interest of justice" and so on.

But let us just take a quick review of the history. Fifty years ago, the U.S. Supreme Court ruled that the Government could restrict a prison inmate's acts in furtherance of a religious belief if the Government regulation served a legitimate prison interest. The RFRA would overrule this clear directive and elevate this inmate's claim to the much higher standard of review of "compelling State interest and least restrictive means." This sounds to the laymen like head-of-the-pin stuff, and it should because it is bizarre.

This means that prison administrators would be required to adjust current practices in order to accommodate disruptive and even totally bizarre activities by inmates if these "acts" were couched in terms of a religious exercise.

There are so many examples of what happened in prisoner litigation, when the RFRA type standard review has been applied. Here are a couple. In Florida —do not miss this one—an inmate convicted of racketeering and conspiracy to commit murder sued the prison to permit him to distribute racially inflammatory literature within the State prison system. I think my good colleague from Nevada touched on this. He presented this as a religious expression by the Temple of Love, which he had founded. His literature included gruesome cartoons of African-Americans being mutilated, tortured and oppressed by whites. Using the standard of review that this remarkable piece of legislation would now require, the Florida District Court ruled that this material was protected as religious speech.

In other States, prisoners have sued prison officials under the cloak of religious freedom in order to promote activities such as racial and ethnic genocide, witchcraft, Satanism. I understand that followers of both witchcraft and Satanism engage in animal sacrifice. I am not totally aware of some of the aspects of that religion, but I have gathered that.

In Wyoming, an inmate of Asian ancestry—do not miss this one—in the Wyoming penitentiary, who is considered by prison officials to be one of the highest escape risk prisoners at Rawlins, WY, claimed to be a member of an American Indian religion and demands a religious right to participate in a sweat lodge ceremony outside of his maximum security confines. There is a reason for that. The sweat lodge is located at the fringes of the penitentiary. That is just where this person would like to be—near the fringes—because he has already had eight violent escape attempts to his credit. Some escapes were from the Federal facilities at Marion and Levenworth.

There are others in Rawlins, WY, who are claimed to be Odinists. I am not familiar with the Odinists' religion, but that is a right to firepits, sheepskins, and lances.

These are not fanciful or imagined worst case scenarios, but rather are factual cases that have been filed by inmates and considered by the courts and by prison administrators. I became very concerned that RFRA will add even greater credibility and likely constitutional sanction to these types of claims.

So all may understand, so that you do not miss how we got here and what the Supreme Court did by a 6–3 decision, remember that this bill, this misguided bill, was drafted solely to overrule the U.S. Supreme Court decision in a case which held—do not miss these facts, because it was narrow—that unemployment benefits could be denied to two individuals in Oregon named Smith and Black. The two were dismissed from their jobs with a nonprofit drug rehabilitation organization because they took part in a peyote ceremony with a native American church of which they are a member. This was a violation of the written terms of their employment—that they would abstain from the use of drugs or alcohol. There was no Oregon State criminal law exemption for religious use and possession of peyote. If you do it, you are guilty. So they were fired and then they applied for unemployment compensation benefits.

Their claim was denied by the State. They appealed that decision to the Oregon Court of Appeals, which ruled in their favor. The State of Oregon then appealed that decision to the state Supreme Court where Smith and Black won again, and that State appealed the decision to the U.S. Supreme Court in which a 6-to-3 decision in 1990 ruled in the State's favor and against Smith and Black. And in the wake of that action RFRA was born.

I will stick with the U.S. Supreme Court.

So these are some of the things I wanted to share with you with regard to this measure.

I join with my colleague from Nevada. I think the amendment, which exempts prisoners from the bill's application, removes the significant budget and prison security impacts on the Federal, State, and local criminal justice systems imposed by the bill.

Who would not agree that prisoners do and must have first amendment rights, including the right to exercise their religion. But there are limits to those rights. Numerous State attorneys general, including Wyoming's own, the correctional directors of all 50 States, Norman Carlson, the former Director of the Federal Bureau of Prisons; J. Michael Quinlan, the former Director of the Federal Bureau of Prisons; the American Federation of State, County, and Municipal Employees, which represents correctional officers and other prison personnel, and the National Sheriffs' Association support totally this amendment to exempt prisoners. Prison interests should be given considerable deference. My friend from Nevada touched on that. Prison authority should not be required to accommodate practices which significantly interfere with the security and operation of the prisons.

At a time when each State and Federal jurisdiction in the country is faced with overcrowded prison facilities and an unrelenting barrage of inmate lawsuits, this bill would allow prison inmates to sue prison administrators with greater frequency and, obviously, greater success. Corrections administrators state that prisoners who hear that the standard now will be lowered will use the opportunity to bring lawsuits to manipulate the system to get special benefits.

Mr. President, I ask unanimous consent that a letter from the Utah Department of Corrections, dated August 5—and that is in there for the benefit of my colleague, the Senator from Utah—and a letter from Frederick Hess, former U.S. attorney for the Southern District of Illinois—for my other colleague on the Judiciary Committee—be printed in the RECORD.

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

LEWIS, RICE & FINGERSH,
Belleville, IL, September 7, 1993.

Hon. ROBERT MICHEL,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: Under current law, a unit of local, state, or federal government can infringe upon a person's exercise of religion if such infringement bears a rational relationship to furthering a governmental interest. S. 578 would allow a unit of government to infringe upon a person's exercise of religion only if such infringement furthers a "compelling government interest" and is the "least restrictive means" of furthering that interest.

Attorney General Reno supports S. 578 to overturn *Employment* v. *Smith*, 110 S.Ct. 1595 (1990) which held that application of a neutral law of general applicability—even if it has the effect of burdening religious practice—does not run afoul of the Free Exercise Clause of the First Amendment.

We seem to have come full circle in the Justice Department back to the seventies as we prepare to expand the judiciary and relax norms accompanied by social engineering. It took more than a decade to protect the strong interest which society and prison administrators have in preserving security, order and discipline in prison. While I hope the government/prison administrator will prove "compelling interest", I am sure the additional "least restrictive means" test is joined to undermine the clear meaning for the former.

S. 578 will subject prisons to the precise result the Supreme Court sought to avoid in its earlier rulings in prison cases, by providing inmates far greater latitude to attack and undermine legitimate prison authority, necessary to maintain security and order. The risk and expense of litigation under this Act will leave governments vulnerable to manipulaton by inmates. Pro se prisoner litigation is already the most rapidly increasing type of litigation in our country and makes up more than a third of the docket of some federal district courts. The increase in cases resulting from the creation of this new cause of action under RFRA would only add to the crippling impact of prisoner litigation on our criminal justice system and further erode our courts' ability to deal with more urgent issues of crime.

Last year, 48,538 criminal cases were brought in federal court. During the same period, inmates in federal, state and local detention facilities filed 49,939 civil suits against the government in the same court system. While civil filings dropped by 5 percent overall, there was a 16.2 percent increase in inmate petitions.

Perspective into this explosion of inmate litigation can be found by looking at the historic rise in this type of litigation over the past 27 years. In 1966, 218 civil rights petitions were filed by prisoners in federal courts. In 1984, there were 18,034 such suits filed. In 1992, there were 31,580 filed. Surely, no one could reasonably argue that conditions in our prisons and jails were better in 1966 than today. Rather, as federal courts across this nation have repeatedly observed, this rise in filing is attributable to inmates abusing the rights afforded them by the Constitution. Litigation has provided them a vehicle to manipulate those charged with their lawful incarceration, at taxpayer expense.

The current legal standards mandate that prison administrators reasonably accommodate the fee exercise rights of individual inmates, but permits a balance to be struck between such individual rights and institutional needs. S. 578 would not permit these interests to be balanced; rather, it would elevate asserted individual inmate rights over the operational needs of prisons. This is not the time to impose additional and unnecessary costs for incarcerating felons on a crime weary public by imposing additional, heavy burdens on the professionals on whom we depend to operate our prisons. Nor is it time to increase the burden on our courts.

The Congressional Budget Officer should acknowledge that the enhanced test and standard for religious cases would increase the time and process necessary to defend against cases in which a religious claim is raised. Specifically, the ability to obtain a judgment by summary judgment motion would be reduced and the need for jury trials will be substantially increased. This would have a significant impact on the percent of judicial time consumed by review of inmate cases and would create a need for more law clerks, magistrate judges, district judges, and circuit judges to address the increased number of these more complex and time-consuming cases. U.S. Attorneys would have to hire additional assistants to deal with the increase of religious suits brought by the rapidly increasing federal inmate population. The Bureau of Prisons would have many additional costs associated with accommodation of idiosyncratic religious tenets. At the state and local level, taxpayers would have to bear the burden of additional litigation costs. Attorneys would be required to expend additional time litigating each case currently pending under the new heightened standard and to respond to the new barrage of litigation under this new cause of action.

While one must applaud efforts to extend protection to legitimate religious groups in society at large, please recognize the unique nature of the closed society of prisons, as the United States Supreme Court has long done. The legal standards promulgated by the Supreme Court in the prison context should be preserved. The existing standard requires prison administrators to accommodate the religious practices of inmates in their care and custody; however, it permits individual rights to be balanced against the needs of the prison community as a whole and the overriding need for security and order. The Supreme Court has not also required that it be done by "the least restrictive means" and Congress should not permit this social engineering sought by the executive.

Inmates who lead illicit prison gangs and organizations are sophisticated and will manipulate S. 578 with its new standard to facilitate this illegal activity under the guise of "religion". Racial hatred in the prison setting is often spread and violence incited through "religious" materials.

Further, religious claims have been used to attempt to gain special privileges. Inmates even have devised their own new religions with tenets tailored to obtain special favors and circumvent security regulations. However, courts are extremely loathe to find that a group claiming to be a religion is, in fact, not a religion. Courts have found that the Church of the New Song (CONS for short), the El Rukns, Satanic cults, and other groups are "religions". Thus, each restriction on their activities will now need to be the "least restrictive" and supported by compelling reasons.

If prisons are not exempted from S. 578 and the existing legal standard preserved, such groups will be able to conduct congregate services, distribute hate literature, organize, and conduct and promote activities which are now banned. Activities including drug trafficking, racial violence, and gang organizing would be made easier under RFRA. These activities negatively impact on prison order as well as the free community while these disputes consume court time and costs of administration of our prisons rise.

Correctional facilities are operating with diminished economic resources and the inmate population is exploding. Prison litigation is already placing a tremendous drain on those limited resources. While inmates litigate at no or little cost to themselves, taxpayers are required to subsidize the filing fees of inmates, pay for paper, law books, legal assistance postage, Xeroxing, and witness production for prisoners' suits. Out of already strained prison budgets, we must pay for transportation of witnesses, additional security and transportation of inmates to court appearances, legal assistance for correctional officers, and significant amounts of lost staff time spent responding to inmate claims, most of which are spurious. Prison officials cannot afford to divert limited resources to litigate the staggering number of inmate cases which would be spawned by creating a new cause of action, under a more stringent standard, as RFRA purposes to do; and to re-litigate all of the cases in which we have already prevailed under the existing constitutional standard.

At a time when Congress is grappling with habeas corpus reform and ways to reduce frivolous inmate litigation, with its toll on our state and federal justice systems, it seems inconceivable that anyone would endorse the creation of a new cause of action for inmates which provides rights even greater than the constitutional protections they already enjoy.

Sincerely,

FREDERICK J. HESS.

STATE OF UTAH,
DEPARTMENT OF CORRECTIONS,
Murray, UT, August 5, 1993.

Hon. ALAN K. SIMPSON,
U.S. Senator, Senate Office Building, Washington, DC.

DEAR SENATOR SIMPSON: As Director of the Utah Department of Corrections, I am writing to express concern regarding S. 578. Although I support the general principles of the Bill, the broad language raises some substantial concerns for correctional facilities. If passed, a plethora of litigation will follow, substantial management problems will arise,

and safety and security will be jeopardized. I encourage amending the legislation to exclude correctional facilities from S. 578.

Case law currently allows a correctional institution to restrict an inmate's constitutional rights if the restriction is reasonably related to a legitimate penological interest. The proposed legislation will heighten the standard of review from a "reasonable relation" to a "compelling interest" standard. As Director of Corrections, I am responsible for managing efficiently operated state institutions. A significant portion of Corrections' budget goes toward litigation initiated by inmates. If this legislation passes, without change, the Department will likely have to relitigate cases that have already been decided. Litigious inmates will challenge the previously established case law pursuant to S. 578. Consequently, the overall budget of Corrections will suffer.

Religion plays an important role in managing a correctional institution. The positive effect that religion can have on an inmate is immeasurable. However, some inmates will use any opportunity to manipulate the system, thereby, creating management problems. Take for example an inmate whose religious beliefs require a variance from recognized grooming standards. Other inmates have proffered religious beliefs that require a special attire that deviate from recognized dress standards. In the case of the Church of the New Song ("CONS") their religion required a special diet of Porterhouse steak and Bristol Cream Sherry. These are the types of management problems that arise frequently in a prison setting. If the legislation passes as drafted, inmates will take the religious freedom argument to a new pinnacle, causing substantial management problems.

In addition, safety and security will be jeopardized. If inmate dress standards are altered due to religious claims, creative inmates will use the variance to smuggle contraband into correctional institutions. A variance in grooming standards will facilitate an inmate to alter his appearance, making escape easier. Furthermore, if litigation ensues and inmates are transported to and from court the possibility of escape is enhanced. Communities across the country depend on the safety and security of correctional institutions. I strongly oppose any legislation that would jeopardize the safety and security of a correctional institution or the community at large.

As Director of the Department of Corrections I would be remiss in my responsibilities if I did not express my concerns. I recognize that amending legislation can be a tremendous task. However, it has come to my attention that Senator Simpson of Wyoming has agreed to offer an amendment that will exempt prisoners from the act. Congressman Hansen's office has faxed a copy of the proposed amendment for my review. I respectfully request that you support the Simpson amendment on the Senate floor.

Sincerely,

O. LANE MCCOTTER,
Executive Director,
Utah Department of Corrections.

P.S.—I have just returned from the annual congress of the American Correctional Association and the Association of State Correctional Administrators. This issue is a major concern for all 50 states. A report has been compiled for the Congress and the US Attorney General which points out all our major problems and concerns if corrections is not exempted by amendment to the act. It will, no doubt, cost us millions in litigation if not amended. Thanks for your support.

Mr. SIMPSON. Mr. President, not only will the raw number of lawsuits increase, the Religious Freedom Restoration Act, a marvelous phrase, will make it extremely difficult to quickly dismiss frivolous or undeserving inmate challenges. Frivolous challenges will no longer be resolved by summary judgment motions but will require full-blown evidentiary hearings, a much more expensive and time-consuming process.

The Congressional Budget Office issued a letter on May 7—which was not delivered until over a month later—which stated that the bill "would result in no significant cost to the Federal or to State or local governments." In response to the CBO conclusion, several States communicated with the CBO stating that there was a very significant impact on their budgets, both in litigation costs and in facilitating religious activities. The CBO, at last check, was reevaluating their letter to include costs to the States caused by this bill.

In a July 30 letter Attorneys General Lungren of California and Del Papa of Nevada state: "* * * CBO would be hard-pressed to find a single corrections professional who would agree with this position," being that no significant cost would result to State governments.

On September 7, Frederick Hess, a former U.S. attorney for 11 years, wrote that inmate litigation will increase, unmerited litigation will be more difficult to resolve quickly, and costs to the taxpayers will escalate. He wrote:

S. 578 will subject prisons to the precise result the Supreme Court sought to avoid in its earlier rulings in prison cases, by providing inmates far greater latitude to attack and undermine legitimate prison authority, necessary to maintain security and order. The risk and expense of litigation under this act will leave governments vulnerable to manipulation by inmates. Pro se prisoner litigation is already the most rapidly increasing type of litigation in our country and makes up more than a third of the docket of some Federal district courts. The increase in cases resulting from the creation of this new cause of action under RFRA would only add to the crippling impact of prisoner litigation on our criminal justice system and further erode our courts' ability to deal with more urgent issues of crime.

We are going to be working on a crime bill soon, and one of the greatest dangers in the criminal justice system is in prisoners cranking out lawsuits by the metric ton—habeas corpus, delays of all types, lockerroom lawyers, litigious luggerheads—and that is what taxpayers are paying for. A third of the docket—imagine what this bill will do for the other two-thirds of the docket.

The increase in cases resulting from the creation of this new cause of action under RFRA would only add to the crippling impact of prisoner litigation on our criminal justice system and further erode our courts' ability to deal with more urgent issues of crime.

That is the part of the commentary of the gentleman that I quote.

This bill effectively overturns two Supreme Court cases on the subject of free exercise-of-religion claims, the Smith case and the case of O'Lone versus Estate of Shabazz.

In overturning those two cases, the bill's sponsors tell us, they intend to reinstate the standard by which freedom-of-religion claims are evaluated prior to these decisions.

Oh, were that the case. I have been here 14 years, and I have seen so many pieces of legislation that just said all we are doing is taking this case back to where it was before the Supreme Court changed something. We did that on civil rights. We do it on everything. And then we get into the grinder of emotion, fear, guilt, and racism. I know the groups that are out cranking it up on this one. Some have less than charitable things to say, even though they represent religious concerns.

However, unfortunately, the standard prior to the O'Lone case—which addressed prison free-exercise claims—depends on the court in which the claim is brought. At least seven different standards existed before the Supreme Court decided the O'Lone case in 1986.

For anyone who wants to go back to the seven previous standards, that is how it came about.

So, specifically, the bill that is presented to us with such highly laudatory spirit requires that the government shall not burden a person's exercise of religion. The only way that a Federal, State, or local government, including prison administrators—will be permitted to burden an individual's exercise of religion is: First, if it has a compelling governmental interest; and second, if its actions are the "least restrictive means of furthering that compelling governmental interest."

Practically speaking, and getting all the legal jumbo out of there, what does this mean? First, for prisons, if a prison institutes a measure which affects religion, an individual may sue the government for burdening his or her ability to freely exercise his or her religion. The measure does not have to expressly or indirectly prohibit religious activity, it merely has to affect the activity. The more significant the burden on religious activities, the stronger an individual's claim will be.

Second, the court must determine whether the prison has a compelling governmental interest in taking its measure. This is the most difficult test that the courts use to evaluate the government's laws or actions. In general, it is very difficult for a government to meet this test.

Prof. Laurence Tribe is a man whom I regard highly—even though I have challenged him severely in some of his activities in nominations before the

Judiciary Committee. He is a fine legal mind, just as Robert Bork was a fine legal mind. Professor Tribe recognizes that regulations burdening constitutional liberties rarely survive strict scrutiny analysis—the standard which the bill will place on prison administrators. Professor Tribe noted, "The Supreme Court rarely finds such compelling necessity, so the choice of which test to apply usually resolves the case." (Tribe, "Abortion: The Clash of Absolutes," page 11, 1990.)

Third, pursuant to this bill, a court must look at all free exercise claims and determine whether or not the prison used the least restrictive means to achieve its goal. In other words, was there another way to achieve the goal that does not burden religious activity? When applying the least restrictive means standard, the courts are not required to look at the cost of the alternatives.

For prison administrators, in many cases alternatives are available but at great cost to the State government. In other cases, the least restrictive means can disrupt the security and order of the prisons and do it in a grotesque way. Under the bill, if the prison could accommodate a prisoner's activities—even if it required 100 more prison guards or building new facilities—the prison could be required to do so.

I agree with the Supreme Court when it expressly rejected the idea that "prison officials * * * have to set up and then shoot down every conceivable alternative method of accommodating the claimant's constitutional complaint," (*Turner* v. *Safley*, 482 U.S. 76 (1987)). That is the very standard, the "least restrictive means," which the bill applies. "Running a prison is an inordinately difficult undertaking that requires expertise, planning, and the commitment of resources, all of which are peculiarly within the province of the legislative and executive branches of government." (Turner, at 84–85.)

This amendment specifically exempts prisons from this change in the standard for evaluating governmental actions. The courts, especially the Supreme Court, have recognized the need to give great deference to prison administrators, due to need of prisons to maintain order, security, and discipline. By exempting the prisons, the amendment would allow the courts to use the current Supreme Court standard, as stated in O'Lone—which evaluates prison practices with a reasonableness standard. Under a reasonableness test, incidental burdens on the free exercise of religion of prisoners are legitimate, so long as the regulations are reasonably related to legitimate prison interests.

The reasonableness standard has been applied by the Supreme Court in the prison context for all other first amendment challenges. In each case, the Court has refused to apply the very standard which this bill seeks to apply, and has instead adopted a reasonableness standard. Without this amendment, this bill would require a higher standard for prisons than the Supreme Court has said is required by the Constitution.

Prisons today are not like prisons 30 years ago or 40 years ago. Today, prisons have chapels, special meals, recreation areas—some of the prisons in the West have built sweat lodges for native American religious services. At least one prison has two sweat lodges—one that faces east and one that faces west—to accommodate differing religious views.

Those are very valid views. I have talked about those views with my Native American constituents.

But prisons today are also overcrowded. They are unruly. There are people in prison who are vicious and uncaring of their fellow man and woman, making order and safety more difficult to maintain.

The challenges of prison administrators are extreme. If one group of inmates is perceived by others as getting special benefits, even if they are religious in nature, then others want special benefits.

I remember when I practiced law, several of my clients went to the penitentiary. That is quite a testimonial, I realize. When I went to the pen to visit with the warden and some others, they said, "Don't go in there, because if the people you represented at one time who got short sentences see you and say hello, the other prisoners will really take it out on them."

So I had to creep through the complex—which is difficult when you are 6 foot 7—and they would say, "Hey, Al, how are you?" And I would ignore them because then the other prisoners would say, "Aha, you're getting special favors."

Do not think that anyone who is given an extraordinary benefit of some special favor does not keep a list.

Prisoners manufacture religions, just to see what they can get. I would too. I could be wholly creative in manufacturing a religion.

Many have heard of the case of the prisoners beginning a religion called Church of the New Song. Its followers requested chateaubriand and wine, among other things, as part of their ceremonial activity. While the prisoners did not prevail in this case, the State spent thousands of dollars defending the denial of these items to the prisoners. If the prisons are not exempted from this bill, it will be even more difficult to quickly dismiss such frivolous cases.

I ask my colleagues to recognize the unique and precarious situation that prisons are in and support an exemption for prisons from this bill.

That is what the Reid amendment does. I am very proud to be a cosponsor of it. I urge our colleagues to support the amendment.

I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah.

Mr. HATCH. Mr. President, I have enjoyed listening to my two colleagues, both from Nevada and Wyoming. They are very thoughtful, reflective people. I have a great deal of respect for both of them and I understand their arguments.

I appreciate the concern about how this act will impact the administration of prisons. Let me initially point out, as Senator SIMPSON mentioned in his additional views to the committee report, a long series of cases has recognized that prisoners are entitled to first amendment protection, including the right to the free exercise of their religion. While we agree that prisoner's are entitled to first amendment rights, we differ on the applicable standard of review where a prisoner's limited rights collides with the responsibility of a prison administrator to maintain order and security in the prison.

In my view, this act carefully balances these religious free exercise rights against the compelling interests of prison administrators. The first amendment should protect the rights of every citizen, including prisoners, to practice their faith. Let us all be mindful of exactly what we are seeking to protect in this act. We are seeking to protect the right to exercise one's faith as a Baptist, Catholic, Episcopalian, Jew, Lutheran, Methodist, Mormon, Moslem, Presbyterian, Protestant, and other of the diverse religions practiced in our society.

It is clearly not our intention, as some might suggest, to protect the desires of those prisoners seeking everything and anything imaginable, like prostitutes, nunchucks, or Harveys Bristol Cream, under the guise of the free exercise clause, and this bill does not create the right to any such things. We seek only a well-reasoned balance of this fundamental right to practice one's religion against the significant responsibility of our prison administrators in the supervision of our prisons. Because of the special circumstances of incarceration, and the unique interest the Government has in maintaining order and control in the prison environment, the Government will necessarily be able to show its interest is compelling far more readily than in the civilian arena, and I do not know how anybody could argue against that.

Supporters of an amendment insist this bill, without amendment, will raise havoc in our prisons. However, Attorney General Janet Reno, in a letter dated May 5, 1993, addressed to chairman of the committee confirmed her enactment without amendment. Attorney General Reno, who administers one of the largest prison systems in the country, wrote:

Concerns have been expressed that the standard of review of S. 578 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the Committee to approve the bill without amendment.

The PRESIDING OFFICER. Will the Senator please yield?

Will the Senator indicate if his time is being charged against the amendment or against the bill?

Mr. HATCH. This will be charged against the bill—actually, no, this will be charged against the amendment—let us split it equally.

The PRESIDING OFFICER. On the time of Senator KENNEDY?

Mr. HATCH. Senator KENNEDY and I are one on this issue.

The PRESIDING OFFICER. On Senator KENNEDY's time.

Mr. HATCH. It is on both of our time.

Mr. SIMPSON. On the amendment.

Mr. HATCH. The bottom line is that prison administrators' interests in order, safety, security, and discipline are compelling, and the courts have certainly treated them as such, and have always done so. More important, the courts have a well-established history of evaluating these competing interests fairly under the compelling State interest standard.

This amendment, in essence, asks us to deny prisoners the ability to adhere to their faiths, a liberty we otherwise deem fundamental, and one that furthers the goal of prisoner rehabilitation. Recently, Charles Colson, the chairman of Prison Fellowship, a ministry involved with prisoners, wrote to me and reported that the Institute for Religious Research at Loyola College studied and compared two groups of ex-offenders. The study found that, overall, offenders who attended Prison Fellowship programs were less likely to be re-arrested than those who had not attended the ministry. Even more impressive, women who attended were 60 percent less likely to be re-arrested.

The importance of religion, especially in prisons, cannot be overstated. Rather than an across-the-board denial of religion, many courts prior to Smith proposed that prison administrators should outline their security concerns and demonstrate the connection between this concern and the regulations. I do not think this is too much to ask in protecting against unnecessary Government infringement on the free exercise of religion.

Indeed, I would rather have prisoners trying to practice their faith than learning how to become better criminals once released. Obviously, when the practice of religion conflicts with the need to maintain order, the prison administrator will prevail under this act.

I should also mention, recently I received letters from the Church of Jesus Christ of Latter-day Saints, American Baptist Churches, American Jewish Committee, Church of Brethren, Mennonite Central Committee, Presbyterian Church, Church of Scientology, American Jewish Congress, Christian Life Commission, Unitarian Universalist Association, Evangelical Lutheran Church, Friends Committee on National Legislation, Baptist Joint Committee, National Council of Jewish Women, Center for Law and Religious Freedom, American Civil Liberties Union, People for the American Way, expressing their strong opposition to any amendment to the Religious Freedom Restoration Act.

Finally, the Coalition for the Free Exercise of Religion, a diverse group of interested civil rights and religious organizations have also loudly voiced their opposition to the Reid Amendment. The coalition, which includes Agudath Israel of America, American Association of Christian Schools, American Civil Liberties Union, American Conference of Religious Movements, American Humanist Association, American Jewish Committee, American Jewish Congress, American Muslim Council, Americans for Democratic Action, Americans for Religious Liberty, Americans United for Separation of Church & State, Anti-Defamation League, Association of Christian Schools International, Association of American Indian Affairs, Concerned Women For America, Episcopal Church, Church of Scientology, Evangelical Lutheran Church, Conference of Seventh-day Adventists, Jesuit Social Ministries, Mennonite Central Committee, National Association of Evangelicals, Presbyterian Church, Traditional Values Coalition, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations, United Methodist Church, and 40 other member organizations have written to oppose an amendment to exempt prisons. It suffices to say, numerous religious institutions in America have reviewed and studied this issue and have overwhelmingly rejected this amendment.

I, too, urge my colleagues to reject this amendment because I believe it is the right thing to do, and I do not have the same fear as my two colleagues from Nevada and Wyoming have about the abuse of these privileges in prison.

By the way, do not tell me that they will not file just as many lawsuits even if the Reid amendment is enacted. They are going to do that anyway. People will know there is a distinction between lawsuits filed by people who have observed the laws and are not living in prison and lawsuits filed by those living in prison. Frankly, over the long run, I think we will save money by adopting the bill without the amendment.

SPECIAL PRIVILEGES AND BONA FIDE RELIGIOUS PRACTICES

Much has been said and written about the opportunities this act creates for abusive and litigious prisoners to extract special benefits from prison administrators. Some have suggested this act may even protect prisoners who form new religions to gain special treatment or privileges. While it is certainly possible some prisoners will attempt to abuse this act, nothing contained in the act will protect these deceptive efforts. To be perfectly clear, our courts are well suited to detect the abusive tendencies of our litigious prisoners.

I would add, the courts have traditionally denied first amendment protection for purported religious activity conceived by prisoners simply to gain special benefits. I trust the courts will continue to reject these abusive claims. The fifth circuit observed in a prison case:

While it is difficult for the courts to establish precise standards by which the bona fides of a religion may be judged, such difficulties have proved to be no hinderance to denials of first amendment protections to so-called religions which tend to mock established institutions and are obviously shams and absurdities and whose members are patently devoid of religious sincerity. [*Theriault* v. *Carlson*, 495 F.2d 390, 395 (5th Cir.), *cert. denied*, 419 U.S. 1003 (1974) (footnote omitted).].

The courts' existing analytical tools are adequate to detect these unfounded religious demands and distinguished them from legitimate religious interests. The courts have, for example, rejected religious status, under the first amendment, for a number of prisoner-devised belief systems. (See. e.g., *Johnson* v. *PA. Bureau of Corrections*, 661 F. Supp. 425, 436–37 (M.D. Pa. 1987) (rejecting "The Spiritual Order of Universal Beings"); See also *Jacques* v. *Hilton*, 569 F. Supp. 730, 736 (D.N.J. 1983), aff'd, 738 F.2d 422 (3d Cir. 1984) (rejecting "United Church of Saint Dennis").) Moreover, when a prisoner attempted to object to participation in an anti-alcoholism program as compelling a belief because it referred to "the care of God as we understand him," a court had little difficulty in finding that the Chemical Dependency Recovery Program was not a religion. (*Stafford* v. *Harrison*, 766 F. Supp. 1014, 1017 (D. Kan. 1991).)

These tools are also adequate to uncover false religious claims that are actually attempts to gain special privileges or to disrupt prison life. For example, in *Green* v. *White*, (525 F. Supp. 81, 83 (E.D. Mo. 1981), aff'd 693 F.2d 45 (8th Cir. 1982), cert. denied, 462 U.S. 1111 (1983),) the courts rejected the claim that the Human Awareness Life Church was a religion and focused on the prisoner's demands, under a religious guise, for conjugal visits, banquets, and payment as a chaplain. (See also, *United States ex rel. Goings* v. *Aaron*, 350 F. Supp. 1 (D. Minn. 1972) (rejecting claim

for religious rights that prisoners has never practiced before).) Indeed, courts have been blunt enough in their examinations to find that a claimed religion, such as the Church of the New Song, is, in reality, "a masquerade designed to obtain first amendment protection." (*Theriault* v. *Silber*, 453 F. Supp. 254, 260 (W.D. Tex. 1978), appeal dismissed, 579 F.2d 302 (5th Cir. 1978), cert. denied, 440 U.S. 917 (1979).)

The act has no effect on our settled jurisprudence with respect to prisoner-created efforts to seek special privileges, thus permitting the courts to make these assessments as they have in the past. Those cases most often cited as abusive requests by prisoners, including those listed in the additional views to the committee report have been routinely dismissed by the courts. I would expect the courts will continue to deny protection to prisoners involved in this deceitful activity.

I can say that I know that the prisoners will continue to make the claims regardless of whether this amendment is adopted or not. I think we have made clear that there is a different way of applying the compelling interest test in prison than there is in the lives of those who abide by the law.

The Religious Freedom Restoration Act does not disturb established jurisprudence as it relates to abusive prisoners. I have every confidence that Federal judges will continue to exercise their good judgment in discerning those abusive claims for special privileges from our legitimate religious practices.

INCREASE IN PRISONER LITIGATION

Let me address the concerns raised by those who argue an amendment is necessary to curb the endless prisoner litigation inundating our State and Federal courts. Those who favor this Reid-Simpson amendment suggest prisoner litigation will somehow miraculously decline or be curbed should we deprive prisoners of the right to challenge government action denying them their religious liberty. This amendment will hardly stop prisoner litigation. This amendment will not reduce the cost of defending our prison administrators. This amendment will probably not even curb prisoner litigation and we should not fool ourselves into believing it will. This amendment will deprive many prisoners of their religion in a misguided attempt to address the prisoner litigation crisis.

Proponents of this amendment have suggested this bill will greatly expand the number of prisoner lawsuits. They cite statistics showing the number of prisoner lawsuits is increasing at an alarming rate. What they fail to mention is that the increase in lawsuits is not a result of religious claims. Recently, New York attorney general pointed out that only 1 percent of all prisoner claims deal with religious exercise claims. Ironically, this reported increase in the raw numbers of prisoner lawsuits filed followed the 1990 Smith decision, where prisoners' rights to free exercise of religion were virtually eliminated. [Annual Report of the Director of the Administrative Office of the U.S. Courts.]

Based on information gathered from State attorneys generals offices from throughout this country, I concluded that prison officials were not really concerned with the ultimate result under the compelling State interest standard or its impact on prison administration and order, but with the prisoner litigation that they believe will result with a return to a compelling State interest standard. Thus, I am convinced, the real concern those offering this amendment are attempting to address is the exploding growth of prisoner litigation. Most officials my staff and I have consulted with agree, the genuine concern of prison officials is this act's impact on prisoner litigation, and not the compelling State interest standard itself.

I agree that prisoner litigation is a significant problem for prison administrators. I am not convinced, however, that this amendment adequately addresses this issue. I am surely not convinced that passing this amendment will reduce the number of cases brought by prisoners. In short, prisoners are going to institute a large number of lawsuits regardless of the standard of review applicable to prison lawsuits. Why? Because prisoners do not have many other things to do—they will always seek a way out of prison or a means to challenge authority. Thus, I have concluded, the prisoner litigation issue is one that we must address legislatively. I am currently undertaking efforts to review this serious problem and I welcome the recommendations of those attorneys general and prison administrators seeking to address their concerns. I believe, however, that we should not deprive those individuals most in need of religion their right to practice it because of the litigious practices of some prisoners.

ABSURD RESULTS OF THE PRISON EXEMPTION AMENDMENT

Let me also point out some of the absolutely absurd results which will follow this piecemeal approach to prisoner litigation reform, an approach embraced in this prisoner exemption amendment. Currently, prisoners can and do sue prison administrators for any reason. They sue because they received only one dinner roll, or because they disliked the shape of their cake, or because they are denied illegal drugs.

Nothing contained in this amendment will stop these lawsuits. The effect of this amendment is simply to preclude those prisoners with lawsuits asserting first amendment free exercise rights from advancing those rights. Thus, for example, the prisoner who sued prison administrators in Nevada for serving him creamy peanut butter rather than the chunky peanut butter he requested may still bring his case against prison administrators before a judge. That horror story is not precluded by the Reid amendment.

However, if this amendment is passed, the Catholic prisoner who may want to challenge the denial of communion would be given short shrift in contesting such an arbitrary prison policy in the courts. At best, the Catholic prisoner asserting the right to exercise a fundamental aspect of his or her faith is given no more consideration under the Reid amendment than the prisoners complaining about what kind of peanut butter is being served.

It is absurd to treat the religious claim so cavalierly. Likewise, the prisoner in Illinois who sued prison authorities for depriving him of the use of his jail cell for drug trafficking will still have standing to sue prison officials.

However, if this amendment is adopted, a Protestant or an Episcopalian who might want to challenge prison officials who are denying them the right to pray in their prison cell may well have their case quickly thrown out of court.

The inmate who files a frivolous lawsuit against his jailer because he does not like the color of his prison uniform can fully litigate his claim in the courts. In contrast, the Jewish inmate who may want to challenge the denial of his right to kosher meals, again, would be afforded no better a chance to prevail than the claimant making such a frivolous claim about the color of his clothing. Indeed, if the Reid amendment passes, the religious claimant may have less rights.

These cases clearly demonstrate the absurd results we would see as a consequence of this amendment.

Let me make my position on prisoner litigation very clear. Like all of you, I do not condone the stream of frivolous lawsuits currently being brought by many prisoners. To the contrary, I find most prisoner lawsuits to be petty, frivolous, and offensive. However, I am extremely concerned that this amendment allows our frustration in dealing with a prisoner litigation crisis dictate how we respond to prisoners whose legitimate religious beliefs may be seriously offended.

I have previously suggested that we need to overhaul thoroughly, prisoner access to the courts.

Our approach must be comprehensive and well conceived. Simply depriving prisoners of a real right to advance their religious free exercise claims is not the way to go. More importantly, our approach must be equitable.

This amendment should fail because it is not fair to those prisoners who are deprived of their legitimate religious

exercise and have no real recourse to challenge an arbitrary prison administrator who has abused his authority.

Once again, I ask you to oppose this exemption to first amendment free exercise rights we are restoring in this act. Those prisoners with legitimate religious claims are the only real losers if this amendment succeeds. The abusive and litigious prisoner will still bring his frivolous lawsuits.

COST OF RELIGIOUS ACCOMMODATION

Mr. President, we have heard some horror stories about what will happen if the Reid amendment is defeated. Some have argued that it would be too expensive for prison administrators to accommodate every religious practice. Others have suggested that the cost and expense associated with religious exercise is not a consideration under RFRA. I appreciate the concerns which have been expressed. I believe many of them will not remotely be realized and others are exaggerated.

I certainly do not claim that no prison in the country will incur an added cost under RFRA. I believe that such added cost, it occurs, will be far, far less than some supporters of the amendment are suggesting. Indeed, I do believe courts will continue to consider the costs of religious accommodation in evaluating lawsuits. That is the intention of the principal sponsors of the bill.

While prison officials must reasonably accommodate a prisoner's exercise of religion, the cost associated with the accommodation is an important consideration. The courts have long recognized the budgetary limitations of prison administrators and have extended to them reasonable discretion. See for example, *Kahane* v. *Carlson*, 527 F.2d 492 (2d Cir. 1975), reaffirmed in *Boss* v. *Coughlin*, 800 F.Supp. 1066 (N.D. N.Y. 1991), affirmed, 976 F.2d 98 (2d Cir. 1992); *Walker* v. *Blackwell*, 411 F.2d 23, 26 (5th Cir. 1969).

Moreover, the committee report addresses the issue of costs directly at page 10, where the report states:

> Accordingly, the committee expects that the courts will continue the tradition of giving due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline, consistent with consideration of costs and limited resources.

But even assuming some added cost is imposed on prison administrators, I urge my colleagues to balance that cost against the interest being asserted. That interest, religious liberty, is the most fundamental liberty any human being can claim. Religious liberty is a cornerstone of the foundation of our country and its evolution into the greatest country on earth. Even the most scorned in our society, prison inmates, have a legitimate interest in religious liberty.

Is the Senate of the United States really prepared to say that a Jewish prisoner should always be denied kosher food solely because of its cost? Is the Senate of the United States really prepared to say that a Jewish prisoner or a Moslem prisoner must eat pork in violation of his or her faith or go hungry because the State government will not prepare pork-free food for such a prisoner? If so, vote for the Reid amendment.

Is the Senate of the United States really prepared to say that cost and administrative inconvenience should preclude a Catholic prisoner from the opportunity to see a priest other than at those times when the State, at its whim, decides to make a priest available? If that is the standard we wish to have, vote for the Reid amendment.

I believe that in striking the balance in such matters, the religious liberty interest of prisoners should count for more than the Reid amendment will permit.

COMPELLING STATE INTEREST STANDARD IS APPROPRIATE FOR PRISONERS' FREE EXERCISE CLAIMS

I appreciate the desire to restrict prisoners' religious exercise rights to a reasonableness standard. I do not agree, however, that this is the appropriate standard of review. As I understand prisoner's free exercise jurisprudence, the Supreme Court did not outline a definitive standard of review in this area before the late 1980's. In 1987, the Supreme Court addressed prisoners' free exercise claims in *O'Lone* v. *Estate of Shabazz*, 482 U.S. 340 (1987).

In O'Lone, the Court ruled that so long as a prison regulation "reasonably relates to legitimate penalogical interests" it will not offend the free exercise clause of the first amendment. Prior to O'Lone, some circuit courts basically applied the well recognized compelling State interest standard to test the constitutionality of prison regulations infringing on prisoners' free exercise rights. The compelling State interest standard is well understood and used by the courts in a variety of circumstances where fundamental rights are tested.

Some have expressed concern that prison administrators will find it difficult, if not impossible, to satisfy the compelling State interest standard of this act. I do not believe this to be the case. To the contrary, circuit courts have successfully applied the compelling State interest/least restrictive means test in appropriate cases to uphold prison regulations. For example, in *Walker* v. *Blackwell*, 411 F.2d 23 (5th Cir. 1969), the court denied requests for specified food items. In so ruling, the court wrote:

> [C]onsiderations of security and administrative expense outweigh whatever constitutional deprivation petitioners may claim. In this regard, the courts holds that the government has demonstrated a substantial and compelling interest, that of security, which compels the deprivation of these after-sunset meals. * * *

Further, just 8 days before the O'Lone decision, the eleven circuit, using a similar standard, the substantial government interest/least restrictive means test, ruled that a prisoner was not entitled to an exemption from the prison shaving and hair length regulations. (*Martinelli* v. *Dugger*, 817 F.2d 1499 (11th Cir., 1987).) It can fairly be said that the standard contained in this act does not impose an insurmountable burden on prison authorities. The test has proven to be a workable balance between compelling interests of prison administrators and the limited religious rights of prisoners.

A government operating a prison clearly has a compelling interest in maintaining order, safety, and discipline. *Walker* v. *Blackwell*, 411 F.2d 23, 24–25 (5th Cir., 1969); See also, e.g., *Barnett* v. *Rodgers*, 410 F.2d 995, 1000 (D.C. Cir., 1969), *Fortune Society* v. *McGinnis*, 319 F. Supp. 901, 904 (S.D.N.Y. 1970). The sponsors of this bill emphasized this point repeatedly during this bill's consideration. Moreover, as the committee report states:

> The committee expects that the courts will continue the tradition of giving due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline consistent with consideration of costs and limited resources. (p. 10)

In my view, the compelling State interest standard is the traditionally applicable standard of review for first amendment claims. We feel the Supreme Court ruling in O'Lone departed from the generally acceptable standards of review where important constitutional rights were violated, even where the more limited constitutional rights of prisoners were infringed upon.

This act will reinstate a standard the Supreme Court has traditionally utilized in cases implicating fundamental constitutional rights. The act will return us to a sensible balance struck by a number of lower courts prior to O'Lone between one of our most cherished freedoms secured by the first amendment and the Government's compelling interests in security, order, safety, and discipline in the operation of our prisons. The imposition of the act's compelling State interest standard in prisoner free exercise cases strikes a sound and reasonable balance between these competing interests.

LEAST RESTRICTIVE MEANS TEST

Let me respond to the criticisms of the least restrictive means test. Some have argued that imposing the least restrictive means standard on prisons will force judges to second guess our prison administrators on every prison security issue and to establish their own vision of how prisons should be run. I do not believe the standard will lead us to this aberration.

The courts in many circuits have used this well recognized standard, the

compelling interest standard. In applying the least restrictive alternative prong, the courts have uniformly given "wide-ranging deference to the expert judgment of prison administrators." (See, e.g., *Martinelli* v. *Dugger*, 817 F.2d 1499, 1506 (11th Cir. 1987).) Moreover, the courts have consistently recognized prison authorities' wide latitude to restrict religious liberties on the basis of probable, rather than actual or certain dangers. (*O'Malley* v. *Brierly*, 477 F.2d 785, 796 n. 10 (3rd Cir. 1973).) There is, in my view, absolutely no reason to believe the courts will become indifferent to the thoughtful expert opinion of those individuals ultimately responsible for the safety and security of our prisons.

The additional views to the committee report cites only one case, a case out of the California State Appeals Court, as reflective of how the least restrictive means test will be abused by the courts. The California trial court ruling is not reflective of the established deference our Federal courts have given to prison administrators. Moreover, the ruling was apparently also an aberration to the California Court of Appeals which reversed it on appeal.

ADEQUATE TIME TO STUDY ISSUES

Over 3 years have elapsed since we first introduced the Religious Freedom Restoration Act, in form and substance almost identical to the bill we are debating today. I strongly disagree with any suggestion we have not satisfactorily studied this bill.

We have thoroughly studied the Act's impact on prisons, and discussed these concerns of some attorneys general and prison administrators. Ultimately, based on the input of many concerned officials, many directly responsible for the administration of our prisons, others responsible for defending prison administrators being sued by prisoners, we formulated committee report language addressing their concerns.

Earlier this year, at the Judiciary Committee markup, some critics of the bill argued that the State attorneys general were not given adequate notice and opportunity to officially comment on the act's impact on prisons. At that time it was suggested we delay action on the bill until the National Association of Attorneys General, an organization concerned and impacted by the act, had the opportunity to study the act and make a recommendation at their annual meeting.

In July, in Chicago, at their annual meeting, the National Association of Attorneys General reviewed an amendment very similar to Senator REID'S. They also had the opportunity to review the proposed committee report language we drafted and circulated, in consultation with many experts, to alleviate their concerns regarding the act's application to prisons. While I cannot be certain of their reasoning in failing to request that our body enact a prison exemption amendment such as the one before us, the association did, in fact, decide to endorse such an amendment. This official action, I might add, was made subsequent to their letter of May 5, 1993, wherein some attorneys general had expressed concern about the act.

I also want to emphasize these same concerns raised about the need for a prisoner exemption amendment were presented to the National Association of Attorneys General Civil Rights Committee earlier this year. They too, declined to support an amendment strikingly similar to Senator REID'S amendment.

I have thoroughly studied the issues, consulted with numerous religious leaders and prison officials and am convinced a prison administration exemption is unnecessary. I ask my distinguished colleagues to reject this amendment.

PRISON FELLOWSHIP

Last week, at a Senate staff briefing I cosponsored along with Senator KENNEDY, Rick Templeton of Prison Fellowship offered some valuable insight into the Reid amendment. In his introduction Mr. Templeton noted that he served in a position very similar to many of staff members present. He observed that he invariably wrote the "tough on crime" speeches for his boss and considered himself a staunch law and order advocate. He still believes he serves the cause of law and order.

Mr. Templeton then went on to explain how he went to prison, and how his life was changed forever. It was in prison where he experienced firsthand the hopelessness shared by most prisoners. Most frustrating for him, pacifying an inmate with television was the most favored approach to rehabilitation.

Fortunately, prison also taught Rick Templeton a valuable lesson he had never fully known before and never expected to learn in prison. It was in prison that he truly found religion. He prayed frequently while incarcerated. As a result of his prison experience, he came to appropriate the role religion could play in his life. Equally important, he came to understand the role religion could play in the lives of fellow prisoners.

Once released, Mr. Templeton joined Prison Fellowship and has been reaching out to prisoners ever since. He continues to work with prisoners because religion is the only hope for salvation he sees for them. While many prisoners will never be saved, he has assisted many more who have turned their life around. He points out that 98 percent of the prisoner population will eventually be released into society. Like it or not, they will be returning to our communities. A point that is well taken. In my opinion, there is much comfort in knowing that a prisoner has been afforded the opportunity to receive Mr. Templeton's counsel, to share ideas about interpersonal relations and family, and hopefully, to learn more about religion while in prison. We should accommodate efforts to bring religion to prisoners in the hopes of turning some lives around, not stifle those efforts.

By supporting the Reid amendment we embark on a journey down the most dangerous path, the path that subjects the protection of our religious liberty to a double standard. Religion deserves a single standard. I ask you not to set a double standard for the protection of religion. I ask you to restore religious liberty. I ask you to defeat the Reid amendment.

VIOLENCE/CRIMINAL ACTS

RFRA neither permits nor invites the violation of our criminal laws. The State's interest in regulating criminal activity is a compelling interest and the courts have offered great deference to our criminal statutes.

It is inconceivable to me that RFRA will protect acts of violence, purportedly motivated by religion, under any circumstances. Our clear societal interest in protecting our public safety, even if the violence is purportedly religiously motivated, is by its very nature a compelling interest. Nothing contained in RFRA is intended to offer or extend any protection for this type of criminal activity and our governmental interest in combating this violence is undoubtedly superior.

INCIDENTAL IMPACT CASES LYNG CASE

RFRA does not affect *Lyng* v. *Northwest Indian Cemetery Protective Assn.*, 485 U.S. 439 (1987), a case concerning the use and management of Government resources, because the incidental impact on a religious practice does not constitute a cognizable burden on anyone's free exercise of religion. In Lyng, the court ruled that the way in which Government manages its affairs and uses its own property does not constitute a burden on religious exercise. Thus, the construction of mining or timber roads over Government land, land sacred to native American religion, did not burden their free exercise rights. Unless a burden is demonstrated, there can be no free exercise violation. The statutory language in RFRA was drafted to include protection against laws which impose a burden on religious exercise.

INCIDENTAL IMPACT CASES BOWEN CASE

RFRA would have no effect on cases like *Bowen* v. *Roy*, 476 U.S. 673 (1986), involving the use of social security numbers, because the incidental impact on a religious practice does not constitute a cognizable burden on anyone's free exercise of religion. Unless such a burden is demonstrated, there can be no free exercise violation. Thus, a claimant never gets to the compelling interest test where there is no burden. RFRA language intentionally includes terminology requiring a burden on one's exercise of religion.

Both Lyng and Roy are burden cases and were not decided under either the compelling State interest test set forth in RFRA or even the reasonableness test announced in Smith. Under the act only governmental actions that place a substantial burden on the exercise of religion must meet the compelling interest test.

Mr. President, I do not want to keep my colleagues any longer this evening, but I think it is really important that we not buy off on this argument that it is going to be a lot rougher on the prisons if we do not adopt this amendment. The fact is the prison administrators' interest in order, security, and discipline will be found compelling in almost all of these cases. I do not think anybody really doubts that who knows about the State of the law prior to Smith or the State of the law if this bill passes without amendment. I hope our colleagues realize that.

One of the things we ought to be encouraging more than anything else is religious activity in the prisons. We ought to be encouraging these men and women and these young boys and girls to get involved in religious activity in the prisons. We ought to be encouraging religious influence in the prisons. After all, if we are going to rehabilitate these people, there is nothing better that would help them to be rehabilitated than religious beliefs.

So, Mr. President, I hope that our colleagues will defeat this amendment. This bill is very, very important. It involves our first amendment rights and privileges; it involves the first freedom mentioned in our first amendment rights and privileges. I do not think there is any call to be that concerned or that worried that this is really going to place an even greater burden on the prisons and prison administrators than is already placed there.

Mr. President, if the other side is willing to yield back the time, I am, too, otherwise I have a lot more I would like to say on this subject.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I will take less than 1 minute to say what I want to say. And that is basically no one, including sponsors of this amendment, intends or does the amendment cause anyone from practicing their religion in prison any reasonable way. We never claimed that this amendment would reduce lawsuits. We simply said that this legislation, unless it is amended, will increase claims and further burden the courts because they will find them more winnable, and that is what we do not want, is prisoners who file these specious lawsuits and win them.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, Senator HATCH tells us that the interests of security and discipline and safety are compelling interests and that we have nothing to fear here. Courts do not always find that prison interests are compelling interests. It depends upon the Court. That is how we got to the O'Lone decision: the Supreme Court decided to clarify the standard—at least seven decisions, were then available—confusing the interests of society.

Courts do not always find that the prison interests are compelling interests. It depends, as I say, on the Court. But the second part of the test, the least restrictive means test, would allow courts to look for alternatives to accommodate prisoners' requests. There are always alternatives: More guards can be hired; new facilities can be constructed. But at what cost? Does anybody answer that question? Certainly, the CBO did not.

Prison officials can allow satanists to draw pentagrams on the floor of their cells, but at what cost? Neo-Nazis can circulate racially inflammatory materials in the name of their religion, but at what cost to the prison system?

Those are very real questions. This is not some hobgoblin activity that we are involved in here.

Then the Senator has argued that no matter what the standard is, prisoners will always make claims. The standard does matter, and Justice O'Connor said that in Turner versus Safely. Here is what she said—I think this is a very apt description:

> Subjecting the day-to-day judgments of prison officials to an inflexible, strict scrutiny analysis would seriously hamper their ability to anticipate security problems and to adopt innovative solutions to the intractable problems of the prison administration. The compelling State interest rule would distort the decisionmaking process, for every administrative judgment would be subject to the possibility that some court somewhere would conclude that it had a less restrictive way of solving the problem at hand. Courts inevitably would become the primary arbiter of what constitutes the best solution to every administrative problem, thereby "unnecessarily perpetuating the involvement of the Federal courts in affairs of prison administration."

I certainly concur with Justice O'Connor in her comments there.

Then finally, Mr. President, this bill without the amendment will force the courts to determine which religions are good and noble and which religions are shams, certainly something which I do not wish the courts to do. And that is exactly what will have to happen under this. Senator REID and I have presented some absurd and bizarre "religions." Well, now, who is going to make that decision?

Think how many well-established religions would never have survived that type of scrutiny 40 years ago. There were religions 40 years ago that were made fun of in America, which now have huge memberships, headquarters, tracts that they distribute. Who is to decide whether they were sham or whether they were real at the time?

My colleague from Utah says that courts will see through sham religions. Do not believe it. How long will it take prison administrators to defend their position against these sham religions? Only you can guess.

The bill's change in standard will force prison administrators into long and costly evidentiary hearings and numerous appeals, instead of swift disposition by summary judgment motions, as is usually the case today.

As I heard the long list of those who support this bill, I thought to myself, I wonder how many members of the various organizations ever read the bill—I always say when everything else fails, why not read the bill.

When everything else fails, why not read the amendment that is being presented by my colleague, and of which I am the cosponsor.

Here is what it says. One paragraph:

> Notwithstanding any other provision of this Act, nothing in this Act or any amendment made by this Act, shall be construed to affect, interpret, or in any way address that portion of the First Amendment regarding laws prohibiting the free exercise of religion, with respect to any individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility—including any correctional, detention, or penal facility that is operated by a private entity under a contract with a government.

The amendment is not really too sinister, not one bit.

No wonder the religious groups write in, send mail by the metric ton—they are saying "you would not want to prevent the practice of religion in prison." That is not what this amendment does—it does not prohibit religion in the prisons. So do not listen to that one.

We are talking about people who have to go out and administer the prisons of the United States—which must be about the most thankless job in society—with a bunch of creative prisoners who, in many cases, become spoiled, who look upon the prison systems as their way of life now, who think of it as their society and really do not want to be released. They have nowhere to go—the temptations of society are too great for them.

If you put those types of people, the wasted of society, those who have given up society, and mix them up with a few creative prisoners who are deciding what kind of religion they can concoct to drive prison administrators goofy, Governors goofy, and the legislatures goofy, and the sky is the limit.

By challenging a bill that sounds so magnificent, you are noted as an evil, uncaring rascal of indescribable dimension.

The Supreme Court upheld by a 6-to-3 decision a totally isolated case of a couple of guys who were fired from their job because they broke their employment contract for doing peyote.

That is all. And this bill is the result of it—a great big bill which is all out of context as to what we really should be doing if we wanted to put it back to where it was before.

I will stand here for 5 days without leaving the floor if you want to put it back to where it was before. But this bill is bizarre, absolutely bizarre—compelling interests and least restrictive means test. Someone made a mockery of putting the law back to where it was—this bill has overdone it and all in the name of religious freedom. No wonder the mail pours in.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I do not want to prolong this, but I do have to say, let us just be honest about this. Had the compelling interest test been in effect when the Smith case was decided, the compelling interest test would have upheld the final result in that case anyway. Justice O'Connor came out that way.

I remember a few years back when the military was not permitting members of the Jewish faith, sincere orthodox members to wear a yarmulke. I was one of the Senators who came to the floor and forced the military to let them be able to do that. We had to enact a statute. We had to enact a statute in order to provide for this simple expression of religious freedom.

Now, if there are sham religions that arise, that has to be determined with or without this bill. If this bill is not enacted, you would still have to determine that the religious action was a sham, or that the claimed religious belief was a sham, or that the religion they claimed to be following was a sham. That is before you even get into the question of a compelling interest test.

So in many, many cases these cases would be automatically thrown out as shams. So do not come and tell me that prisoners are somehow or other going to be able to gain privileges based on the sham nature of some prisoners' claims in Federal and State prisons.

The fact of the matter is courts are going to have to make that determination anyway. But to the extent that we deny anybody, including prisoners, their first amendment rights to worship freely, it would be a shame. That is what we are fighting for here; to establish once and for all that this is the first mentioned freedom in the Bill of Rights, and that it has been given short shrift by the Supreme Court and by one of my dear friends in the majority opinion, Justice Scalia. Short shrift.

We want to correct that. I have no doubt in my mind that almost all prison regulations will be held to be fulfilling the compelling interest test. But where they are not, as the distinguished colleague from Wyoming and very dear friend of mine says, where they uphold the compelling interest test and find the religious activity protected under the Constitution, by gosh, that is a good thing.

We want religion in the prisons. It is one of the best rehabilitative influences we can have. Just because they are prisoners does not mean all of their rights should go down the drain, their fundamental religious rights. And they are fundamental rights.

This amendment protects fundamental rights, fundamental constitutional rights. It says once and for all that the Supreme Court should not misconstrue the intent of Congress. It should not misconstrue the Constitution. This is a red herring amendment as far as I am concerned. I am not meaning to be critical of my colleagues because they are both thoughtful, both very sincere, and they are both very dear friends.

But in all honesty, these are important rights. And all of these groups supporting the bill and opposing this amendment have come together because they want these rights protected. And we as Senators ought to keep that in mind. We are talking about fundamental rights that should not be infringed. And, yes, even prisoners in institutions should have those fundamental rights.

But even in prisons, there has to be a different application of the compelling interest test and prison administrators will be upheld in most instances because of the nature of incarceration, the nature of the penal institution, and the nature of our governmental laws in trying to uphold the penal institutions, and their rules and regulations.

But if prison administrators are found to not meet the compelling interest test, then, by gosh, religious exercise should be upheld. And the fundamental rights of these prisoners should not be taken away. They are not animals. Nobody is any tougher on crime than I am around here, and I want toughness in prisons. But these are not animals. These are human beings, and we ought to consider their rights to religious exercise.

We could debate this for hours and hours. I think excellent remarks have been made by my colleagues. I just happen to disagree with them. I hope that tomorrow when we vote on this that the Senate will vote down this amendment and uphold these fundamental rights. There are a lot of Senators here who would uphold various fundamental rights. I think most would want to uphold all fundamental rights. But there is nothing more fundamental in my eyes than the religious freedoms mentioned in the first amendment of the Constitution.

I am prepared to yield back the remainder of my time if my colleagues are prepared to do so. I understand that there will be 20 minutes equally divided tomorrow morning. I would like to make that a half hour if we can because if Senator KENNEDY is here, I want to make sure there is enough time.

Mr. BRYAN. Mr. President, as an original cosponsor, I today join Senators REID, SIMPSON, BURNS, and SASSER in supporting the amendment to the Religious Freedom Restoration Act to exempt prisons from the act's application through establishment of a different legal standard for review of religious freedom cases brought by prison inmates.

I support the Religious Freedom Restoration Act, and its purpose to establish the compelling interest test as a statutory legal standard for evaluating free exercise of religion claims; the same legal standard that prevailed prior to the 1990 U.S. Supreme Court decision in Employment Division versus Smith.

One can sincerely only be amazed by the diversity of the religious and civil rights groups who have joined together as a coalition to strongly support this important legislation. However, I am very concerned about the possible impact of the Religious Freedom Act if an exception is not included for free exercise challenges to prison regulations.

As proposed, the Religious Freedom Restoration Act would require prison officials to justify any actions involving prisoner's exercise of their religious belief by showing there was a compelling governmental interest for the action, and that any action taken was the least restrictive alternative in burdening the prisoner's exercise of religion.

As a former Attorney General, I am well aware of the amount of prisoner generated litigation, oftentimes amounting to purely frivolous claims, that tie up our State and Federal legal resources. As a former Governor, I am also well aware of the difficult decisions facing our prison administrators day in and day out as they strive to maintain the security of their facilities, for both staff and inmates.

Also as a member of the Nevada State Prisons Board during my tenures as Governor and attorney general, I experienced first hand the burdens placed on State governments as a result of Federal court actions. These burdens impacted State governments' monetarily and administratively through increased costs, time, and effort to comply with required legal holdings.

This prison amendment will retain the current U.S. Supreme Court standard for the evaluation of prison actions affecting religious activities. That standard looks to whether prison officials, in light of security, discipline and safety concerns, have acted reasonably in the measures they have taken which may impact religious activities. In the past, the U.S. Supreme Court has required courts to give great deference to decisions made by prison officials regarding how their prisons are

administered. Without this prison amendment, it is not clear such deference would be continued.

Many attorneys general supporting this prison amendment, including Nevada Attorney General Frankie Sue Del Papa, are concerned that without the amendment, the Religious Freedom Restoration Act will overturn standards that have existed for approximately 45 years for prison settings. The result not only increasing the number of prisoner generated lawsuits, but permitting courts to second guess prison administrators' decisionmaking by looking beyond concerns for security and conditions of confinement in the prisons. For example, the recent Santeria religion case upholding religious ritual animal sacrifices could create immense problems if such sacrifices were upheld in a prison setting.

I ask my colleagues to join with the cosponsors of this amendment to ensure our prisons and their administrators are allowed to exercise their judgment to maintain the security and of their facilities, and to have that judgment given due deference by our court system.

Mr. REID. Mr. President, if I could just make a very brief statement, I want the record to be spread of the facts that the amendment offered by Senators REID and SIMPSON does not change fundamental religious rights. It very simply maintains the present standard that the courts have used. And the courts have always given great deference to prison officials when it comes to constitutional rights of prisoners. We simply maintain those standards.

I will be happy if my friend from Wyoming would agree to yield back the reminder of our time tonight. It is my understanding that in the morning there is some morning business that starts at 8:30. They have already agreed to give those people an hour and 10 minutes. So we would only have 20 minutes in the morning evenly divided.

Mr. HATCH. Mr. President, that is fine with me. As I understand it, we will have debate between 9:45 and 10 o'clock. There will be a vote at 10 o'clock.

Mr. REID. It is my understanding it would be on this amendment.

Mr. HATCH. On this amendment. Then we will have some additional time before. We will vote on them back to back.

Mr. REID. Yes.

Mr. HATCH. I understand that is OK with Senator KENNEDY.

Mr. REID. With the permission of the Senator from Wyoming, I yield back the remainder of our time.

Mr. SIMPSON. Mr. President, what is the situation with regard to time?

The PRESIDING OFFICER. The Senator from Utah controls 52 minutes, 18 seconds; the Senator from Nevada 7 minutes and 2 seconds.

Mr. SIMPSON. Mr. President, I will not use the entire 7 minutes. But I would like to respond to my friend from Utah. We do serve together on the Judiciary Committee and he has been a great help to me in my time in the Senate.

I regard him highly. Everything he said in his moving remarks I agree with, with the exception of how the courts should treat prisoner claims. Not one of us is challenging the precious right of religious freedom in a prison population, as long as you do not do it in a way which forces the State and Federal Governments to accommodate frivolous claims and sham religions. That is what we are talking about.

I do not want to force courts to decide for me what kind of religion is sham and what kind of religion is good. That is exactly what you are doing if you leave this bill as it is, without this amendment.

The Church of Scientology, where was that 30 years ago? Was that church real or a sham? We all know what has occurred in the last 30 years with regard to making these decisions.

There is no possible way to compare the free exercise of religion in the military and in the prisons. That comparison is a terribly inappropriate argument.

The difference between the military and the prison population is poles apart, night and day.

So I can hear the argument. Who does not agree that religion in prison is a good thing? It is a stabilizing influence. It is a rehabilitating influence. It is a social goal.

But that is not what we are talking about. That was not what the Supreme Court was talking about. If it had not been for a peculiar set of facts which led us to a peculiar situation right now, we may not have been here. But you cannot burden the prison systems of the United States with this kind of bill and then hide behind the first amendment—that it is just the exercise of religious freedom. That is how we pass a lot of stuff in this place, by using a deft blend of emotion, fear, guilt, or racism. I have been here 14 years. I know them all.

Thank you.

Mr. HATCH. Mr. President, the reason I brought up the Army is because the compelling interest test was not applicable in the military, that test was not considered applicable. Members of the Army, sincere Orthodox Jews, could not wear yarmulkes. There has been a recent case where although prisoners could wear baseball caps, sincere Orthodox Jews could not wear yarmulkes, precisely because of the standards that would be set by this amendment.

Look, there are going to be sham religious beliefs and sham religions no matter what we do here. And they are going to have to be reviewed by a court. A decision on those will have to be reached before you even get to the question of compelling interest, which of course is important.

Let me also point out some of the absolutely absurd results which follow this piecemeal approach to prisoner litigation reform; an approach embraced by this prisoner exemption amendment.

Currently, prisoners can and do sue prison administrations for any reason at all. They sue because they received only one dinner roll, or because they disliked the shape of their cake, or because they are denied illegal drugs. Nothing contained in this amendment is going to stop these frivolous lawsuits.

The effect of this amendment is simply to preclude those prisoners with lawsuits asserting first amendment free exercise of rights from advancing those rights. Thus, for example, the prisoner who sued the prison administrator in Nevada for serving him creamy peanut butter rather than the chunky peanut butter may still bring his case before a judge. That horror story is not precluded by the Reid amendment.

If this amendment is agreed to, the Catholic prisoner who may want to challenge the denial of communion would be given short shrift in contesting such an arbitrary prison policy in the courts. At best, the Catholic prisoner asserting the right to exercise a fundamental aspect of his faith is given no more consideration than the prisoner complaining about the peanut butter. It is absurd. Likewise, the prisoner in Illinois—depriving him the use of his jail cell for drug trafficking—will still have standing to sue prison officials.

However, if this amendment is passed, a Protestant or Episcopalian or Mormon who might want to challenge prison officials who are denying them the right to pray in their prison cell may have their case thrown out of court. The inmate who files a frivolous lawsuit against his jailer because he does not like the color of prison uniform can fully litigate his case in courts—and they will; a Jewish inmate who may want to challenge denial of his right to kosher meals again would be afforded no better a chance to prevail than the claimant making such a frivolous claim about the color of his clothing.

Indeed, if the Reid amendment passes, the religious claimant may have less rights. These claims clearly demonstrate the absurd results we see as a consequence of this amendment.

Let me make my position on prisoner litigation clear. Like all of you, I do not condone this stream of frivolous lawsuits currently being brought by many prisoners. To the contrary, I find most prisoner's lawsuits to be petty,

frivolous, and offensive. However, I am extremely concerned that this amendment continues our frustration in dealing with the prisoner litigation crisis and dictates how we respond to prisoners whose legitimate religious beliefs may be seriously offended.

I previously suggested that we need to overhaul thoroughly prisoners' access to the courts. Our approach must be comprehensive and well conceived. Simply depriving prisoners of a real right to advance their religious free exercise claims is not the way to go.

More important, our approach must be equitable. This amendment should fail because it is not fair to those prisoners who are deprived of their legitimate exercise and have no real resource to challenge an arbitrary prison administrator who has abused his authority.

Once again, I have to ask our colleagues to oppose this exemption to first amendment free exercise rights, because in this act, we are restoring those first amendment rights. Those prisoners with legitimate religious claims are the only real losers if this amendment succeeds. The abusive and contentious prisoners will still bring frivolous lawsuits, and we are going to have them no matter what we do. If there are shams, that has to be decided in every instance before you can determine whether or not it applies.

It seems to me we ought to be very considerate of these first amendment rights and fundamental rights that we are talking about, even in the case of prisoners in prison—maybe in many instances, especially in the case of prisoners, who we are trying to rehabilitate with the best tools available, and there is nothing better than religious belief.

Well, Mr. President, I am prepared to yield the remainder of my time.

We both yield the remainder of our time.

The PRESIDING OFFICER (Mr. FEINGOLD). All time is yielded back.

Mr. HATCH. We are prepared to do the wrap-up.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes.

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

ENERGY SECRETARY O'LEARY

Mr. DOLE. Mr. President, it has been reported that the Secretary of Energy, Hazel O'Leary, has nearly signed a death sentence for the domestic independent oil and gas industry.

What is more, her remarks, if accurately reported, suggest the Secretary believes it might be no problem were the United States to become totally reliant on imported oil to run our economy.

Finally, the remarks suggest her thinking and actions are driven by multinational oil conglomerates—that is right the major oil companies are now running energy policy in this country.

INDEPENDENTS

Mr. President, independent oil and gas operators in the United States produce more than 60 percent of the natural gas and over 30 percent of the crude oil in this country. And, energy is the lifeblood of our economy. At an overseas conference of financial leaders in the worldwide energy business, Secretary O'Leary tried to sign a death warrant on our producers saying the domestic industry was "a dying breed too feeble to salvage." This from the Cabinet member entrusted with the health of this very industry. She could have at least first told the U.S. business men and women to their faces that she was doing them in she should not have done it on foreign soil.

ECONOMIC SECURITY

Most alarming about Secretary O'Leary's comments were the comments questioning whether there was a national interest in maintaining any kind of domestic oil production. According to a report, Secretary O'Leary questioned "whether or not the industry is, for the long term, important for the economic security of the United States." Mr. President, we might have moved the Secretary's nomination too fast—evidently no one asked her what percentage of our foreign trade deficit comes directly—directly from imported oil. Mr. President, it is 60 percent, that is right, 60 percent of our entire foreign trade deficit is imported oil—not Toyotas, not Sonys—oil. I cannot understand how the Secretary of Energy can wonder whether we have an economic interest in 60 percent of our entire foreign trade deficit.

MAJOR OIL

What many might find interesting that, according to the Secretary of Energy, major international oil companies are setting U.S. energy policy. She is quoted as saying she questions the future need of a domestic oil and gas industry because "big oil is setting its sights overseas." Big oil wants to produce in the United States, but cannot because of government constraints, so small businesses should not be told to just shut their doors and go away into the night. But, evidently that is the case because she also said.

I've got an obligation to help this industry, but I don't have an obligation to help this industry beyond reason.

Is the decision of major oil to move overseas, largely due to roadblocks the Congress put in place, the reason Secretary O'Leary has abandoned this vital segment of the American economy?

Finally, in what may be the most upsetting comment, Secretary O'Leary said "I haven't gotten the answers for the mom and pop businesses." I would say that is evident, and so is the appearance that she is not looking for the answers either.

Mr. President, I ask unanimous consent that a copy of an article from the Tuesday, October 26, Houston Post be printed at this point in the RECORD.

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

[From the Houston Post, Oct. 26, 1993]

SMALL PRODUCERS MAY BE A DYING BREED, ENERGY SECRETARY ADMITS

LONDON.—After a decade of decline in America's oil patch and a plunge in crude prices over the summer, the troubles may not be over for small producers, U.S. Energy Secretary Hazel R. O'Leary said Monday.

In an interview, O'Leary said she has no firm ideas on helping independent oil operators stay is business and suggested the industry's smaller, domestic players may be a dying breed too feeble to salvage in an era when Big Oil is setting its sights overseas.

"The guy who counted on the wireless got left behind," O'Leary said in an interview with The Associated Press.

In an earlier address to oil executives, O'Leary said: "I haven't gotten the answers for the mom and pop businesses."

Over the past decade, 450,000 jobs have been lost in the U.S. oil industry as the number of working drillings rigs has plunged from about 4,000 to between 600 and 700, according to the Independent Petroleum Association of America. Many small oil companies—which do most of the exploration—have gone bust.

O'Leary said she would like to help, for example by finding ways to make oil exploration more of an exact science and ensuring that the government sets down a consistent set of rules to help businesses plan for the future.

"I've got an obligation to help this industry, but I don't have an obligation to help this industry beyond reason," she said.

Saying that equating domestic oil production to national security could be an outdated idea, O'Leary called for "a careful analysis to set up the proposition of whether or not the industry is, for the long term, important for the economic security of the United States."

Fow now, O'Leary believes the United States should seek out "diversified" sources of energy, so as not to be overly reliant on imported oil from the volatile Middle East. She acknowledged many U.S. producers cannot diversify, despite suggestions that some could embark on experimental shrimp farming in the West Texas desert, where many oil jobs have vanished.

"The entrepreneurs who survive are those who read the marketplace ahead of the marketplace finally settling itself down and react accordingly, and my job is to mend that strong signal—at the same time, looking at every way possible to ensure that there is an industry, if prices will support an industry," O'Leary told The AP.

"It's been a tough year at home because the price signals have been perhaps too low," O'Leary told reporters, after addressing the annual Oil and Money conference sponsored by the International Herald Tribune and the Oil Daily Group.

Asked what price level she considered to be too low, O'Leary said, "certainly 14, 12 dollars," before immediately adding that she

should not have spouted out an opinion on an acceptable level for prices.

"I'm not sure what the number is, but remember us—we're talking free market these days—we just have to say sometimes the free market is very unkind to an industry at home that is very mature," O'Leary said.

O'Leary declined to specify which type of oil she would consider to be too cheap at $13 to $14. Prices can vary by several dollars a barrel, depending on the sulfur content and gravity of the oil.

FEDERAL ACQUISITION STREAMLINING ACT OF 1993

Mr. THURMOND. Mr. President, earlier today my good friend, Senator GLENN, and other Senators introduced the Federal Acquisition Streamlining Act of 1993. This legislation is intended as a major step in a process begun 3 years ago with the creation, in section 800 of the Department of Defense Authorization Act for fiscal year 1991, of the Department of Defense Advisory Panel on Streamlining and Codifying Acquisition Law.

Over the last 10 years, the Congress has engaged in a number of efforts to reform the Federal acquisition process. The most notable of these efforts was the establishment of the Packard Commission in 1985, and the legislation of the Commission's recommendations the following year. There have also been a number of separate legislative proposals enacted which deal with perceived flaws in the details of the procurement process. Despite these efforts, the consensus remains that we have fallen far short of achieving the savings and efficiencies that are possible in this area.

The Advisory Panel on Streamlining and Codifying Acquisition Law that was created by Congress with strong bipartisan support in 1990 was intended to overcome the barriers to comprehensive reform of defense procurement. The advisory panel assembled 12 of the leading experts in contract law and acquisition management to review all of the laws governing purchasing by the Federal Government. These individuals gave generously of their valuable time over a year and a half to prepare an excellent report containing a comprehensive review of major procurement laws and specific recommendations for changes.

This report, known generally as the section 800 report, was transmitted to the Senate in January. Democratic and Republican members of the Senate Governmental Affairs, Armed Services, and Small Business Committees instructed their staffs to review the recommendations and prepare a bipartisan package of legislation as soon as possible. This bipartisan staff work was largely completed in September. It is draft legislation intended to serve as a basis for congressional action and not as the final word on the subject.

The administration claims that acquisition reform is one of its highest priorities, and it has been clear to all of us that support from the President and the Vice President will be essential if our efforts are to succeed. Therefore, it was proper for us to coordinate our approach with such initiatives as the Vice President's National Performance Review. Unfortunately, participation in the discussions with the White House was limited to Democratic Members and staff in contrast to the bipartisan process we had followed up to this point. Over the weekend, the administration dictated that provisions raising the thresholds for the Davis-Bacon and Service Contract Acts to $100,000 be dropped in the draft legislation. It appears that this decision was driven by the intervention of outside labor interests. The administration took this position in spite of the fact that the recommendation regarding the Davis-Bacon Act was included in the Vice President's National Performance Review.

Under these circumstances, I cannot cosponsor the legislation despite my support of the majority of the provisions in the bill. If we want reform, we have to put even the more controversial recommendations in the section 800 report on the table. Special interests have dictated many of the features of the current, inefficient process and we cannot signal retreat at the first sign of a problem. Furthermore, any process for reform has to be a bipartisan process, and bipartisan means that both the Republicans and the Democrats are part of decisions on the content of any legislation. I am willing to work with my colleagues on the other side of the aisle and with the President toward the goals we all share. I am hopeful that the bipartisan nature of acquisition reform process will be restored.

LOSS OF MARINES IN BEIRUT, LEBANON

Mr. THURMOND. Mr. President, I come to the floor today to remind my colleagues that 10 years ago, on the 23d of October, 1983, our Nation suffered the tragic loss of 241 fine marines in a single attack in Beirut, Lebanon.

No one may, with any justification, speak of these young men with anything less than complete reverence, humility, and the deepest appreciation. They were truly exceptional citizens who had volunteered to serve their Nation, and they deserve to be remembered for their selfless dedication to duty and their sacrifice.

These marines did not perish while engaged in armed combat with an enemy. They did not fall on a field of battle. They were not killed or wounded while assaulting a beach, or defending a position. They died, instead, while they were deployed to a place where our direct national security interests were not at stake, where they were asked to perform a mission which was only vaguely defined, in an effort to achieve a policy objective which even today remains unclear. They were killed while they were attempting to achieve peace in a troubled foreign land.

We should remember that our initial involvement in Beirut was a political and military success, just as our initial involvement in relieving the famine in Somalia was a political and military success. However, upon completion of the original mission in Beirut and the redeployment of the marines to vessels off the coast, the marines were sent back ashore in response to the senseless massacre of refugees.

The political objective of this second deployment ashore was not clear. The military objective, therefore, was not clear. So it comes as no surprise, in retrospect, that the role of the marines was not clear to anyone involved. President Reagan appeared before the Nation and accepted full and unconditional responsibility for the decision. International confidence in America was preserved, and the mistake was not repeated.

We in the Congress have recently spent many hours debating the involvement of our Armed Forces in Somalia, the former Yugoslavia, and Haiti. We have spoken of the tragic loss of dedicated young Americans in Mogadishu. We mourn their passing, and our thoughts are with their families and loved ones. I wish we could find the words to relieve their sorrow.

Mr. President, I cannot help but notice both the similarities and differences between that involvement in Beirut and the situation today. It is not my intention to politicize the differences. However, there are deep and disturbing aspects of our involvement in current events which put at risk the lives of American soldiers as well as innocent civilian noncombatants, and jeopardize the ability of the United States to act effectively throughout the world.

Many of us are emotional about these issues, but I encourage my colleagues to grasp the reality of the situations which now confront us. First, after we accomplished our initial mission in Somalia, the current administration gave its tacit consent to a change in purpose when United States Army soldiers were given a mission to capture a Somalia individual. There was no apparent emergency or crisis which warranted this. It was, of course, naive to give a law enforcement mission to a combatant force, but more importantly, it was foolish to commit our soldiers to this mission without having redefined the policy and without consulting Congress.

We have heard numerous officials from the administration speak in recent weeks about Somalia, but not once have we been able to glean any

semblance of a clear, well-reasoned, achievable policy objective. To compound this failure, the administration acted imprudently in attempting to pass the blame for the casualties in Mogadishu to the United Nations. Neither we in the Congress nor the American people should tolerate such an attempt to avoid responsibility.

Second, the administration deployed a military force to Haiti and then recalled it within sight of the port of debarkation. Once again, we did not know the clear policy objective of this intervention, but it was evidently very poorly conceived. From what we do know, the objective appears to have something to do with a naive attempt to change ingrained political and social trends in that sad country by means of having our military perform infrastructure projects. The concepts we have heard discussed more resemble academic theory than sound, realistic, practical logic, and they are devoid of insightful diplomacy.

Third, the administration continues to sound warnings of intervention in the former Yugoslavia. If the factions involved in the fighting there try to draw any lessons from our involvement in Somalia and Haiti, they may find little reason to believe this administration is capable of mounting a serious military intervention which will be harmful to anyone but Americans. Unless the administration articulates a clear policy, it would be unwise to commit our fine men and women in uniform to this conflict.

I suggest to my colleagues that the source of our frustration over Somalia, Haiti, and the former Yugoslavia, is not the significant degree of difficulty of the problems, or the fact that we place our service men and women in harm's way. This body and our Nation have faced far more difficult situations, and Americans have always risen to their responsibilities in the defense of freedom.

The source of our frustration is, rather, the manner in which this administration forms and executes policy. There appears to be an absence of understanding about the relationship between policy and strategy, and an ignorance about the purpose and capabilities of the military. How else may we explain the administration's precipitous withdrawal of the Rangers from Mogadishu? Although many of us may have had serious reservations about the employment of combat troops under the circumstances, few people have found reason to be pleased about the manner in which these troops were withdrawn.

I do not know whether there are lessons for the Rangers and the Army to learn from this expedition. However, I do know that the next time we call upon the Rangers and the Army to go in harm's way, they will remember Mogadishu.

Mr. President, I ask my colleagues to remember the marines who died in Beirut 10 years ago. I ask them to remember the servicemen who have died and those who suffered wounds and injuries in Somalia. I ask them to remember always the fine men and women who serve in uniform today, and I ask my colleagues to reflect on the expensive lessons we have learned.

AIRCRAFT CARRIER FUNDING

Mr. INOUYE. Mr. President, during the debate on the fiscal year 1994 Defense appropriations bill certain statements were made which gave an unfavorable characterization to the committee's decision to provide funding for a new aircraft carrier. I believe it would be useful to examine these comments in their proper context.

The committee-reported bill recommended $3.4 billion to complete—and, here, I would underscore the word complete—the financing of the CVN-76, the next nuclear aircraft carrier. The House Appropriations Committee had recommended an appropriation of $1 billion to partially finance the remaining balance of the carrier. Specific authorization for this action was denied on the House floor. Nonetheless, the House-passed bill still provides $1 billion in undesignated shipbuilding funds, presumably, for this purpose.

Unfortunately, Mr. President, some have argued that the carrier is a new start which is both unauthorized and unrequested. Mr. President, I want the Record to be clear. This is not a new start. The administration requested, and the Congress authorized and appropriated, $832 million in fiscal year 1993 to begin work on this aircraft carrier. These funds paid for the purchase of nuclear components for the ship. The Navy began spending these funds last fall. Work has already begun on the carrier. All of these funds have been obligated. So, regardless of what others may argue, through these actions, the Congress has already made the decision to buy the carrier; now the question is when should the remaining funds be provided.

My colleagues should understand that DOD planned to request funds to complete payment for the aircraft carrier in 1995. While this would allow for the carrier to be built with few perturbations in the shipyard work force, it is not the most cost effective method to purchase the carrier.

President Clinton's budget for fiscal year 1994 took no decisive action on the aircraft carrier. Instead, the decision to continue to purchase the carrier was to be reassessed in the Bottom-Up Review—in conjunction with an analysis and formulation of overall carrier force structure levels. The Bottom-Up Review process carried out this in-depth analysis of the requirement for aircraft carriers. The review determined that the Navy must have 12 aircraft carriers to meet force structure requirements. With that decision, the DOD validated the need to build the next carrier.

So, the question recurs: When should the carrier be funded? The Appropriations Committee reviewed this matter and determined it would be appropriate to finance the balance of the ship's costs in 1994. There are several budgetary reasons for this. First and foremost, by funding the carrier in 1994 instead of 1995, the Congress can save $200 million—6 percent of the remaining requirement. This is not a trivial sum.

Second, in conducting its review of the budget requirements for DOD the committee was able to identify sufficient funds to pay for the remaining balance in 1994.

With the conclusion of the Bottom-Up Review in August, many changes were made in the financial requirements for DOD programs. In most cases this information was not available to the authorizing committees until their review of program requirements had already been virtually completed. Because we came later in the process, the Senate Appropriations Committee was able to tailor its recommendations to these results.

The Bottom-Up Review also established several basic tenets for future defense requirements. The committee adopted many of the underlying premises of the Bottom-Up Review in making its adjustments. As a result, the committee's recommendations freed up $3.4 billion in budget authority and $170 million in outlays, sufficient funding to cover the costs of the aircraft carrier in 1994. For good and sufficient reasons, the committee chose to allocate these funds to complete—again, underscore complete—the purchase of the CVN-76.

Mr. President, reaching the budget targets in 1994 has not been easy. It should be made clear to all Senators that 1995 will be a more difficult budget year than 1994. The Appropriations Committee will be required to cut $24.7 billion below the CBO baseline in 1995. In addition, DOD has identified a shortfall of $13 billion in achieving its budgetary goals over the next 4 years. Providing $3.4 billion for the carrier in 1994, instead of 1995, helps alleviate these problems. And, as I noted, we also save $200 million in total costs for construction of the carrier.

Mr. President, it has been falsely suggested that the committee cut research and development funds in order to pay for the carrier. That is not correct and those who have made this unfounded charge should know better. The subcommittee reviewed research and development funding requested by the President and reduced the request based on the merit of individual programs. The savings identified helped the committee reach its overall outlay target. Coincidentally, it also freed up

budget authority which could be allocated for the carrier.

In debate on the Senate floor it was said that the outlay impact from this decision to fund the carrier in fiscal year 1994 will exacerbate an assumed outlay shortfall in 1995. This is also incorrect. The outlay impact from financing the carrier in 1994 is $442 million in 1995. Had the committee spent the $3.4 billion on research programs, the outlay impact in 1995 from those programs would have been in excess of $1.15 billion—and the Congress would be faced with the unhappy prospect of providing $3.4 billion in budget authority in 1995 for the carrier. The committee's recommendation will actually lower outlays in 1995 by more than $870 million.

Mr. President, the decision to complete the financing of the CVN-76 in 1994 instead of 1995 makes good business sense. I would not want to be in the position of trying to explain to the American taxpayer that, when the Congress provided $832 million in fiscal year 1993 for advance procurement of items which can only be used in a nuclear carrier, it really had not authorized the new carrier. That does not make any sense to me and would not make any sense to the taxpayers.

I am prepared to explain the decision to complete financing of the carrier in fiscal year 1994. We will find it easier to stay on the path to a declining defense budget, if we finance the $3.4 billion in remaining costs this year. This decision reduces outlays in 1995 compared to spending the funds on research. And, best of all, it saves $200 million in the total cost of the ship. I hope all members now understand the committee's recommendations and support this approach and I urge the conferees on the Defense authorization bill to adopt it as well.

TRIBUTE TO EDWARD O. BUCKBEE, SPACE AND ROCKET CENTER DIRECTOR

Mr. HEFLIN. Mr. President, Edward O. Buckbee, director of the U.S. Space and Rocket Center and Space Camp in Huntsville, AL, will be retiring next March after more than 25 years of service. During his long tenure as its director, Ed has guided the Space and Rocket Center to its present status as Alabama's most popular tourist attraction and as an internationally known center of space education.

Fortunately, Ed will remain as executive director of the U.S. Space Camp Foundation, which oversees spinoffs in Florida, Japan, and Belgium. Agreements have also been signed for Space Camp operations in Canada, scheduled to open in Italy. President Clinton's daughter Chelsea participated in Space Camp at the Huntsville location last summer. Ed will also continue to work on special projects at the center.

Ed has been the center's only director, having been chosen by the late Dr. Wernher von Braun in 1968 to direct the planning and development of the Space Museum. The Space and Rocket Center opened to the public in 1970. Prior to becoming director, Ed was a NASA public relations specialist at Marshall Space Flight Center from 1961 to 1968, serving under von Braun during the Mercury, Gemini, and Apollo programs.

Today, the center houses the world's largest rocket and spacecraft collection and features a full-scale space shuttle exhibit; guided bus tours to the Marshall Center; a $4 million spacedome theater; a $1.5 million motion-based simulator that gives visitors a "journey to Jupiter"; and a $3.6 million space habitat complex for trainees in Space Camp and the more advanced Space Academy.

What is understandably Ed's most proud achievement is the development of Space Camp. He coordinated the program's formation in 1982, and has since seen it graduate over 170,000 trainees. International Space Camp began in 1990 to promote international cooperation in space. This year, people from 22 nations took part in the program. I know firsthand how important the Space Camp is to our overall space program, because, like Ed, I have seen young people come away from the progam truly excited about their futures and all the possibilities space exploration and research holds for them and their country.

It is a pleasure to congratulate and commend Ed Buckbee for all his years of hard work on behalf of the Space and Rocket Center and our space program as a whole. He has played a major role in the growth of Huntsville, AL, into one of NASA's premier national sites for research and training. He has provided long-range vision, limitless energy, and determined leadership that will be hard, if not impossible, to duplicate. I hope that the Space and Rocket Center and Space Camp will continue to enjoy his strong support and wise counsel for many years to come.

TRIBUTE TO MAYOR MAC GRAY

Mr. HEFLIN. Mr. President, former Prattville, AL, Mayor Mac Gray passed away at the age of 87 on September 27. He is widely credited with having skillfully guided this small city just north of Montgomery through an unprecedented period of growth during his 20-year tenure as mayor.

Mac Gray served as Prattville's mayor from 1960 until 1980. During his administration, its population more than doubled. In addition to his service as the city's chief executive officer, Mac served for 11 years on the Prattville Industrial Development Board and also on the Autauga County Board of Education.

A graduate of Marbury School, where he lettered in three sports, Mac was employed in the grocery business before turning to agriculture. In recent years, he was known for his front-yard rose garden bordering Main Street. Every year, he delivered 300 to 400 dozen roses to local nursing homes, churches, and businesses. He never kept any for himself, however, saying that his own bouquet was right in his front yard.

Mac was an avid sports enthusiast. His love for all kinds of sports was with him until the end, as he attended nearly every sporting event in the city. A local park is named in his honor.

I am pleased to commend former Prattville Mayor Mac Gray for all his years of service to his community. He was a true public servant in the very best sense of the term, and will be sorely missed by all those who knew him over the years.

PETER V. GREGERSON'S SPEECH ON AMERICA AND VOLUNTARISM

Mr. HEFLIN. Mr. President, Peter V. Gregerson, Sr., chairman of the board of Gregerson's Foods in Gadsden, AL, spoke to the National Grocers Association Conference last June on the importance of voluntarism to the American spirit. The text of his remarks—some of the most inspirational and patriotic I have read in years—appeared in a recent edition of Vital Speeches of the Day.

Mr. Gregerson's speech is especially timely since it reflects the current administration's emphasis on national service and the renewed commitment to voluntarism taking root all across the America of the 1990's.

I ask unanimous consent that a copy of Mr. Gregerson's excellent speech "We the People: Voluntarism" be printed in the RECORD immediately following my brief statement. I commend its reading to each of my colleagues.

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

WE THE PEOPLE: VOLUNTARISM

(By Peter V. Gregerson, Sr., Chairman of the Board, Gregerson's Foods, Inc.)

I've been looking forward to being with you. It is always a pleasure to be at an NGA meeting and it's a real honor to address the leaders of NGA—you who make this organization so effective in Congress. And today is extra special because so many of my friends are here. Today I want to talk with you about our country, where it's going and what you and I as independent grocers can do about it.

Awhile back on TV I saw a group of young men set fire to the American flag and spit on it. The reporter said they urinated on it. That's one feeling about our country. About the same time, we had a parade in Gadsden. I stood on the curbing beside an old man—weatherbeaten face—worn bib overalls. He stood very straight as the flag passed and I noticed his gnarled hand shook as he put his hand over his heart. I stepped back a half-step and watched him out of the corner of my eye—as tears silently came down his

cheeks. Tears of pride—devotion—love for our country. A different feeling for America.

How do you feel about America?—really feel? About her future? Have we lost something? Have we lost the dream that America can get better and better? Have our young people host hope—lost their enthusiasm? Attitude—enthusiasm—is important. The great Emerson looked back over all human history and said, "Every great movement in the history of the world is the triumph of encouragement. Nothing great was ever accomplished without enthusiasm."

Our founding fathers had enthusiasm! Tom Jefferson, John Adams, and Ben Franklin formed a committee that produced our great seal—on the back of our dollar bill. One Latin phrase is "novus ordo seclorum"—"a new order for the ages!"—that was true enthusiasm from that small group along the coast of a wilderness continent! The other saying (remember the eye in the pyramid?) "ennuit coeptis"—"God looks with favor on our undertaking!" Enthusiasm! God looks with favor on us! America! A new order for ages yet to come!

Well, was their enthusiasm justified? A quick look back might be encouraging. Janet and I flew into Washington—and the world flies—thanks to Boeing and McDonald Douglas and thank you Wilbur and Orville Wright of Iowa and Ohio. Washington was ablaze with lights and energy—the world is electrified. Thank you America—thank you Ben Franklin, from Philadelphia, for your experiments, and from Milam, Ohio, Thomas Edison for your inventions that changed the world. We rode in a car—so does the world—thank you America—thanks to the mass production genius of Henry Ford from Detroit. It had a phone and a TV!—Thank you Alexander Graham Bell of Boston and David Sarnoff of New York. And—the car was air-conditioned!—Thank you America—Thank you Willis Havilland Carrier of New York.

I may need my hip replaced soon. Dan Coburn already has. Tonight he will dance. When our republic was formed—the human life expectancy was 33—90 years ago it was 45—today it's 78! When Social Security started, the life span was 65, now one half of all the people who ever lived to be 65—are alive now! Next month, I'll be in that group. America is the undisputed leader of the world in health technology. Thank you America—from Dan Coburn and all the rest of us.

One last example—from our field—food. A little known fact. Throughout history more people have died of famine and hunger than all the hundreds of millions of people who have ever died of plagues and epidemics and they include all the people who have ever died in wars! If the world owes anything to America—it should say thank you to our farmers, scientists, and distributors. The fact is, we live in a golden age. During Chicago's World Fair of 1893, no one ever even dreamed that humans could live the way you and I are living today! It's a wonderful, exciting time to be alive.

Well, am I saying—let's just sit and smile at our air conditioner and ignore our problems? No, but just don't forget that Americans are achievers and winners! We overcame great problems in the past and we will overcome great problems in the future and we will do it now—today. Just wait and see!

It's important to remember that America's greatness is no accident. Every event—including every event in our history—had a cause. We all know that there are no exceptions to the law of cause and effect.

So what are the causes for America's greatness? Let me tell you of one. One hundred sixty years ago, while America was still being formed and her roots were plain, in contrast to other nations, we were lucky to be visited by an unusually perceptive outsider who analyzed our nation. Today he is widely regarded as the wisest social and political analyst since Aristotle—Alexis de Toqueville. One of his judgments is well known. "America" he said "is great" (not England or France!)—No, America is great—"Because her people are good. When her people are no longer good, America will no longer be great!"

I remembered that when Billy Graham made a TV report after his first visit to the Soviet Union. "How many rubles" he asked—"How many hours—do the Russian people give for the benefit of others who cannot cope?—0—That's how many!"

Now, aside from all our welfare programs, do you know how many dollars individuals—not corporations—but individual Americans—gave last year? 100 billion! The last report also showed 89 million of us spent 4.7 hours a week to benefit others. No other nation even comes close to the "goodness" of America! I think of de Toqueville every time I come to a "grocer's care" banquet and see Bill Reitz and the rest of you honored for your caring—your sharing—your goodness. Do not underestimate yourself. You help make America great!

De Toqueville also identified another important difference. He said that other nations have two sectors—public and private. He said America has a third—"Volunteerism." Something new! But think of associations like NGA and Rotary, the Lions—on and on and the local volunteer committees you serve on—here in your home communities. No other nation of citizens compares.

And now maybe we're even closer to the root cause of America's greatness. Personal goodness—yes—but combined with personal initiative—personal participation—yes, taking personal responsibility for our lives! That's—taking personal responsibility of our own lives.

When these qualities are applied to making a living and business, we use words like entrepreneur—free enterprise—capitalism. The truth is—you independent grocers are quintessential examples of Americans with personal freedom—in vigorous and ethical pursuit of your happiness.

Now, keep personal freedom in mind—and let's look again at the saying—"ennuit coeptis"—"God looks with favor on our undertaking."—God bless America—do you think he does? I was raised in a religion where some privately ridiculed that saying. When I finally extricated myself from that religion, I asked myself if I believed that. The fact is—God's mind is unfathomable but you can learn something about the creator by examining his creation. I'm sure we've all heard about DNA—genes and chromosomes producing variations in humans. Do you happen to know how many different potentialities there are inherent in humans? The number is 23 to the 46th power. Millions of millions of millions. You are unique! It's obvious that God loves variety—differences in humans.

Now suppose you and I were rose breeders and we too loved variety. We wanted all sizes—all shapes—all colors—all fragrances—all different types of rose bushes. Finally, we looked out upon our acres and acres of varied roses. Only one here and there in bloom. What we saw were disappointing, half-developed, shriveled, truncated, poorly formed roses. The environment had prevented their growth to full bloom. That was what had been happening to God's human roses for thousands of years in the political environment of emperors, kings and their various self-serving caste systems.

Only God would know how many mothers and dads have told their ambitious, talented sons and daughters "Don't try—don't go for it. Don't buck the system. Keep your place." Stifled spirit, stagnant progress.

And then!—In 1776—like the bright sun breaking through the black overcast environment came the exciting words "we hold these truths to be self-evident"—that all are created equal—first white men—then women and blacks, a nation of people equal before the law—equal in opportunity! A system that for the first time in the history of the world allowed the child of a poor farmer to stand equally with the son of the rich—as equals before the bar of opportunity. What now counted was an individual's dreams—brains and energy.

America! Freedom! Progress. God's human roses could, at last, fully bloom. Finally, humans could work to develop into whatever they could become. So yes, I believe, as He looks down, He does look with favor on America.

But am I saying that America's problems can be solved with simplistic panaceas? No, I mean to say—only this: The essential principles that caused America's success and greatness are simple and pure and they work. Of course, they must be thoughtfully adapted to an evolving world—through education. Two things I would stress—volunteerism and a new look at the role of education.

It is clear that misguided goodness—compassionately throwing money at government bureaucrats has created a permanent underclass. Instead of encouraging the soaring human spirit, there are feelings of helplessness, envy and hate. Widespread crime and drug abuse spreads. And all of this produces a massive debt that strangles our progress. Goodness must be guided by responsible, participative volunteers—by grocers and others like you who care, and that includes the United Way as well as government programs. The key is volunteerism. Volunteers who are in-touch with the real world. Volunteerism is the special American way and it must be encouraged to shine out in a 1,000 different ways.

Yes and like goodness—even personal freedom can be misguided with tragic consequences. Personal freedom without civility—without education—is savagery. The use and control of personal freedom must be taught by educators and by educated citizen leaders who are moral, ethical, and especially, practical.

All human history proves that civility and civilization must be learned. So surely our system and its responsibilities as well as its opportunities too must be learned and therefore—these things must be taught! Education is part of our problem. A serious problem—but it too is solvable. Personal freedom is not enough alone—goodness and knowledge are not enough—taking personal responsibility and initiative is also needed and that too must be taught.

This truth remains. You and I—every one of us in this room—was created with many different potentialities—with a view to each of us—as individuals—to work, to develop and become whatever we can become.

That is the purpose of life on this planet.
That is the purpose of muscles and brains.
That is the purpose of freedom.
That is the purpose of education.
That is the purpose of the United States of America—to bring it all together—for human development and human happiness.

Is this too great a challenge for America? Are the problems too great? Of course not—look again at how far we have come. Only 200 short years ago (three life-spans of 70 years) real, personal freedom so that every person could pursue individual happiness was only a dream in the hearts of a few men over here in Philadelphia. Today over 2.5 billion people, half of the world's population—are free! Thank you America!

And soon, when China's government falls or changes—3 out of every 4 humans alive will be free! And never forget—no democracy has ever made war against another democracy! Think of what that means for the use of our assets and for the future of our children and our grandchildren.

So let us not be discouraged. It helps me to remind myself of two things. Number 1, I remember that in our war for independence, one third of our population were active tories—supporting the other side! One third were not involved, they couldn't seem to figure out what it was all about, only one third were patriots who cared—and yet—we won! We don't need everyone—there will be the flag burners but we will make it as long as we have people with tears of pride when the flag passes.

And #2 is the key—this government is ours. "We the people"—we own it lock, stock and barrel. This is our government and we can make it better! Do not be intimidated by our huge marble buildings. We do not exist to be servants of this government. This government exists to be our servant—in the pursuit of happiness.

So let each of us renew our love and enthusiasm for America and her future. We must not let the dream die. We must not let the dream die in the hearts of our children. In a word—NGA grocers who care—let you and I be ashamed to die until we have worked to make America a little better than we found her.

So let's go forward together—as volunteer leaders in NGA and in our home communities—confident in the rightness of our cause—with enthusiasm and with goodness—in the sure knowledge that He has looked down with favor on our undertaking.

RECOGNITION OF JAMES H. WHITE, DEVELOPER OF VOTING MACHINE FOR THE BLIND

Mr. HEFLIN. Mr. President, I am proud to recognize and commend Mr. James H. White, a long-time resident of Talladega, AL, and an employee of the Alabama Institute for the Deaf and Blind, located in Talladega. James has long been involved in projects that seek to help and assist our visually impaired citizens, and about 20 years ago, he developed a voting machine for the blind.

As the home of the Alabama Institute for the Deaf and Blind, Talladega has probably the largest number of visually and hearing impaired as well as multihandicapped individuals per capita of any city in the United States. James White, a vital part of this special community, has been involved in many civic activities and local organizations, including the Lions Club.

In 1974, James developed a voting machine that would permit a totally blind person to cast a vote without the assistance of a sighted person. This was the first time in history that a totally blind person was able to exercise his or her right to vote without assitance, thus preserving what the rest of us take for granted: the cherished tradition of secret ballot voting.

According to Talladega Mayor Larry Barton, his city is the only one where Braille voting machines are available. Mayor Barton also tells me that James has never sought or accepted any compensation or reimbursement for expenses he has incurred for all of this work and time over the years. His only motive appears to be genuine concern for others, an almost unheard of commodity today.

Unfortunately, the machines were not in operation during last year's elections, since James was unable for the first time since 1974 to get the necessary supplies for the machines. I ask unanimous consent that a newspaper article describing the problems in 1992 and summarizing James' life and career be printed in the RECORD immediately following my remarks.

Again, I congratulate and commend James White for all the time and energy he has devoted over the years to making life a little easier for those who are visually impaired or handicapped in some other way. I look forward to working with him under the auspices of the Americans With Disabilities Act to adopt his procedure nationwide.

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

BLIND IN TALLADEGA VOTE UNASSISTED—BUT NOT THIS TIME

(By Juanita McDonald)

The 1992 elections are the first elections in 18 years in which blind voters in Talladega were unable to cast their ballots without assistance from a sighted person, according to James H. White.

"And that's only because I couldn't get the supplies I need to set up voting machines with Braille," White said.

In 1974, White devised a system for labeling automated voting machines in Braille so that the blind could read the offices up for election and candidates' names. He also printed in Braille special instructions for using the voting machine.

This enabled the blind to enter a voting booth alone and vote.

"Until then, no one had ever made any attempt to make it possible for a totally blind person to cast his ballot unassisted," White said.

White understands the problems of the blind because he is legally blind himself. And, he is employed in the library at the Alabama School for the Blind.

He developed a means of labeling voting machines in Braille because he feels strong that "everybody should have the opportunity to vote, and vote their way."

"A blind person can take a sighted person into the voting booth and tell them who they want to vote for, but can you always trust that person to vote the way you tell them to?" he asked.

When the time came to test the system in an election, White said he was told by local election officials that it was illegal to tamper with a voting machine.

White wouldn't give up on the idea. He felt it was especially important to have Braille machines in Talladega.

With the Alabama School for the Deaf and Blind and Alabama Industries for the Blind located here, the city has the second largest population of blind in the nation.

"I had to go all the way to the governor's office to get permission," he said.

It was such a innovative idea that it received nationwide news coverage, White said. News teams from all three major national television networks came to Talladega to film totally blind people voting unassisted for the first time in history.

"Talladega is the only place in the world where this is possible," White said.

Until this year, he has prepared at least one machine at each polling place in Talladega for blind voters. Use of these machines is not restricted to the blind. Voting instructions and ballot information for sighted voters is not obscured, so anyone can use the machines.

White buys supplies needed to prepare the machines out of his own pocket. He said city and county officials say they cannot pay for the materials "because they are not a required part of the election process."

Sometimes the supplies are hard to get. They also are expensive, he said.

"This year I couldn't get the supplies for the machines, but I did put out a sample ballot printed in Braille," White said.

Over the years, White has invested a lot of his own money as well as a lot of his time in helping the blind to vote independently.

"It's very time consuming. It all has to be done by hand," he said.

The amount of time involved depends upon the number of offices, names and amendments on the ballot. White said it would have taken two to three hours to prepare one machine for the Nov. 3 election.

Now that Congress has implemented the Americans With Disabilities Act, White is hoping to interest lawmakers in adopting his procedure nationally.

White expends his own time and energy in other ways to help the blind. He is a member and past president of the Talladega Lions Club, which help support the Alabama Eye Foundation and provides a number of local services to the blind.

His wife, Lila, is a teacher at the Helen Keller School for the multihandicapped. The couple have one child, a 15-year-old son, Joey.

TRIBUTE TO THE 2D BATTALION, NASHVILLE, AR

Mr. PRYOR. Mr. President, I rise today to recognize the 2d Battalion of the 95th Training Support Brigade, located in Nashville, AR. The 2d Battalion recently received the U.S. Army Reserve Outstanding Large Unit Award for 1992–93.

Mr. President, while the Army certainly has its own terminology for these types of honors, this award essentially identifies the 2d Battalion as the best trained, most professional large reserve unit in the U.S. Army. In addition, it recognizes the personnel of this battalion for their exemplary record of community involvement, including local parades and school events.

Competition for this award, Mr. President, is very intense. Nominated

battalions are required to pass muster at several levels, culminating with a final review by the Commanding General, U.S. Forces Command, at Fort McPherson, GA.

Mr. President, we are entering a period in our Nation's history when we will increasingly rely on the professionalism and readiness of our reserve forces. It is certainly a pleasure for me to note that some of our finest reserves are stationed in Nashville, Arkansas. The goal of the 95th Division, of which the 2d Battalion is a part, is to train to standard. During the past year, the 153 soldiers of the 2d Battalion met and surpassed this goal.

Mr. President, I know my colleagues join me in thanking the 2d Battalion for its service to this Nation, and congratulating it at a time of such distinctive achievement.

STATEMENT ON TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL CONFERENCE REPORT

Mr. SASSER. Mr. President, the Senate Budget Committee has examined the conference report on H.R. 2750, the Transportation and related agencies appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $151 million and under its 602(b) outlay allocation by $150 million.

I compliment the distinguished manager of the bill, Senator LAUTENBERG, and the distinguished ranking member of the subcommittee, Senator D'AMATO, for their time and effort.

Mr. President, I have a table from the Budget Committee showing the official scoring of the conference report and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 2750—TRANSPORTATION APPROPRIATIONS—CONFERENCE

(In millions of dollars)

Bill summary	Budget Authority	Outlays
Discretionary totals:		
New spending in bill	13,283	12,105
Outlays from prior years appropriations		22,773
Permanent/advance appropriations		
Supplementals		11
Subtotal, discretionary spending	13,283	34,889
Mandatory totals	589	592
Bill total	13,872	35,481
Senate 602(b) allocation	14,023	35,631
Difference	−151	−150
Discretionary totals above (+) or below (-):		
President's request	−371	−267
House-passed bill	519	249
Senate-reported bill	−151	−146
Senate-passed bill	−151	−128

NOMINATION OF JANET NAPOLITANO

Mr. LOTT. Mr. President, pending on the Executive Calendar is the nomination of Janet Napolitano to be the U.S. attorney for Arizona. This nomination is particularly controversial because of her refusal to answer the questions put to her by the Judiciary Committee. She has exerted a claim of attorney-client privilege regarding her representation of Anita Hill during Justice Clarence Thomas' confirmation hearings.

The questions raised both by her claim to attorney-client privilege and by the Senate's constitutional duty to advise and consent on nominations are examined in a series of papers by Tom Jipping, Legal Affairs Analyst, of Coalitions for America.

I ask unanimous consent that the first of these reviewing the factual background of her involvement and her claim to attorney-client privilege be placed in the RECORD at this point.

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

JANET NAPOLITANO

At the insistence of Senator Dennis DeConcini (D-AZ), President Clinton nominated Janet Napolitano, Antia Hill's counsel during her 1991 attack against Clarence Thomas, to be U.S. Attorney for Arizona. Yesterday, the Senate Judiciary Committee voted 12-6 to approve her nomination but last night the full Senate delayed taking any action.[1]

Napolitano is asserting a version of the attorney-client privilege to avoid answering any questions about her involvement with Susan Hoerchner, the principle witness supposedly corroborating Hill's charge of sexual harassment against Thomas. Her claim of privilege is legally insupportable and she should be required to answer any and all questions about her activity in the Hill-Thomas matter. If she insists on maintaining her assertion of privilege, President Clinton should withdraw her nomination as Presidents Reagan and Bush regularly did when this kind of cloud hung over a nominee to serve in an important Department of Justice post.

I. FACTUAL BACKGROUND

Janet Napolitano was Anita Hill's counsel. For reasons that remain unclear, she was permitted to accompany Susan Hoerchner to an interview on October 10, 1991, with Senate Judiciary Committee staff. This proceeding was not a formal deposition and Hoerchner was not sworn. Her statements, however, were covered by the False Statements Act, which prohibits any false statement "in any matter within the jurisdiction of any department or agency of the United States."[2] Congress has been held to be such a department or agency.[3]

During that interview, Judiciary Committee staffers asked Hoerchner about when Hill supposedly told her that she was being harassed. The exchange went as follows:

Q. And, in an attempt to try to pin down the date a little bit more specifically as to your first phone conversation about the sexual harassment issue in 1981, the year you mentioned, you said the first time you moved out of Washington was September of 1981; is that correct?

A. Right.

Q. Okay. Were you living in Washington at the time you two had this phone conversation?

A. Yes.

Q. When she told you?

A. Yes.

Q. So it was prior to September of 1981?

A. Oh, I see what you're saying.

Napolitano Requests Break, Confers With Hoerchner

Q. When you had the initial phone conversation with Anita Hill and she spoke for the first time about sexual harassment, do you recall where you were living—what city?

A. I don't know for sure.

Since Anita Hill first went to work for Clarence Thomas at the Department of Education in September of 1981 and testified that the alleged harassment did not occur until December 1981, the problem raised by Hoerchner's testimony is obvious. If Hoerchner told the truth in this staff interview, Hill told her of harassment that occurred before Hill worked for Thomas. Even if Hoerchner fudged the date a little, Hill's supposed confession to Hoerchner about harassment occurred before the harassment itself allegedly took place. It is no wonder that Napolitano called for a break when she did.

The question on everyone's mind is what Napolitano told Hoerchner during this break. Since a false statement by Hoerchner during this interview would violate the False Statements Act and constitute a felony, any suggestion by Napolitano that Hoerchner change her testimony would constitute subornation of perjury, a felony as well, and would certainly disqualify her from holding a position such as U.S. Attorney. It might also subject her to criminal indictment. Columnist William Cheshire wrote in the *Arizona Republic* that "if * * * she coached Judge Hoerchner to change her testimony so that it would mesh with Anita Hill's, then she is guilty of serious ethical infractions and is demonstrably unfit for the job to which she has been nominated."[4]

Napolitano responded to Cheshire's column to say "[w]ithout revealing the contents of my conversation with Hoerchner, which is protected by the attorney-client privilege," that Hoerchner "could not remember the actual date of the phone call."[5] Columnist Keven Willey came to Napolitano's defense but gave the same excuse, that Hoerchner "was unsure of the precise date of the" phone call.[6] The only problem is that Hoerchner was never asked to remember the "actual" or "precise" date of the phone call. Rather, she was asked to place that call before or after September 1981—the month that Hoerchner moved from Washington, D.C., to California.

Napolitano attempted to dispute Cheshire's suggestion by stating that "the actual transcript of the interview demonstrates that I could not have done what * * * Cheshire say[s]." Going to that transcript, however, shows just the opposite. Napolitano claims, for example, that "when we came back on the record, Hoerchner was not even talking about the date of the phone call." The portion of the transcript above shows that Napolitano's statement is patently false.

Keven Willey's column makes clear that the writer received substantial coaching and assistance from Napolitano herself, including access to the actual transcript of the Judiciary Committee staff interview. The question this obviously begs is why Napolitano can schmooze with the press about such things, but asserts a privilege against discussing the matter with the United States Senate.

II. THE ATTORNEY-CLIENT PRIVILEGE

Senators Strom Thurmond (R-SC) and Alan Simpson (R-WY) asked Napolitano

Footnotes at end of article.

about all of this in written questions. Napolitano responded that "I am precluded by the attorney-client privilege from relating the conversation with Judge Hoerchner about which the questions inquire." She admitted that those present at the interview in question were "Judge Hoerchner, the witness; Ron Allen, her attorney; and I as Prof. Hill's attorney." Thus, she is not claiming—nor can she claim—that she was Susan Hoerchner's attorney or was acting in that capacity during the Judiciary Committee staff interview on October 10, 1991.

Rather, Napolitano is asserting a version of the attorney-client privilege known as the pooled information privilege. She cites the American Law Institute's *Restatement of the Law Governing Lawyers* §126, which states that if "two or more clients represented by separate lawyers share a common interest in a matter, the communications of each separately represented client" are privileged. She also cites Uniform Rule of Evidence 502(b)(3) which protects confidential communications by a client "or his representative or his lawyer or a representative of the lawyer to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein."

A. When does the privilege apply?

The Hill-Thomas matter was not litigation. Indeed, Senate Judiciary Committee Chairman Joseph Biden (D-DE) emphasized throughout the special hearing convened to review Hill's charges against Thomas that it was not a court of law, that the normal rules of evidence did not apply, that counsel would not be involved in the exchange between the witnesses and the committee, etc.

The Judiciary Committee staff interviews were not formal depositions and witnesses were not sworn. The fact that the False Statements Act applied did not turn that interview into any kind of legal proceeding. Quite the contrary, the False Statements Act is an important safeguard precisely because that interview was not a legal proceeding and Congress retains an interest in nevertheless ensuring that statements would be truthful.

The obvious fact that the Hill-Thomas matter did not occur in the context of litigation is extremely important because it calls into question whether the attorney-client privilege asserted by Napolitano is well-founded. One of her own cited authorities, the Uniform Rules of Evidence, limits application of the pooled information privilege to "a pending action," an obvious reference to litigation. Napolitano also cited an evidence treatise for support, but that very authority admits that "'[n]o American case had allowed a [pooled information] privilege . . . in a situation totally unrelated to litigation.'"[7] The Hill-Thomas matter was manifestly "totally unrelated to litigation" and Napolitano has not even attempted to argue why the privilege should nonetheless apply to her.

B. What does the privilege protect?

1. Attorney-to-Client Communication

Napolitano asserts this pooled information privilege to avoid revealing what she said to Hoerchner. the Uniform Rules of Evidence, which Napolitano cited as authority, makes clear that the privilege protects communications to a lawyer, not communications from a lawyer. Even if Napolitano represented Hoerchner, the privilege would protect Napolitano's communication to Hoerchner only to the extent that revealing that communication would reveal the substance of Hoerchner's communication to Napolitano. Napolitano's unsolicited communication to Hoerchner does not fit in this category. If, then, Napolitano could not hide behind the attorney-client privilege had she directly represented Hoerchner, she certainly cannot assert the indirect pooled information privilege, as she is now trying to do.

2. Communication for Legitimate Purposes

The pooled information privilege does not apply outside the litigation context; therefore, it does not apply to the Judiciary Committee staff interview with Hoerchner on October 10, 1991. Even if it does, it does not apply to communications from Napolitano to Hoerchner that would not reveal the substance of Hoerchner's communication to Napolitano. Even if it does, as Napolitano's own authorities states, it "protects pooling arrangements only for legitimate purposes."[8] The Restatement states further:

If the purpose of the participating members of the pool is to further future crimes or frauds, for example to present perjured testimony or other false evidence, the illegal-act exception to the privilege removes its protection entirely.[9]

If Napolitano advised Hoerchner to change or alter her statements in the Judiciary Committee staff interview or to the Committee itself, it would remove entirely any protection the privilege might otherwise be argued to offer. Whether this kind of communication occurred is the whole point of questioning Napolitano about this matter. She cannot claim protection from revealing whether she encouraged Hoerchner to violate the False Statements Act by asserting a privilege that does not apply if she did just that.

III. CONCLUSION

Janet Napolitano does not have a legal basis for refusing to answer questions about her involvement in the Hill-Thomas matter. The attorney-client privilege she asserts does not apply outside of litigation and, for two separate reasons, it does not protect the relevant communications from Napolitano to Susan Hoerchner. If she refuses to answer those questions, the Senate should vote against her nomination.

Even if this privilege did apply, President Clinton should follow the example of his predecessors and withdraw the nomination. The American people, and their representatives in the Senate, need nominees whose qualifications and record can be thoroughly and openly evaluated, not those who intentionally try to hide significant and highly relevant portions of that record from public scrutiny.

FOOTNOTES

[1] Associated Press, "Senate Stalls on Anita Hill's Lawyer," Washington Times, October 1, 1993, at A10.

[2] 18 U.S.C. §1001.

[3] United States v. Poindexter, 951 F.2d 369, 386–88 (D.C. Cir. 1991).

[4] Cheshire, "Napolitano Gap' Raises Questions About U.S. Attorney Nominee," The Arizona Republic, September 16, 1993, at A16.

[5] "Napolitano: Transcript Shows Cheshire, Author Wrong," The Arizona Republic, September 17, 1993.

[6] Willey, "Book Miscasts Napolitano Role in Anita Hill Hearings," The Arizona Republic, September 19, 1993, at B2.

[7] 2 J. Weinstein, Evidence, §503(b)[06], at 503–99, quoting Comment, "The Attorney-Client Privilege in Multi-Party Situations," 8 Columbia Journal of Law & Social Problems 179, 187 (1972).

[8] Restatement of the Law Governing Lawyers §126, comment b.

[9] Id. (emphasis added).

TREASURY, POSTAL SERVICE APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

Mr. METZENBAUM. Mr. President, I am pleased that, with respect to the Treasury appropriations conference report, we have been able to reach an accommodation on the issue of funding General Services Administration projects which have not been properly authorized.

We have preserved the authority and jurisdiction of the Senate Environment and Public Works Committee to scrutinize, review, and act upon Federal office and courthouse projects before funds for such projects are obligated.

My friend and colleague, Senator BAUCUS, who chairs the Environment Committee, deserves much credit for helping to bring about this agreement between the authorizing and appropriating committees in both the House and Senate.

This is an important matter.

We have now taken steps to ensure that multimillion-dollar Federal real estate projects receive the full and thorough review they deserve. Under the agreement, either the House or Senate Public Works Committees with jurisdiction over public buildings will be able to stop unworthy or wasteful projects from moving forward.

This is how it should be. Taxpayers will be well-served by this effort.

The Treasury appropriations conference report funds 31 new construction projects, many of them courthouses, to the tune of close to $1 billion.

That is a tremendous amount of money. Yet many of the projects in the appropriations measure have not been fully examined or authorized by the Senate Environment and Public Works Committee as required under the Public Buildings Act of 1959.

The appropriations measure, as originally crafted, could have obligated funds for projects without the authorizing committee's OK. In fact, as originally crafted, the appropriations measure would have ensured that many projects contained in the bill moved forward even if the authorizing committee expressly voted to stop them.

Mr. President, that was completely unacceptable to this Senator and many of my colleagues.

Many of these GSA projects may have merit. They may be cost effective. And those that are deserve prompt Senate authorization. But some of the projects funded in the appropriations measure may be less than wonderful. Some may include gold-plating and wasteful add-ons. Whatever the case, every single project deserves careful scrutiny to ensure that tax dollars are being well spent.

The Treasury conference report would have effectively precluded the Senate Public Works Committee from examining these projects in any meaningful way.

No matter how bad or wasteful a Federal real estate project was determined to be by the Senate Public Works Committee, funding would have gone forward after February 1 unless the House Public Works Committee also agreed to kill it.

That was extremely ill-advised. It contradicted the administration's efforts to reinvent Government and the General Services Administration's current suspension and review of all new Federal construction and lease projects to cut costs.

The House Public Works Committee, having already authorized many of the projects contained in the Treasury bill, has worked its will. That is their prerogative.

But the Senate Authorizing Committee ought to be able to work its will with respect to these projects. No more. No less.

Thankfully, we have now been able to reach an agreement to ensure that Senate authorizing decisions on these projects have the same weight as those decisions reached by the House Authorizing Committee. We have now ensured that the Senate Authorizing Committee will have the opportunity to utilize GSA's own review of these projects. And we have now been able to ensure that public building projects receive proper authorization before funds are obligated.

I'm delighted that we could work this out. I thank my colleagues for their cooperation.

NATIONAL PARK SERVICE LOSES DEDICATED RANGER

Mr. PELL. Mr. President, I rise to share with my colleagues the sad news that Lawrence A. Nash, the superintendent of Roger Williams National Memorial in Providence, RI is retiring after a 24-year career.

I had the honor of sponsoring the legislation in 1965, earlier introduced by my predecessor, Theodore Francis Green, that authorized the creation of this national memorial to honor Roger Williams, the founder of Rhode Island, for his life's work to develop the principles of freedom.

For more than 12½ years, Larry has worked to fulfill the direction of Congress to create this memorial on 4½ acres in downtown Providence. He has succeeded, but only by refusing to take no for an answer.

In December 1974, 9 years after the memorial was authorized, the Parks Service purchased the land for the memorial—including the site of the fresh water spring that brought Williams to establish his settlement in Providence.

With shrinking budgets and increasing apathy on the part of the Park Service toward the development of the Memorial, the land lay fallow. It took a special appropriation, which I sponsored, to assure that construction would take place.

The first superintendent, Roy Weaver, waited 5 years for the development before he left in 1980. He did an excellent job and that tradition of excellence was carried on by Larry Nash.

Larry accepted the position of superintendent in January 1981 and moved to Rhode Island in March to take on the task for turning the vacant lot into the national memorial that was envisioned by Congress almost 20 years before.

With funding that covered only half of the total estimated cost of construction, Larry set about the task at hand. He planned carefully and arranged for construction to be done in phases, as additional funds became available.

I had the honor of turning the first shovel full of earth in July 1981, as the project finally got underway. Phase 1 was completed in November 1981, and included the landscaping, walks and part of the planned plantings.

At that point, it looked like the project would continue on indefinite hiatus, although only half completed. We had to make sure that funds, held back by the Park Service, were release and used for construction of Phase 2.

That second half of the construction began in April 1983 and, when completed late in the spring, the national memorial that we had envisioned finally was a reality.

Larry was invaluable, throughout these critical stages, in providing careful planning, reliable guidance and sound leadership He used those same qualities to make the most of the scant resources provided for maintenance and operation.

Today the Roger Williams National Memorial stands as an appropriate tribute to the man whose life was devoted to the principles of freedom that now govern our own lives.

Larry Nash is one of the individuals who made that tribute possible and we all owe him a debt of gratitude for a job well done.

FEDERAL ACQUISITION STREAMLINING ACT 1993—S. 1587

Mr. ROTH. Mr. President, today the chairman of the Governmental Affairs Committee and other Senators are introducing a Federal procurement reform bill that, until this past weekend, I had intended to consponsor. After having worked on this bill for 8 months, I thought we had the bipartisan support needed to achieve significant savings. But, the savings were whittled down over the past couple weeks, and I can no longer support this bill. While today's White House ceremony indicated that the President and others may be satisfied, I am very disappointed in the current version of the Federal Acquisition Streamlining Act of 1993.

Mr. President, today's Federal buying system is not in good condition. Multi-billion-dollar cost overruns; programs that are years or even a decade behind schedule; incentives that encourage spending rather than savings; and top-heavy bureaucratic agencies that rely on detailed regulations rather than good judgment; these are the features that come to mind when one thinks of the Federal Government's buying system. And rightly so, since the network news magazines reveal a new horror story at least once a week. The GAO's 1993 High Risk Series Reports noted that the Federal buying system itself perpetuates fraud, waste, and abuse.

According to the Congressional Budget Office, in fiscal year 1994, the Federal Government will buy about $450 billion of goods and services. At this level of spending, even small improvements can yield significant savings. The National Performance Review identified potential savings of $22.5 billion, 5 percent of the annual expenditure. The recent Defense Science Board Task Force on Acquisition Reform identified $20 billion in potential annual savings for just the Defense Department. But, the bill being introduced today takes only a baby step forward toward solving the problems needed to achieve such savings.

Mr. President, the Federal Acquisition Streamlining Act of 1993 follows 8 months of bipartisan work by the staffs of the Governmental Affairs, Armed Services, and Small Business Committees. I was glad to join with my colleagues in this effort. I want to highlight to the Senate that this was a very impressive bipartisan effort, and until several days ago, I was extremely pleased at the environment for reform. But, I cannot support a bill that may not even save one-tenth of 1 percent in annual procurement spending.

Mr. President, Congress must be courageous if it is to reform the Federal buying system. As we have come closer to Halloween the trick-or-treaters have come out in full force—special interests are getting their treats, but the taxpayers are getting tricked. Over the past month, partisan activities have been forcing us backward. For example, the bill was supposed to raise the small purchase threshold to $100,000 from the current $25,000. This would enable Government purchasers to use streamlined procedures to make small purchases. The Vice President and others forecasted that this would result in significant savings in time, staff, and money.

Yesterday, it became clear that partisan interests were putting this bill on the path away from reform. I was informed that the administration would no longer support the Senate bill's provision to raise the threshold for the Davis-Bacon Act to $100,000, even though the National Performance Review called on Congress to do so. This is one of several changes that partisan interests have made in the bill. Mr.

President, now is not the time to back away from the recommendations of the National Performance Review.

I have worked for more than a decade to reform the Government's buying system, and over the years my conclusion has not changed: Without major cultural and structural reform, Americans won't get the results they deserve. Cost and schedule overruns will continue, and the Government will pay more than it should for goods and services.

We need to get back on the pathway to reform. As a minimum, reforms should achieve the NPR savings goal of $22.5 billion, but I think reforms can go much farther. For a procurement reform bill to have an such an impact it must incorporate several key features: First, top level program goals against which performance can be measured; second, streamlined acquisition procedures, where program managers are given the authority and accountability for achieving results; third, a mission-oriented management structure, where staff jobs are eliminated if they do not add value and the users of the equipment determine whether an item should be bought; fourth, an incentive structure based on results, where pay and other incentives for program staff depend on documented achievement of program goals; fifth, an efficient contracting process that increases competition and speeds the time it takes to issue a contract; and sixth, paying contractors on the basis of performance, which I call performance-based contract management.

Later this week, I will introduce a bill to accomplish this for the Defense Department's buying system. And, quite frankly, I think such comprehensive reforms need to be applied across the Federal buying system if we are to fix its chronic problems.

While the bill being introduced by my colleagues contains some of my proposals, I intend to push during the legislative process to incorporate more comprehensive reforms before it comes before the full Senate. I look forward to working with Senators COHEN, THURMOND, SMITH, and GLENN, who have expressed an interest in comprehensive reforms, as well as our other colleagues on the Governmental Affairs Committee and the Armed Services Committee. I am hopeful that we can regain the bipartisan approach that is needed to make major savings in the Federal buying system.

A TRIBUTE TO ALBERT M. PINA

Mr. DECONCINI. Mr. President, today I rise to recognize an Arizona lawman who recently passed away. Albert M. Pina was born in Phoenix and served as a lawman for 62 years.

In all those years, Albert worked as a deputy sheriff and investigator for the Maricopa County Sheriff's Department from 1933 to 1953; deputy sheriff, chief deputy, and constable for Pinal County from 1953 to 1957; deputy sheriff for Pima County from 1957 to 1966; deputy sheriff and detention officer for Arizona State Prison from 1966 to 1969; jailer and deputy sheriff for Pima County until he retired; and reserve deputy for Pima County from 1981 to 1992.

In addition to his longtime involvement with law enforcement, Albert was also an actor and songwriter who had roles in the movie "The Three Amigos" and TV's "The High Chaparral." Albert also appeared in 163 movies under the stage name of Johnny Ray Anthony. He wrote more than 150 songs, which were sold in Mexico.

I express my sincerest condolences to his 33 children, 265 grandchildren and 96 great-grandchildren. The community has lost an outstanding law enforcement officer and a valued citizen with the death of Albert M. Pina.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,411,590,498,137.31 as of the close of business yesterday, October 25. Averaged out, every man, woman and child in America owes a part of this massive debt, and that per capita share is $17,175.14.

CAPT. JOHN B. MONTGOMERY, U.S. NAVY

Mr. COHEN. Mr. President, one of the pleasures of serving in this great body is the opportunity to publicly acknowledge some of the outstanding citizens of our Nation.

Mr. President, I rise today to recognize Capt. John B. Montgomery for his distinguished service. Capt. Montgomery is leaving the Navy, Office of Legislative Affairs, where he has serves as the director of legislation. As director of legislation he has been the primary liaison point between the Navy and the Congress on legislative initiatives. In this regard he has provided exemplary service not only to the Navy but also to the Congress. I am proud to say that prior to assuming the position of director of legislation, Captain Montgomery did exemplary work in my office as a congressional fellow. I am also pleased to state that, although his service as the director of legislation will be lost, he is assuming duties as the executive assistant to the general counsel of the Navy, where his contribution to the Navy and the Nation will continue.

Captain Montgomery is a graduate of the U.S. Naval Academy and the University of Missouri school of law. Following his graduation from law school, Captain Montgomery briefly served as an instructor of leadership and military law at the University of Missouri. Upon completion of naval justice school, he reported for duty in March, 1974 at the naval legal service office, Norfolk VA. There he served in successive billets as a trial counsel, defense counsel, and senior claims attorney. From December 1976 to July 1979, Captain Montgomery served as a court-martial trial judge in the tidewater circuit. Captain Montgomery next served as the international law attorney, NLSO, Subic Bay, and as a station judge advocate, naval air station, Cubi Point, both in the Philippines.

Following his overseas duty assignments, Captain Montgomery attended Georgetown University law center where he earned a master of laws (labor law) degree in 1982. After graduation he served as the head, labor and employment law branch, civil affairs division, of the office of the judge advocate general. Next he was assigned as assistant counsel to the assistant deputy chief of naval operations (civilian personnel/equal employment opportunity), and from 1986 to 1987 as deputy counsel to the director, Navy office of civilian personnel management.

In August 1987 Captain Montgomery was assigned as staff judge advocate to commander tactical wings Atlantic, naval air station, Oceana, VA. It was following this assignment that Captain Montgomery reported to the office of legislative affairs.

The Navy and Congress have greatly benefited by Captain Montgomery's dedication and leadership during his assignment as director of legislation. It is a true pleasure to take a moment to recognize an individual who has served the United States well, and who will continue to serve his country. I wish him the very best in all his future endeavors.

INTRODUCTION OF PROCUREMENT REFORM

Mr. COHEN. Mr. President, I was hoping to join several of my colleagues from both sides of the aisle today to introduce legislation that would propose needed meaningful reform to the way the Federal Government buys goods and services. However, because of last minute changes to the legislation that will, in my opinion, significantly reduce the cost savings and overall effectiveness of this reform, I am withholding my support with the intent of working with other Senators to fashion an alternative proposal.

Over the past several decades, Congress has witnessed the growing level of frustration as businesses and procurement officials attempt to navigate through the maze of excessive red tape and Government procurement regulations. Excessive red tape and cumbersome paperwork requirements have had a chilling effect on the participation of vendors in the Federal procurement process. Clearly, this chilling effect has reduced competition and resulted in higher cost to the taxpayers.

In addition, the inability of Federal procurement officials to buy commercially available products has resulted in frustration as they are required to buy essentially the same goods from approved Government surplus they see available to the general public for significantly less.

The changes included in any procurement reform legislation must streamline and reform existing law in such a way as to make it easier for businesses to compete for Government business and make it easier for Government contracting officers to award contracts based on best value to the Government. Serious procurement reform must also ensure that the Government no longer mandates foolish requirements for commercially available items. Several years ago procurement reform which I proposed succeeded in eliminating such money-wasting regulations as the 8-page specifications for Army cookies. The legislation must also eliminate excessive civilian agency specifications such as those for common ash trays.

To accomplish these goals, I joined a bipartisan group of Senators from the Armed Services and Governmental Affairs Committees some 8 months ago to develop a reform package that was acceptable to Members from both sides of the aisle. A few weeks ago, the group finished its work on a consensus bill which, while not perfect, was agreeable to all of the members of the working group and was to be introduced sometime this month. However, during the last few weeks, the legislation was changed during closed door meetings between the administration and the Democratic members of the working group. These changes were made despite assurances to the Republicans that the meetings with the administration were not for purposes of negotiation.

Although I am troubled by the exclusion of Republicans from the process, I found the results of the meetings even more disturbing. Because the working group saw a need to eliminate unnecessary paperwork from the procurement process, the draft legislation would have significantly reduced the paperwork burden by exempting small dollar purchases from virtually all reporting requirements. It is important to note that these substantive changes were not only included in the working group's draft legislation, but were also key recommendations of the Vice President's National Performance Review. The move to eliminate these exemptions effectively eliminates the paper reduction benefits that were contained in the working group's draft.

Another example of a meaningful provision recommended by the working group and by the National Performance Review yet excluded from the administration's procurement legislation is a proposal to increase the Davis-Bacon threshold for Federal construction projects. When the working group was developing its draft legislation, I agreed, as a compromise to some members, to limit the increase in the threshold to $100,000 with the understanding that I would propose a larger increase or an outright repeal in committee. Yesterday, I discovered that as a result of the closed door meetings, the administration's so-called procurement reform legislation would not include any increase in the Davis-Bacon threshold.

There are other weaknesses with the administration's bill. For example, there is little offered in the way of improvements to contract administration. I believe significant savings could be realized if we reward contractors and managers for good performance and punish them for poor performance. For this reason I joined with Senator ROTH when he offered an amendment to the 1994 Department of Defense authorization bill which provided that progress payments to contractors be based on program cost, schedule and performance. This change, which was accepted by the Senate, represents a fundamental rethinking of contract administration and creates the incentives for ensuring significant changes. I believe that meaningful changes to Government-wide procurement must contain these cost-saving performance-based reforms.

In sum, it is my belief, and one which I am sure is shared by many of those who were a part of this working group, that much of the meaningful reform, paperwork reduction and taxpayer savings that was originally included in our bill has been stripped away by the administration, and the bipartisan effort has been cast aside.

The one-party, closed-door negotiating sessions has resulted in a bill which I and other members of the working group cannot support. Consequently, I intend to work with other Senators from the bipartisan procurement reform effort and introduce an alternative package that unlike the administration's bill will accomplish the cost saving, paperwork reduction procurement reform that is so urgently needed.

PROCUREMENT REFORM

Mr. LAUTENBERG. Mr. President, Senator GLENN and his colleagues have made a real contribution today in introducing legislation to reform the Federal procurement system. As chairman of the Superfund Subcommittee, I have introduced legislation affecting EPA's practices. Reform of procurement systems can stop the waste of billions of taxpayer dollars lost in the Government contracting process. Under Presidents Reagan and Bush, the taxpayers footed the bill for rampant waste at the Environmental Protection Agency. While Administrator Browner has pledged to reform EPA's practices, legislative corrections are in order to give her the tools she needs to get the job done.

In successive years since 1989, as Superfund Subcommittee chairman, and a member of EPA's Appropriations Subcommittee, I have conducted oversight hearings and issued subcommittee recommendations to reform the manner in which EPA manages outside contractors. I urged the Bush administration to attack a deep-seated, cultural problem at the Agency that has given short shrift to the responsible management of taxpayer dollars and has created an atmosphere ripe for waste, fraud and abuse.

The management of Superfund cleanup contractors has been a central concern. In 1989, I issued a report and held hearings criticizing EPA's management of these contractors. In 1991, I requested that GAO investigate Superfund alternative remedial contracting [ARC's] cleanup contractors. GAO presented the results of that investigation in a hearing before my Superfund Subcommittee this past June. The report revealed recurring, deep-seated problems with the management of EPA's outside contractors—contractors who perform billions of dollars worth of superfund cleanups. I testified about this and related problems before the Governmental Affairs Committee this past summer.

At my urging, the Appropriations Committee has for each of the past 2 years directed EPA to address the contract and fiscal mismanagement of these Superfund contractors, through mechanisms such as placing an 11 percent ceiling on program management costs and requiring an intensive internal investigation of contracting practices in superfund.

This past summer, I asked EPA's inspector general to review the contract and fiscal management weaknesses in the Superfund Program and develop recommendations, which I am expecting shortly, on both administrative and legislative reforms. And in confirmation hearings and other occasions, I have continued to press President Clinton's Administrator, Deputy Administrator, and two separate Assistant Administrators with jurisdiction over this issue to bring home the reforms that are desperately needed to fix 12 years of contract and fiscal mismanagement.

But the problems at EPA extend well beyond the Superfund Program. As both GAO and the EPA Inspector General have testified before my Superfund Subcommittee, mismanagement of EPA contracts is evident in many programs. These audits have involved a wide range of procurement issues, including the performance of inherently governmental functions by contractors, the existence of organizational conflicts of interest, and the payment of unallowable costs to contractors.

In the wake of these findings, this past June I introduced S. 1120, the Responsible Environmental Management Act of 1993, to enhance contract management reform at the Environmental Protection Agency and help rid the Government of fraud, waste, and abuse. I am seeking through that legislation to restore accountability to EPA's management of contracts not only in the Superfund area, but throughout the agency's programs.

My bill establishes administrative and judicial civil penalties that can be assessed against contractors who charge the Government for unallowable, illegal costs, like parties, liquor, and extravagant employee gifts. It also requires better documentation to justify expenditures for certain types of items, such as contractor travel, where there has been a demonstrated potential for inflated bills. My bill further requires EPA to cut back on its use of the huge, umbrella contracts which authorize hundreds of millions of dollars of work under vague terms. It is these kinds of contracts that have been most subject to abuse and mismanagement at the agency.

I am very pleased that Senator GLENN and his colleagues have now introduced a bill that picks up two of the major aspects included in my bill, regarding certification of allowable costs and constraints on umbrella contracts. I look forward to working closely with Senator GLENN to resolving a few minor differences in approach between the two bills, and I congratulate my distinguished colleagues on developing reforms that will extend these principles to all Federal agencies.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 426, Frank Eugene Kruesi, to be an Assistant Secretary of Transportation;

Calendar No. 427, Steven O. Palmer, to be an Assistant Secretary of Transportation.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations, considered and confirmed, en bloc, are as follows:

DEPARTMENT OF TRANSPORTATION

Frank Eugene Kruesi, of Illinois, to be an Assistant Secretary of Transportation.

Steven O. Palmer, of Michigan, to be an Assistant Secretary of Transportation.

STATEMENT ON THE NOMINATION OF STEVEN O. PALMER TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR GOVERNMENTAL AFFAIRS

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is now considering the nomination of Steven O. Palmer to be Assistant Secretary of Transportation for Governmental Affairs. I have known Steven for over 10 years, and I can assure my colleagues that he will bring significant experience and enthusiasm to this important position.

Steve has an impressive background. Since August 1993, Steve has served as a special advisor to the Secretary of Transportation. From 1983 through August 1993, he was a senior professional staff member for the Commerce Committee, assigned first to the staff of the Aviation Subcommittee and then the Science, Technology, and Space Subcommittee. Prior to his service with the Commerce Committee, I knew Steve when he was a budget analyst with the U.S. Senate Budget Committee from 1982 to 1983. In addition, from 1980 to 1982, he was a presidential management intern at the Department of Transportation. Steve is a graduate of Kalamazoo College and the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin.

I believe that the President has made a very wise choice in nominating Steve Palmer for this position. Steve is capable, intelligent, easy to work with, and a person of integrity. He knows the Senate, transportation issues, and the budget process well. Steve has rendered invaluable service to me and the Commerce Committee, and I know he will do the same for the administration. He is well-qualified and well-suited for his new position. He will do an outstanding job as Assistant Secretary.

DOT's gain is our loss. However, I take comfort in the fact that I, and the rest of my colleagues, will continue our relationship with Steve, although in a different capacity.

I urge my colleagues to join me in their wholehearted support for Steve Palmer to be Assistant Secretary of Transportation for Governmental Affairs.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

REPORT ON THE DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 1990—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with section 308 of Public Law 97-449 (49 U.S.C. 308(a)), I transmit herewith the Twenty-fourth Annual Report of the Department of Transportation, which covers fiscal year 1990.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

REPORT ON THE DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 1991—MESSAGE FROM THE PRESIDENT—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with section 308 of Public Law 97-449 (49 U.S.C. 308(a)), I transmit herewith the Twenty-fifth Annual Report of the Department of Transportation, which covers fiscal year 1991.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 1992—MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95-454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Fourteenth Annual Report of the Federal Labor Relations Authority for fiscal year 1992.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

REPORT OF PROPOSED LEGISLATION ENTITLED "GOVERNMENT REFORM AND SAVINGS ACT OF 1993"—MESSAGE FROM THE PRESIDENT—PM 62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Government Reform and

Savings Act of 1993". This legislation is based on the recommendation of the National Performance Review (NPR). Also transmitted is a section-by-section analysis.

The goal of the NPR is to provide the American people with a more effective, efficient, and responsive government—a government that works better and costs less. The NPR began on March 3, 1993, when I asked Vice President Gore to conduct an intensive 6-month review of how the Federal Government works. The Vice President organized a team of experienced Federal employees from all corners of government to examine both agencies and cross-cutting systems, such as budgeting, financial management, procurement, and personnel. He spoke with employees at every major agency and sought the views of hundreds of organizations, business leaders, and State and local officials.

The NPR report presents numerous proposals, some of which require legislation, some of which can be achieved through administrative action. The legislation I am presenting today is a major step in implementing those NPR recommendations that require action by the Congress. I plan to include additional NPR proposals in the Fiscal Year 1995 Budget.

This legislation includes proposals that seek to: consolidate and streamline agency operations; eliminate unnecessary programs; end unneeded subsidies; improve financial management and debt collection; reduce the burdens resulting from statutory reporting requirements; and improve the dissemination of government information. They were selected from the NPR report with the expectation that they can be considered expeditiously by the Congress. It is my hope that these recommendations will be passed by the Congress prior to adjournment this year.

The savings total for the legislation I am submitting today is $9 billion.

To accompany these NPR recommendations, a package of rescissions will be sent to the Congress shortly. The Administration is also working with the appropriate committees of jurisdiction on a major procurement reform measure.

By implementing these recommendations, I believe we can make fundamental changes for the better in the performance of the Federal Government. I pledge to work with the Congress to ensure the prompt enactment of this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

MESSAGES FROM THE HOUSE

At 3:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 48. Concurrent Resolution to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 12, 14, 15, 20, 22, 29, 30, 31, 32, and 39 to the bill and agrees thereto; and that the House recedes from its disagreement to the amendments of the Senate numbered 2, 3, 4, 17, 33, and 36 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

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-1669. A communication from the Secretary of Education, transmitting, pursuant to law, notice of relief of regulatory provisions under the Student Assistance General Provisions, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and Federal Pell Grant Programs; to the Committee on Labor and Human Resources.

EC-1670. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priority—Rehabilitation Research and Training Center on Rehabilitation in the Pacific Basin; to the Committee on Labor and Human Resources.

EC-1671. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on NASA Regional Technology Transfer Center Small Business Activities; to the Committee on Small Business.

EC-1672. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, notice of a transaction relative to U.S. exports to the Republic of Korea; to the Committee on Banking, Housing and Urban Affairs.

EC-1673. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, notice of an intention relative to the Republic of Kazakhstan; to the Committee on Armed Services.

EC-1674. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize the transfer of twenty-five naval vessels to certain foreign countries; to the Committee on Armed Services.

EC-1675. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to designate defense acquisition pilot programs in accordance with the National Defense Autorization Act for fiscal year 1991; to the Committee on Armed Services.

EC-1676. A communication from the Assistant Secretary (Policy, Planning, and Program Evaluation), Department of Energy, transmitting, pursuant to executive order, the first interim report of the Federal Fleet Conversion Task Force; to the Committee on Commerce, Science and Transportation.

EC-1677. A communication from the Administrator (Energy Information Administration), Department of Energy, transmitting, pursuant to law, a report entitled "Emissions of Greenhouse Gases in the United States, 1985-1990"; to the Committee on Energy and Natural Resources.

EC-1678. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation entitled "U.S.-Mexico Border Water Pollution Control Act"; to the Committee on Environment and Public Works.

EC-1679. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation entitled "U.S. Colonias Water Pollution Control Act"; to the Committee on Environment and Public Works.

EC-1680. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements; to the Committee on Foreign Relations.

EC-1681. A communication from the Director of the Woodrow Wilson International Center for Scholars, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-1682. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to delete a requirement that the Under Secretary of Health in the Department of Veterans' Affairs be a doctor of medicine; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-308. A resolution adopted by the Iron County Board of Commissioners, Crystal Falls, Michigan relative to Federal mandates; to the Committee on Governmental Affairs.

POM-309. A joint resolution adopted by the Legislature of the State of Oregon; to the Committee on Appropriations.

"HOUSE JOINT MEMORIAL 7

"To the Senate and House of Representatives of the United States of America, in Congress assembled:

"We, your memorialists, the Sixty-seventh Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

"Whereas the Congress has enacted the Cancer Registries Act to establish a national program to collect invaluable scientific data on in situ and invasive cancer; and

"Whereas an essential element of the program is to provide grants to participating states or their designees for the operation of statewide registries; and

"Whereas the comparative data to be collected from such registries will provide the scientific community with yet another weapon for its battle against the ravages of cancer; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress is urged to appropriate the funds necessary to implement the Cancer Registries Act.

"(2) Copies of this memorial shall be sent to the President of the Senate, to the Speaker of the House of Representatives and to each member of the Oregon Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 21. A bill to designate certain lands in the California Desert as wilderness to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes (Rept. No. 103-165).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 479. A bill to amend the Securities Act of 1933 and the Investment Company Act of 1940 to promote capital formation for small businesses and others through exempted offerings under the Securities Act and through investment pools that are excepted or exempted from regulation under the Investment Company Act of 1940 and through business development companies (Rept. No. 103-166).

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. JOHNSTON (for himself and Mr. BREAUX):

S. 1586. A bill to establish the New Orleans Jazz National Historical Park in the State of Louisiana; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GLENN (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. NUNN, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 1587. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FORD:

S. 1588. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. WARNER, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. METZENBAUM, Mrs. MURRAY, Mr. HARKIN, Ms. MIKULSKI, and Mr. FEINGOLD):

S. 1589. A bill to amend title 18, United States Code, to prohibit any State motor vehicle department from disclosing certain personal information about a person doing business with such department; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1586. A bill to establish the New Orleans Jazz National Historical Park in the State of Louisiana; and for other purposes; to the Committee on Energy and Natural Resources.

NEW ORLEANS JAZZ NATIONAL HISTORICAL PARK ACT OF 1993

• Mr. JOHNSTON. Mr. President, I am very pleased to introduce legislation today to implement recommendations made by the Preservation of Jazz Advisory Commission to establish a unit of the National Park System for the commemoration, interpretation, and preservation of jazz in New Orleans. This legislation, which establishes the New Orleans Jazz National Historical Park in New Orleans, LA, is the culmination of years of work by the National Park Service, the Preservation of Jazz Advisory Commission, and many interested parties in Louisiana and throughout the Nation.

The Preservation of Jazz Advisory Commission was established pursuant to legislation I authored in 1990, signed into law as Public Law 101-499 on November 2, 1990. With support from the Department of the Interior, the Commission was given the daunting task of developing recommendations for the Secretary of the Interior, who in consultation with the Secretary of the Smithsonian Institution, was charged with the duty of assessing the suitability and feasibility of preserving the origins of jazz in New Orleans, the widely recognized birthplace of our Nation's most popular and indigenous music and art form.

The Commission was composed of well respected, eminently well-qualified experts who brought tremendous experiences and professionalism to their task. Cochaired by former Louisiana congressional delegation member Lindy Boggs and Mr. Ellis Marsalis, an outstanding musician and educator who is also the founder of the famous New Orleans Marsalis music dynasty, members of the Commission also included representatives knowledgeable about tourism, festival productions, historic preservation, archival collections, jazz history, and folklife preservation, as well as musicians, a representative of New Orleans' well known social and pleasure clubs, the mayor of New Orleans, local neighborhood groups and the Louisiana State Music Commission.

As part of the Commission's effort to assure broad public participation in developing recommendations for the Secretary, the Commission held five public meetings in New Orleans which were broadly publicized in the local media, by newsletters, fliers, and in the Federal Register during 1991 and 1992. Moreover, with the National Park Service the Commission also sponsored a jazz history workshop, assisted in the publication of three newsletters outlining the progress made in the study at each stage of the process, and held eight business meetings, all of which were open to the public and were announced in newsletters, fliers, the local media, and the Federal Register.

All of these activities engaged the interest of many citizens in New Orleans and elsewhere, and led to tremendous participation in the process and excitement about the project. I am confident that the Commission's recommendations reflect and draw on this broad participation and have resulted in a deliberative, well thought out consensus document.

I would be remiss if I did not mention the fine work undertaken in this challenge by the National Park Service under the guidance of Dennis Galvin in the planning division here in Washington, the leadership of Nat Kuykendall in the Denver Service Center and the day to day management of the Superintendent of the Jean Lafitte National Historical Park and Preserve in New Orleans, Bob Belous. All these individuals, and many more, contributed ably and well to this project and represent the best the National Park Service has to offer.

Jazz has captured the hearts and imagination of many in this Nation and has been a catalyst for bringing those from all walks of life together, musicians and nonmusicians alike. Names like Buddy Bolden, Jelly Roll Morton, Freddie Keppard, Nick LaRocca, King Oliver, Sidney Bechet, Kid Ory and of course the great Louis Armstrong all continue to create excitement today. People are drawn to New Orleans from all over the Nation and many parts of the world seeking to discover the roots of these and other jazz greats. Sadly, however, they too often fail to find the concrete expression of these roots. Many of the areas associated with the origin and early history of jazz are gone: the infamous Storyville District was largely dismantled in the 1940's; many buildings in the Tango Belt have been removed or significantly altered; Back o' Town has been the site of redevelopment for government offices, parking areas, highrise office buildings and the superdome; important lakefront areas like Milneburg, Little Woods, and West End were altered in the 1920's when Lake Pontchartrain's shoreline was extended about 2,000 feet.

We are fortunate, however, in that important structures remain in all of these and other areas, although many are in need of immediate attention if they are to be preserved. One of the key recommendations of the Commission is for the National Park Service, in consultation with the Louisiana State historic preservation officer, to undertake a national historic landmarks theme study and to prepare nomination forms for designating sites and structures in New Orleans that are of national significance to the origins, development and progression of jazz in the United States. We have in short a limited opportunity to preserve what

remains and provide those seeking the roots of jazz an opportunity to see some of the key spots where jazz developed.

Jazz is one of the Nation's great treasures, one worthy of preservation and celebration. In fact, music is one of this country's few commodities for which we enjoy a large trade surplus with the rest of the world. This legislation will help ensure that we maintain this resource for years to come.

The Commission's recommendations contain many important steps in assuring that generations of Americans to come will be able to learn about and enjoy jazz, just as we have. Central to these recommendations is the support of local institutions for jazz education like the Heritage School of Jazz sponsored by the New Orleans Jazz and Heritage Foundation, the New Orleans Center for the Creative Arts, the jazz studies program at the University of New Orleans and other music programs at area colleges and universities, the work of the Louis Armstrong Foundation and through the jazz outreach program carried out by the Orleans Parish School Board. New Orleans continues to produce brilliant young musicians like Wynton, Branford and Delfaeyo Marsalis, Harry Connick, Jr., Terrence Blanchard, Donald Harrison, Michael White, and Kent and Marlon Jordan. Interpretive and education programs supported by the National Park Service involving our Nation's youth will ensure that this vital resource is renewed and preserved.

Other important Commission recommendations would help preserve and promote important contributions to jazz of the many social and pleasure clubs and mutual aid and benevolent societies as well as Mardi Gras Indians, walking clubs and other associations. These organizations continue the 100-year-old street parade tradition which has been critical to the evolution and preservation of New Orleans jazz.

In sum, this legislation recognizes one of the true native resources of this country and pays appropriate tribute to this resource by creating a national park for its benefit. By officially recognizing jazz as a precious resource deserving of national park support and protection, we will guarantee that this valuable art form is preserved and protected for future generations, all to our Nation's further economic security.

I hope to schedule a hearing on this legislation very soon, and I look forward to receiving the testimony and suggestions from the Commission members and others who have been instrumental in shaping these initiatives. I believe we can develop a good bill which will meet the challenge of Public Law 101-499, building on the fine work which has been completed by the National Park Service and the Commission.

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. 1586

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Orleans Jazz National Historical Park Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) jazz is the United States' most widely recognized indigenous music and art form. Congress previously recognized jazz in 1987 through Senate Concurrent Resolution 57 as a rare and valuable national treasure of international importance.

(2) the city of New Orleans is widely recognized as the birthplace of jazz. In and around this city, cultural and musical elements blended to form the unique American music that is known as New Orleans jazz, which is an expression of the cultural diversity of the lower Mississippi Delta Region.

(3) Jean Lafitte National Historical Park and Preserve was established to commemorate the cultural diversity of the lower Mississippi Delta Region including a range of cultural expressions like jazz.

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of jazz, it is the purpose of this Act to establish a New Orleans Jazz National Historical Park, together with associated educational programs, as a unit of the Jean Lafitte National Historical Park and Preserve which is headquartered in New Orleans, Louisiana. The historical park shall preserve the origins and early history of jazz; provide visitors with opportunities to experience the sights, sounds, and places where jazz evolved; and implement innovative ways of establishing jazz educational partnerships that will help to ensure that jazz continues as a vital element of the culture of New Orleans and our Nation.

SEC. 3. ESTABLISHMENT.

(a) IN GENERAL.—In order to assist in the preservation, education, and interpretation of jazz as it has evolved in New Orleans, and to provide technical assistance to a broad range of organizations involved with jazz music and its history, there is hereby established the New Orleans Jazz National Historical Park (hereinafter referred to as the "historical park"). The historical park shall be administered and managed as a unit of the Jean Lafitte National Historical Park and Preserve, which was established to preserve and interpret the cultural and natural resources of the lower Mississippi Delta Region.

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) lands which the Secretary of the Interior (hereinafter referred to as "the Secretary") may designate for an interpretive visitor center complex;

(2) sites that are the subject of cooperative agreements with the National Park Service for the purposes of interpretive demonstrations and programs associated with the purposes of this Act; and

(3)(A) sites designated by the Secretary as provided in subparagraph (B).

(B)(i) The Secretary is directed to undertake a national historic landmark evaluation of sites associated with jazz in and around New Orleans as identified in the document entitled "New Orleans Jazz Special Resource Study", prepared by the National Park Service pursuant to Public Law 101-499. In undertaking the evaluation, the Secretary shall, to the extent practicable, utilize existing information relating to such sites.

(ii) If any of the sites evaluated are found to meet the standards of the National Historic Landmark program and National Park Service tests of suitability and feasibility, and offer outstanding opportunities to further the purposes of this Act, the Secretary may designate such sites as part of the historical park, following consultation with the city of New Orleans, the Smithsonian Institution, and the Delta Region Preservation Commission, and notification to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the historical park in accordance with this Act and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4); the Act of August 21, 1935 (49 Stat. 666., 16 U.S.C. 461-467); and Title IX of Public Law 95-625, the enabling Act for Jean Lafitte National Historical Park and Preserve, as amended, (16 U.S.C. 230). The Secretary shall manage the historical park in such a manner as will preserve and perpetuate knowledge and understanding of the history of jazz and its continued evolution as a true American art form.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or other public entities for the purposes of providing services, programs, and facilities that further the purposes of this Act.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to lease, construct, operate, or maintain an interpretive center in New Orleans. Programs at the center may include live jazz interpretive and educational programs, and shall provide visitors with information about jazz-related programs, performances, and opportunities.

(d) JAZZ HERITAGE DISTRICTS.—The Secretary may provide technical assistance to the city of New Orleans and other appropriate entities for the designation of certain areas in and around New Orleans as jazz heritage districts. Such districts shall include those areas with an exceptional concentration of jazz historical sites and established community traditions of jazz street parades.

(e) COOPERATIVE AGREEMENTS, GRANTS, AND TECHNICAL ASSISTANCE.—In furtherance of the purposes of this Act—

(1) the Secretary, after consultation with the New Orleans Jazz Commission established pursuant to section 7, is authorized to enter into cooperative agreements with owners of properties that are designated pursuant to section 3(b)(3) which provide outstanding educational and interpretive opportunities relating to the evolution of jazz in New Orleans. The Secretary may assist in the rehabilitation and restoration of, mark, interpret, and provide technical assistance for the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the National Park Service will have reasonable rights of access for operational and visitor

use needs, that rehabilitation and restoration will meet the Secretary's standards for rehabilitation of historic buildings, and that specify the roles and responsibilities of the Secretary for each site or structure;

(2) the Secretary is authorized to enter into cooperative agreements with the city of New Orleans, the State of Louisiana, and other appropriate public and private organizations under which the other parties to the agreement may contribute to the acquisition, construction, operation, and maintenance of the interpretive center and to the operation of educational and interpretive programs to further the purposes of this Act; and

(3) the Secretary, in consultation with the Commission, is authorized to provide grants or technical assistance to public and private organizations.

(f) JAZZ EDUCATIONAL PROGRAMS.—The Secretary shall, in the administration of the historical park, promote a broad range of educational activities relating to jazz and its history. The Secretary shall cooperate with schools, universities, and organizations supporting jazz education to develop educational programs that provide expanded public understanding of jazz and enhanced opportunities for public appreciation. The Secretary may assist appropriate entities in the development of an information base including archival material, audiovisual records, and objects that relate to the history of jazz.

SEC. 5. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—The Secretary may acquire lands and interests therein within the sites designated pursuant to section 3(b) (1) and (3) by donation or purchase with donated or appropriated funds: *Provided*, That sites designated pursuant to section 3(b)(3) shall only be acquired with the consent of the owner thereof.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests in lands which are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

SEC. 6. GENERAL MANAGEMENT PLAN.

Within 3 years after the date funds are made available therefor and concurrent with the national landmark study referenced in section 3(b)(3), the Secretary, in consultation with the New Orleans Jazz Commission, shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities associated with park programs that will be made available to the public;

(2) preservation and use plans for any structures and sites that are identified through the historic landmark study for inclusion within the historical park;

(3) the location and associated cost of public facilities that are proposed for inclusion within the historical park, including a visitor center;

(4) identification of programs that the Secretary will implement or be associated with through cooperative agreements with other groups and organizations;

(5) a transportation plan that addresses visitor use access needs to sites, facilities, and programs central to the purpose of the historical park;

(6) plans for the implementation of an archival system for materials, objects, and items of importance relating to the history of jazz; and

(7) guidelines for the application of cooperative agreements that will be used to assist in the management of historical park facilities and programs.

SEC. 7. ESTABLISHMENT OF THE NEW ORLEANS JAZZ COMMISSION.

(1) ESTABLISHMENT.—To assist in implementing the purposes of this Act and the document entitled "New Orleans Jazz Special Resource Study," there is established the New Orleans Jazz Commission (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 15 members to be appointed no later than 6 months after the date of enactment of this Act. The Commission shall be appointed by the Secretary as follows:

(1) one member recommended by the Mayor of New Orleans;

(2) two members who have recognized experience in music education programs that emphasize jazz;

(3) one member, with experience and knowledge of tourism in the greater New Orleans area, from recommendations submitted by local businesses;

(4) one member recommended by the Board of the New Orleans Jazz and Heritage Foundation;

(5) one member, with experience and knowledge of historic preservation within the New Orleans area;

(6) two members who are recognized musicians with knowledge and experience in the development of jazz in New Orleans;

(7) one member with recognized expertise in jazz and folklore preservation and interpretation, recommended by the Director of the Louisiana State Museum;

(8) two members who represent local neighborhood groups or other local associations, recommended by the Mayor of New Orleans;

(9) one member representing local social and pleasure clubs, recommended by the Mayor of New Orleans;

(10) one member recommended by the Governor of the State of Louisiana, who shall be a member of the Louisiana State Music Commission;

(11) the Chairman of the Delta Regional Preservation Commission, ex officio; and

(12) the Director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION—The Commission shall—

(1) advise the Secretary in the preparation of the general management plan for the historical park; assist in public discussions of planning proposals; and assist the National Park Service in working with individuals, groups, and organizations including economic and business interests in determining programs in which the Secretary should participate through cooperative agreements;

(2) in consultation and cooperation with the Secretary, develop partnerships with educational groups, schools, universities, and other groups to furtherance of the purposes of this Act;

(3) in consultation and cooperation with the Secretary, develop partnerships with city-wide organizations, and raise and disperse funds for programs that assist mutual aid and benevolent societies in encouraging the continuation of and enhancement of jazz cultural traditions;

(4) acquire or lease property for jazz education, and advising on hiring brass bands and musical groups to participate in education programs and help train young musicians;

(5) in consultation and cooperation with the Secretary, provide recommendations for the location of the visitor center and other interpretive sites;

(6) assist the Secretary in providing funds to support research on the origins and early history of jazz in New Orleans; and

(7) notwithstanding any other provision of law, seek and accept donations of funds, property, or services from individuals, foundations, corporations, or other public or private entities and expend and use the same for the purposes of providing services, programs, and facilities for jazz education, or assisting in the rehabilitation and restoration of structures identified in the national historic landmark study referenced in section 3(b)(3) as having outstanding significance to the history of jazz in New Orleans.

(c) APPOINTMENT.—Members of the Commission shall be appointed for staggered terms of 3 years, as designated by the Secretary at the time of the initial appointment.

(d) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years. The Chairman of the Commission shall serve as an ex-officio member of the Delta Regional Preservation Commission.

(e) TERMS.—Any member of the Commission appointed by the Secretary for a 3-year term may serve after the expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(f) PER DIEM EXPENSES.—Members of the Commission shall serve without compensation. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

(g) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Commission with assistance in obtaining such personnel, equipment, and facilities as may be needed by the Commission to carry out its duties.

(h) ANNUAL REPORT.—The Commission shall submit an annual report to the Secretary identifying its expenses and income and the entities to which any grants or technical assistance were made during the year for which the report is made.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. GLENN (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. NUNN, Mr. BUMPERS, and Mr. LIEBERMAN)

S. 1587. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL ACQUISITION STREAMLINING ACT OF 1993

Mr. GLENN. Mr. President, I rise to introduce the Federal Acquisition Streamlining Act of 1993, a comprehensive procurement reform bill aimed at streamlining the acquisition process and fulfilling the recommendations of the Vice President's National Performance Review [NPR] for the procurement system. This effort represents the collaboration of the Committee on Governmental Affairs, which I chair, the Armed Services Committee, and the Small Business Committee, and used as a starting point, reform legislation which I introduced earlier this

year, S. 554, 555, and 556, and the report of the Acquisition Law Advisory Panel assembled pursuant to section 800 of the National Defense Authorization Act for Fiscal Year 1991.

Mr. President, you will recall that at the end of 1992, the section 800 panel's work was about to go to press. At that time, I sent a letter to then-Secretary of Defense Cheney raising concerns about some rumored conclusions embodied in the report. In addition, I asked GAO to study certain aspects of the report.

I had discussions with Senator BINGAMAN, and the staffs of our respective committees met. From this enterprise arose two main themes: First, the Armed Services and Governmental Affairs Committees would work together toward a joint piece of procurement reform legislation based on the recommendations for DOD in the section 800 report. Second, the legislation resulting from the joint effort would have governmentwide effect, and would include then-pending procurement reform efforts I had initiated. Since January our staffs have met, and the bill before us represents the fruition of that effort. At this time, I wish to thank Senators LEVIN, BINGAMAN, NUNN, and BUMPERS for their significant contributions to this effort.

I also wish to point out that, while this process was ongoing, other forces for reform were hard at work; namely, the Vice President's NPR troops, who have come up with a host of timely recommendations for rebuilding the procurement system. I am pleased to report that we have been able to join our efforts with the NPR and present to you this reform package which will take us a long way down the road to reinventing Federal procurement.

The bill seeks to implement a host of reforms across the spectrum of Federal procurement. The titles of the bill parallel those of the section 800 report, and the most significant issues it addresses relate to the improved acquisition of commercial items, the increased use of streamlined acquisition procedures under an elevated small purchase threshold, refinements in and strengthening of the competition process, improved oversight via clarification of the protest process, reform of procurement ethics laws to achieve simple and uniform application, and the streamlining of the procurement code through repeal of some laws that affect governmentwide procurement where net efficiencies and equities dictate.

In the area of commercial acquisition, the bill makes a host of changes affecting not only the outright purchase of commercial products, but also the system for expeditious review of award decisions. The bill encourages the use of commercial and other nondevelopmental items [NDI] and makes it substantially easier for Federal agencies to buy these items. In so doing, agencies can look forward to the elimination of the need for research and development, reduction in acquisition leadtime, and a shift in focus away from detailed design specifications or expensive product testing.

The bill establishes preferences for commercial products and NDI's and mandates the issuance of regulations to make it easier to buy commercial products. This approach, I believe, fulfills a major NPR recommendation, PROC13, and it conforms substantially to the recommendations of the section 800 panel.

As I stated earlier, the bill attempts to strike a balance between the equities of certain laws and the need for efficiency in acquisition. For this reason, it exempts commercial product and NDI buys from several statutes unique to Government purchases, and which have little application in the commercial sector.

The Truth in Negotiations Act is also amended Governmentwide, providing for a commercial items exception to the submission of cost and pricing data. In so doing, the bill conforms to what the NPR anticipated in recommendation PROC19 and substantially addresses the recommendation in this area set forth by the section 800 panel. By this amendment, commercial vendors would no longer be burdened with the expense and delays associated with compiling and submitting cost data for the Government.

Mr. President, virtually every study of the procurement system has identified the need for reform of the way Government makes certain small purchases. As the section 800 panel noted, these purchases account for the bulk of procurement actions taken, though they do not reflect the bulk of acquisition dollars spent by the Government. It is for this reason that the NPR correctly points out that reform in this area will have significant impact. And this reform is desperately needed. I recall, Mr. President, testimony before the Armed Services hearings I attended last spring which indicated that without change, the system may cave in on itself by the sheer volume of administrative activity.

Thus, the bill raises the small purchase threshold from $25,000 to $100,000 and renames it the "simplified acquisition threshold," as recommended by both the NPR, in recommendation PROC04, and the section 800 panel. This new simplified threshold substantially expands the streamlined process of making small purchases and reduces the associated administrative burden.

Again, Mr. President, in the spirit of balancing equities, the bill maintains the requirement that agencies provide notice of any procurement over $25,000 via publication in the Commerce Business Daily 15 days prior to the issuance of a solicitation. But, once this notice is made, any simplified acquisition procedures identified in the notice would kick in.

In addition, all contracts under the simplified acquisition threshold are reserved for small business, and agencies are authorized to continue set-asides of such contracts for minority small business. This change, I believe, echoes the spirit of NPR recommendation PROC07.

The bill also conforms other procurement thresholds to this new $100,000 level. It requires a review of procurement regulations with an eye toward identifying and amending regulations that apply below the new $100,000 threshold.

Finally, Mr. President, the bill exempts procurements below the new threshold from several statutory restrictions including contingent fees certifications, contract audit requirements, the procedural requirements of the Anti-Kickback Act, the Miller Act, the Contract Work Hours and Safety Standards Act, and the Drug-Free Workplace Act of 1988. This change conforms with NPR recommendations PROC04 and PROC07.

The President's Executive order on electronic purchasing systems has made it unnecessary to address, in this bill, the question of formally establishing an electronic data interchange [EDI] system for use in a streamlined, simplified acquisition, as was anticipated by NPR recommendation PROC04. On balance, I think that such a system could be implemented in several different ways. Consistent with the NPR goal of providing an environment for the collegial evolution of systems by those responsible for providing services to user/customers, I believe that the executive branch should have the flexibility to create such a system in the manner that best suits its way of doing business. We expect agencies to collaborate on the best formulation of such a system and implement it as soon as practicable in accordance with the President's Executive order.

Mr. President, for those who fear change, let me state clearly now that this bill affirms our system of full and open competition in the procurement process. The bill would add a section to CICA to address task order and delivery order contracts. These contracts serve a useful purpose, but have been abused to avoid competition and funnel money to favored contractors. The new provisions added by the bill would authorize the use of such contracts, as recommended by the section 800 panel; but those contracts would be subject to time and dollar limitations and a specific competition requirement.

Next, Mr. President, this bill seeks to clarify the responsibilities of the GSA Board of Contract Appeals [GSBCA]. I point out that this clarification is necessary to restore the Board's ability to fulfill the role established for it by

Congress in CICA. It has been of particular concern to me for several years now because I believe that the GSBCA's activity has been jeopardized by the effect of several recent decisions of the U.S. Court of Appeals for the Federal Circuit. The bill also amends, to some extent, the protest process at the General Accounting Office [GAO].

Specifically, the bill provides, among other things: Clarification that the Board may dismiss frivolous protests, protests brought in bad faith, or protests that do not state a valid basis; publication of settlements before the Board that involve the direct or indirect use of appropriated funds; and sanctions—including the payment of costs—for frivolous protests.

It is important to point out, Mr. President, that GSBCA protests may result in the suspension of procurement activity. So, to permit the potential bad faith of a party to operate without restraint, I believe, would cause a unnecessary delay of the questioned procurement, and thus, would undermine procurement efficiency. For this reason, I believe that enactment of corrective legislation in this regard is critical.

Mr. President, I point you to an important issue in this area, one addressed by GAO for Congress in 1990. GAO identified the GSBCA settlement process as one ripe for legislative action. This finding was in response to reports that losing offerors were filing protests of contract awards as a form of blackmail, and agencies, to avoid procurement delays, were paying protesters to drop their claims. It also followed GAO's study of the Census Bureau's handling of a protest of a multimillion dollar procurement of ADP for the then-upcoming census in which $1.1 million was paid by the agency to settle the claims without a review of the merits. GAO recommended that Congress require that settlement terms be disclosed to the Board, and we have implemented that recommendation.

Finally, Mr. President, we have often heard that offerors for solicitations do not obtain meaningful debriefings after contract award. Generally, post-award debriefings are intended to provide losing offerors with pertinent information concerning the basis for the award decision, as well as an indication of how those offerors can improve their chances for success in future procurements. It has become apparent, however, that debriefings are inconsistently given, and oftentimes fail to achieve their purpose.

By requiring, as this bill does, that meaningful debriefings be given to vendors after the contract is awarded, I believe we can reduce the potential for filing protests as a means to discover the propriety of an award decision. This reduction in protests could, in turn, help to speed up the acquisition process.

Mr. President, the bill would also establish a new, accelerated schedule for notice of contract award, to work in tandem with the debriefing procedure. Under this process, agencies would notify unsuccessful offerors of award decisions within 3 days of contract award, and provide debriefings if requested within 7 days after contract award.

The bill also would authorize the payment of consultant and expert witness fees—in addition to attorneys' fees—in protests to the GAO and the GSBCA. But, the bill limits all such fees to the levels established in the Equal Access to Justice Act for fees against the United States generally. At present, there is no statutory limit on attorneys' fees in bid protest actions, and Federal agencies may be required to reimburse any reasonable fees incurred by a successful protestor. At a minimum, this provision should add uniformity and cost savings to the process.

The legislation also amends the provisions applicable to bid protests to the GAO to provide that the Comptroller General may recommend the payment of attorney's fees in bid protest cases, rather than directing agencies to pay such fees. Thus, the bill would clarify existing law and end the debate about the constitutionality of GAO's activity in this area.

You may recall, Mr. President, after over 6 years of executive branch compliance with this provision, the Department of Justice notified the President of the Senate of its intent to challenge this provision on constitutional grounds. Justice claimed that because the law currently permits the Comptroller General to declare a successful protestor entitled to recover costs after a determination that the underlying contract award does not comply with law or regulation, the Comptroller General, as an officer of the legislative branch, has the ability to interpret a law and thereby alter the legal rights of nonexecutive branch personnel. In sum, this authority is said to violate the constitutional doctrine of separation of powers.

The court disposed of the case; but the issue remains. The provisions in question digress from the rest of the law in this area in that they go beyond the recommendatory function. In order to assure the stability of GAO's protest resolution system and avoid the uncertainty that would be created by protracted litigation of this issue, the bill makes this activity recommendatory.

In addition, Mr. President, this bill would consolidate judicial jurisdiction over bid protests in the Court of Claims.

The changes in the procurement protest arena, Mr. President, are far reaching, and they reflect, in an overwhelming way, measures which I introduced last Congress in S. 1958 and this Congress in S. 555 and S. 556. They are necessary changes, and they address the concerns raised by the section 800 panel, and by the NPR in recommendation PROC06.

Mr. President, the contracting community will breathe a sigh of relief when it sees that this bill streamlines the procurement ethics laws. Over the last decade, Congress enacted a series of new procurement ethics provisions. Some of the most recent were motivated by the Ill Wind scandal. We can debate for hours—indeed, we've debated for years—the utility of these provisions in the abstract. But, one thing is clear: We have overlapping laws that are generating confusion in the Government and private sectors.

In 1991, the Senate passed ethics reform legislation. The bill reflects the provisions adopted by the Senate as an amendment to the Department of Defense authorization bill in 1991. The bill amends the procurement integrity section of the OFPP Act to streamline the recusal provision; consolidate the revolving door ban with similar provisions applicable only to the Department of Defense [DOD]; harmonize the gratuities provision with government-wide ethics provisions; revise certification provisions to eliminate unnecessary administrative burdens; and clarify several other provisions.

I again point out that these are changes similar to those sought by the section 800 panel and the NPR in recommendation PROC11.

The bill also sets forth several parameters for contracting functions performed by Federal personnel. It prohibits the use of non-Federal employees to perform proposal evaluations except where Federal personnel are not readily available within the contracting agency or any other Federal agency. The bill also directs the Federal Acquisition Regulatory Council to clarify regulations governing the use of such non-Federal employees.

With respect to these provisions governing the use of non-Federal employees to perform proposal evaluations, this bill addresses concerns raised during the Committee on Governmental Affairs' review of the Treasury multiuser acquisition contract [TMAC]. After that $1.4 billion contract award was successfully protested at the GSBCA, Treasury, pursuant to a GSBCA order, had to prepare a suitable price/technical tradeoff analysis and either confirm the contract award or make a new award. The agency contracted with three outside consultants to assist in this effort at a cost of almost half a million dollars.

Although GAO concluded that the use of consultants in the TMAC acquisition was not inconsistent with regulation, it noted that guidance directing when consultants are to be used is not specific. This bill addresses that problem, as well as potential problems associated with the performance of what

may be perceived as inherently governmental functions by non-Federal employees, and it is hoped that agencies will train and share personnel with expertise rather than searching under time-critical circumstances for outside personnel at potentially higher costs than in-house.

The bill amends the Federal Property Act to codify the definitions and requirements of the Truth in Negotiations Act [TINA] for civilian agencies. It further amends the Federal Property Act to establish contract cost principles for civilian agencies. Contract cost principles provide that certain types of costs—such as entertainment costs, lobbying expenses, and advertising costs—should not be paid by the taxpayers and are not allowable under Federal contracts. Cost certification procedures and penalties identical to those that have long been applicable in DOD procurements are also established. Further, the bill repeals 10 United States Code 2410, which establishes DOD-unique requirements for the certification of contract claims.

Mr. President, this bill calls for the clear establishment of factors and significant subfactors in competitive solicitations, and it requires that the procuring agencies clearly set forth in solicitation the relative importance of factors and significant subfactors, including the quality of the products or services to be provided. This provision will assist agencies in their quest for the best value procurement by requiring them to identify the actual value of subfactors. It is consistent with NPR recommendation PROC15.

In accord with the overall recommendations of the section 800 panel and the NPR, this bill streamlines a host of statutes, which again, considering the balancing of equities, will assure improvement in the procurement system for all. The bill would also adopt several dozen other recommendations of the section 800 panel, several of which correspond with NPR recommendations, to streamline and improve the acquisition laws. For example it:

Raises the threshold for cost or pricing data to $500,000 on a permanent basis for DOD and civilian agencies;

Raises the threshold for the contract cost principles to $500,000;

Provides consolidated audit provisions for both DOD and civilian agencies;

Repeals and consolidates obsolete and redundant DOD-unique laws;

Repeals the Walsh-Healey Act, which no longer has any impact on prevailing minimum wage rates;

Authorizes agencies to contract directly with an 8(a) contractor, rather than indirectly through the Small Business Administration, unless the contractor objects.

This is a far-reaching piece of legislation, Mr. President, and I think we should all acknowledge that it symbolizes the new force for change in Washington. The American people have the right to expect efficiency and economy from those paid with tax dollars.

This bill, Mr. President, represents a compromise among a number of persons and interests that addresses needed reforms. I will move expeditiously to conduct hearings on this legislation to assure that it moves to the floor as quickly as possible. We have no time to waste.

Mr. President, for the convenience of my colleagues and the public, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 1587

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 Acquisition Streamlining Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

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PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. EXCLUSION OF PARTICULAR SOURCES.

Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the head of an agency in paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1003. APPROVAL FOR USE OF NONCOMPETITIVE PROCEDURES.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1004. REFERENCE TO HEAD OF A CONTRACTING ACTIVITY.

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii)—

(A) by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity"; and

(B) by striking out "head of the procuring activity's" and inserting in lieu thereof "head of the contracting activity's"; and

(2) in paragraph (6)(A), by striking out "head of a procuring activity" and inserting in lieu thereof "head of a contracting activity".

SEC. 1005. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new section:

"§ 2304a. Task and delivery order contracts

"(a) AUTHORITY TO AWARD.—Subject to the requirements of this section, the head of an agency may enter into a contract that does not procure or specify a firm quantity of supplies or services (other than a minimum or maximum quantity) and that provides for the issuance of delivery orders or task orders during the specified period of the contract. The head of an agency may enter into such a contract only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 3 years, except that, when multiple contracts are awarded under subsection (c)(4) pursuant to the same solicitation, the period of each such contract may exceed 3 years but may not exceed 5 years.

"(c) AWARD PROCEDURES.—(1) The head of an agency may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of supplies or services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the supplies or services to be procured under the contract.

"(4)(A) The head of an agency may, on the basis of one solicitation, award separate contracts under this section for the same or similar supplies or services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(B) In any solicitation for an advisory and assistance services contract for a period in excess of 1 year, or for an amount (including all options) in excess of $10,000,000, the head of an agency shall include a statement that the head of the agency reserves the option—

"(i) to award separate contracts under subparagraph (A); or

"(ii) to award only one contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDERS.—(1) The following actions are not required for a delivery order or task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded under subsection (c)(4), each delivery order or task order issued under such contracts shall be competed among all of the contractors awarded such contracts unless the contracting officer determines in writing that—

"(i) the agency's need for the supplies or services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) the supplies or services ordered are so unique or highly specialized that only one such contractor is capable of providing the supplies or services required at the level of quality required; or

"(iii) the delivery order or task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a delivery order or task order already issued on a competitive basis.

"(B) When a delivery order or task order is competed pursuant to subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance, proposed issuance, or competing of a delivery order or task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A delivery order or task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(f) TASK ORDER OMBUDSMAN.—Each head of an agency who awards multiple contracts under subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that task orders are issued on a competitive basis when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new item:

"2304a. Task and delivery order contracts.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i), by striking out "nonprice-related factors)" and inserting in lieu thereof "nonprice-related factors and subfactors)"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, and prior experience of the offeror);

"(ii) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than price or cost, when combined, are—

"(I) significantly more important than price or cost;

"(II) approximately equal in importance to price or cost; or

"(III) significantly less important than price or cost.

"(B) Nothing in this paragraph prohibits an agency from—

"(i) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(ii) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

(a) OPTIONS FOR ADDITIONAL PURCHASES.—Subsection (a) of section 2305 of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2301(a) of such title is amended—

(1) by striking out paragraph (7);

(2) by inserting "and" at the end of paragraph (5); and

(3) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period.

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Section 2305(b)(3) of title 10, United States Code, is amended by adding at the end the following: "Within 3 days after the date of contract award, the head of the agency shall notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Section 2305(b)(4)(B) of title 10, United States Code, is amended in the second sentence by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 7 days after the date of contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the agency shall debrief the offeror within 7 days after receipt of the request by the agency.

"(B) The debriefing shall provide the offeror with—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost of the offer of the contractor awarded the contract and the overall evaluated cost of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers and the total technical and cost scores of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal that incorporates equipment that is a commercial item, the make and model of the item incorporated in the offer of the contractor awarded the contract; and

"(vi) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, including information relating to—

"(i) trade secrets;

"(ii) privileged or confidential manufacturing processes and techniques; and

"(iii) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of the best and final offers considered in the awarding of that contract, the agency shall provide each such offeror with—

"(i) all information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) all comparable information with respect to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following:

"(e)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the contracting activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).".

SEC. 1016. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not satisfy the requirements of law or regulation, the head of the agency may take any action set out in subparagraphs (A) through (F) of section 3554(b)(1) of title 31.".

Subpart C—Kinds of Contracts

SEC. 1021. SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 1022. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF UNNECESSARY CROSS REFERENCE.—Subsection (f) of section 2306 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Such section is amended by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(c) NEUTERIZATION OF REFERENCE.—Subsection (e)(1) of such section, as redesignated by subsection (b), is amended in the matter above clause (i) by striking out "whenever he finds" and inserting in lieu thereof "whenever the head of the agency finds".

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. ENCOURAGEMENT OF COMPETITION AND COST SAVINGS.

(a) TRANSFER.—The text of section 2317 of title 10, United States Code—

(1) is amended—

(A) by striking out "The Secretary of Defense" and inserting in lieu thereof "(c) ENCOURAGEMENT OF COMPETITION AND COST SAVINGS.—The Secretary"; and

(B) by striking out "contracts covered by this chapter" and inserting in lieu thereof "contracts of the Department of Defense"; and

(2) is transferred to section 1701 of title 10, United States Code, and inserted at the end of such section.

(b) CLERICAL AMENDMENTS.—Chapter 137 of title 10, United States Code, is amended—

(1) by striking out the section heading of section 2317; and

(2) in the table of sections at the beginning of such chapter, by striking out the item relating to section 2317.

SEC. 1032. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. EXCLUSION OF PARTICULAR SOURCES.

Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1053. APPROVAL FOR USE OF NONCOMPETITIVE PROCEDURES.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1054. REFERENCE TO HEAD OF A CONTRACTING ACTIVITY.

Section 303(f)(1)(B)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(ii)) is amended by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity".

SEC. 1055. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"TASK AND DELIVERY ORDER CONTRACTS

"SEC. 303H. (a) AUTHORITY TO AWARD.—Subject to the requirements of this section, an agency head may enter into a contract that does not procure or specify a firm quantity of supplies or services (other than a minimum or maximum quantity) and that provides for the issuance of delivery orders or task orders during the specified period of the contract. The agency head may enter into such a contract only under the authority of this section.

"(b) CONTRACT PERIOD NOT TO EXCEED 3 YEARS.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 3 years, except that, when multiple contracts are awarded under subsection (c)(4) pursuant to the same solicitation, the period of each such contract may exceed 3 years but may not exceed 5 years.

"(c) AWARD PROCEDURES.—(1) An agency head may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of supplies or services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the supplies or services to be procured under the contract.

"(4)(A) An agency head may, on the basis of one solicitation, award separate contracts under this section for the same or similar supplies or services to two or more sources if the solicitation states that the agency head has the option to do so.

"(B) In any solicitation for an advisory and assistance services contract for a period in excess of 1 year, or for an amount (including all options) in excess of $10,000,000, an agency head shall—

"(i) provide for a multiple award under subparagraph (A); and

"(ii) include a statement that the agency head may also elect to award only one contract if the agency head determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDERS.—(1) The following actions are not required for a delivery order or task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded under subsection (c)(4), each delivery order or task order issued under such contracts shall be competed among all of the contractors awarded such contracts unless the contracting officer determines in writing that—

"(i) the agency's need for the supplies or services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) the supplies or services ordered are so unique or highly specialized that only one such contractor is capable of providing the supplies or services required at the level of quality required; or

"(iii) the delivery order or task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a delivery order or task order already issued on a competitive basis.

"(B) When a delivery order or task order is competed pursuant to subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance, proposed issuance, or competing of a delivery order or task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A delivery order or task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(f) TASK ORDER OMBUDSMAN.—Each agency head who awards multiple contracts under subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that task orders are issued on a competitive basis when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 303G the following new item:

"Sec. 303H. Task and delivery order contracts.".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "and significant subfactors" after "all significant factors"; and

(B) by striking out "(including price)" and inserting "(including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors)";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, and prior experience of the offeror);

"(B) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than price or cost, when combined, are—

"(i) significantly more important than price or cost;

"(ii) approximately equal in importance to price or cost; or

"(iii) significantly less important than price or cost.

"(2) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An agency head shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary."; and

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2).

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act; and

(B) contracts awarded pursuant to those solicitations.

(2) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the end of the period referred to in paragraph (1). The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An agency head, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the agency head has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following: "Within 3 days after the date of contract award, the agency head shall notify offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)), as redesignated by section 1061(b)(3)(B), is amended in the second sentence by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the executive agency within 7 days after the date of contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the executive agency shall debrief the offeror within 7 days after

receipt of the request by the executive agency.

"(2) The debriefing shall provide the offeror with—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost of the offer of the contractor awarded the contract and the overall evaluated cost of the offer of the debriefed offeror;

"(C) the overall ranking of all offers and the total technical and cost scores of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal that incorporates equipment that is a commercial item, the make and model of the item incorporated in the offer of the contractor awarded the contract; and

"(F) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code, including information relating to—

"(A) trade secrets;

"(B) privileged or confidential manufacturing processes and techniques; and

"(C) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the executive agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of the best and final offers considered in the awarding of that contract, the agency head shall provide each such offeror with—

"(A) all information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(B) all comparable information with respect to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1064(1), is further amended by adding at the end the following:

"(h)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the contracting activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).".

SEC. 1066. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1066, is further amended by adding at the end the following new subsection:

"(i) If, in connection with a protest, an agency head determines that a solicitation, proposed award, or award does not satisfy the requirements of law or regulation, the agency head may take any action set out in subparagraphs (A) through (F) of section 3554(b)(1) of title 31, United States Code.".

Subpart C—Kinds of Contracts

SEC. 1071. AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

PART III—ACQUISITIONS GENERALLY

SEC. 1091. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

Section 2306a(a)(1)(A) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

Section 2306a(b) of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) This section need not be applied to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) This section need not be applied to a modification of a contract or subcontract if—

"(A) the contract or subcontract being modified is one to which this section need not be applied by reason of clause (i) or (ii) of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.".

SEC. 1203. LIMITATION ON AUTHORITY TO REQUIRE A SUBMISSION NOT OTHERWISE REQUIRED.

Section 2306a(c) of title 10, United States Code, is amended by striking out "by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if" and inserting in lieu thereof "by reason of subsection (b), submission of such data may not be required unless".

SEC. 1204. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, the head of an agency shall—

"(A) conduct procurements of commercial items on a competitive basis; and

"(B) exercise the authority provided in subsection (b)(1)(A) to exempt the contracts and subcontracts under such procurements from the requirements of subsection (a).

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer may nonetheless exempt a contract or subcontract under the procurement from the requirements of subsection (a) if—

"(A) in accordance with regulations implementing this paragraph, the offeror, contractor, or subcontractor, as the case may be, provides the contracting officer with information on the price charged by such offeror, contractor, or subcontractor for the same or similar products in the commercial marketplace; and

"(B) the contracting officer determines in writing that the information provided is adequate for evaluating the reasonableness of the price of the contract or subcontract.

"(3)(A) The Government shall be entitled to a reduction in price and the return of any overpayment, with interest, if an offeror, contractor, or subcontractor provides materially inaccurate or misleading information to the contracting officer pursuant to paragraph (2).

"(B) Nothing in subparagraph (A) is intended to preclude the head of an agency from negotiating any contract clause that provides additional price adjustment authority for the protection of the Government's interest in specific types of contracts, including multiple ordering agreements.

"(4)(A) The head of an agency shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether such information is materially inaccurate or misleading.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.".

SEC. 1205. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection (g), as redesignated by section 1204(1), and inserting in lieu thereof the following:

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 2313 of this title.".

SEC. 1206. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 1204 and 1205, is further amended by inserting after subsection (g) the following new subsection:

"(h) REQUIRED REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations identifying the type of procurements for which contracting officers should consider requiring the submission of certified cost or pricing data under this section.

"(2) The Secretary also shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed $500,000. Such information, at a minimum, shall include appropriate information on the prices at which such offeror has previously sold the same or similar products.".

SEC. 1207. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 1204, is further amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties" after "(or price of the modification)"; and

(2) in subsection (i), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1208. REPEAL OF SUPERSEDED PROVISION.

Subsection (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304 the following new section:

"COST OR PRICING DATA: TRUTH IN NEGOTIATIONS

"SEC. 304A. (a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An agency head shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1993, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the agency head concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(2) shall be considered as having been required to make available cost or pricing data under this section.

"(6)(A) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(B) An agency head is not required to modify a contract under subparagraph (A) if that agency head determines that the submission of cost or pricing data with respect to that contract should be required under subsection (c).

"(b) EXCEPTIONS.—(1) This section need not be applied to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the agency head determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) This section need not be applied to a modification of a contract or subcontract if—

"(A) the contract or subcontract being modified is one to which this section need not be applied by reason of clause (i) or (ii) of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by reason of subsection (b), submission of such data may not be required unless the agency head determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the agency head requires such data to be submitted under this subsection, the agency head shall document in writing the reasons for such requirement.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, an agency head shall—

"(A) conduct procurements of commercial items on a competitive basis; and

"(B) exercise the authority provided in subsection (b)(1)(A) to exempt the contracts and subcontracts under such procurements from the requirements of subsection (a).

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer may nonetheless exempt a contract or subcontract under the procurement from the requirements of subsection (a) if—

"(A) in accordance with regulations implementing this paragraph, the offeror, contractor, or subcontractor, as the case may be, provides the contracting officer with information on the price charged by such offeror, contractor, or subcontractor for the same or similar products in the commercial marketplace; and

"(B) the contracting officer determines in writing that the information provided is adequate for evaluating the reasonableness of the price of the contract or subcontract.

"(3)(A) The Government shall be entitled to a reduction in price and the return of any

overpayment, with interest, if an offeror, contractor, or subcontractor provides materially inaccurate or misleading information to the contracting officer pursuant to paragraph (2).

"(B) Nothing in subparagraph (A) is intended to preclude an agency head from negotiating any contract clause that provides additional price adjustment authority for the protection of the Government's interest in specific types of contracts, including multiple ordering agreements.

"(4)(A) An agency head shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether such information is materially inaccurate or misleading.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 304B(a)(2).

"(h) REQUIRED REGULATIONS.—(1) The head of each executive agency shall prescribe regulations identifying the type of procurements for which contracting officers of that executive agency should consider requiring the submission of certified cost or pricing data under this section.

"(2) The agency head also shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed $500,000. Such information, at a minimum, shall include appropriate information on the prices at which such offeror has previously sold the same or similar products.

"(i) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such terms does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 2304 the following:

"Sec. 304A. Cost or pricing data: truth in negotiations.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

(a) REPEAL.—Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 303E.

Subtitle C—Research and Development

SEC. 1301. DELEGATION OF CONTRACTING AUTHORITY.

Section 2356 of title 10, United States Code, is amended to read as follows:

"§ 2356. Contracts: delegations

"(a) AUTHORITY.—The Secretary of a military department may delegate any authority under section 1584, 2353, or 2354 of this title to—

"(1) the Under Secretary of his department;

"(2) an Assistant Secretary of his department;

"(3) a Deputy Assistant Secretary of his department; or

"(4) except as provided in subsection (b), the chief, and one assistant to the chief, of any technical service, bureau, or office.

"(b) LIMITATION.—The authority of the Secretary of a military department under section 2353(b)(3) of this title may not be delegated to a person described in subsection (a)(4).".

SEC. 1302. RESEARCH PROJECTS.

(a) AUTHORITY TO CONDUCT BASIC, ADVANCED, AND APPLIED RESEARCH.—Section 2358 of title 10, United States Code, is amended to read as follows:

"§ 2358. Research projects

"(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may engage in basic, advanced, and applied research and development projects that—

"(1) are necessary to the responsibilities of such Secretary's department in the field of basic, advanced, and applied research and development; and

"(2) either—

"(A) relate to weapons systems and other military needs; or

"(B) are of potential interest to such department.

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract, cooperative agreement, or other transaction with, or by grant to, educational or research institutions, private businesses, or other agencies of the United States;

"(2) by using employees and consultants of the Department of Defense; or

"(3) through one or more of the military departments.

"(c) REQUIREMENT OF POTENTIAL MILITARY INTEREST.—Funds appropriated to the Department of Defense or to a military department may not be used to finance any research project or study unless the project or study is, in the opinion of the Secretary of Defense or the Secretary of that military department, respectively, of potential interest to the Department of Defense or to such military department, respectively.".

(b) AUTHORITY RELATED TO ADVANCED RESEARCH PROJECTS.—

(1) REPEAL OF REDUNDANT AUTHORITY.—Section 2371 of such title is amended—

(A) by striking out subsection (a);

(B) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (a), (b), (c), (d), (e), and (f), respectively;

(C) in subsection (a), as so redesignated—

(i) in paragraph (1), by striking out "subsection (a)" and inserting in lieu thereof "section 2358 of this title"; and

(ii) in paragraph (2), by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)"; and

(D) in subsection (e), as redesignated by subparagraph (B)—

(i) in paragraph (4), by striking out "subsection (b)" and inserting in lieu thereof "subsection (a)"; and

(ii) in paragraph (5), by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(2) CONSISTENCY OF TERMINOLOGY.—Such section, as amended by paragraph (1), is further amended—

(A) in subsection (c)(1), by inserting "and development" after "research" both places it appears;

(B) in subsections (d) and (e)(3), by striking out "advanced research" and inserting in lieu thereof "research and development"; and

(C) in subsection (e)(1), by striking out "advanced research is" and inserting in lieu thereof "research and development are".

(c) REDUNDANT AND OBSOLETE AUTHORITY FOR THE ARMY.—

(1) REPEAL.—Section 4503 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4503.

(d) REDUNDANT AND OBSOLETE AUTHORITY FOR THE AIR FORCE.—

(1) REPEAL.—Section 9503 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 931 of such title is amended by striking out the item relating to section 9503.

SEC. 1303. ELIMINATION OF INFLEXIBLE TERMINOLOGY REGARDING COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out "milestone 0, milestone 1, and milestone 2 decisions" and inserting in lieu thereof "acquisition program decisions"; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'acquisition program decisions' has the meaning given such term in regulations prescribed by the Secretary of Defense for the purposes of this section.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "25 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "25 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) REFERENCE TO HEAD OF CONTRACTING ACTIVITY.—Subsections (c)(2) and (e) of such section are amended by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity".

(c) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (5), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract upon receipt from the contracting officer responsible for the award of the contract of an authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (5) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3) Unless the contracting officer makes the determinations described in paragraph (2), performance of the contract may be authorized in the written notice of award transmitted to the contractor pursuant to paragraph (3) or (4)(B) of section 2305(b) of title 10 or subsection (c) or (d)(2) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as the case may be.

"(4)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (5)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance was authorized in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the contracting activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(5) The period referred to in paragraphs (2) and (4)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 7 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1402. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment that adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is amended—

(A) in subsection (b), by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the contracting activity responsible for that contract shall report such failure to the Comptroller General not later than 5 working days after the end of such 60-day period.";

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5 for expert witnesses; or

"(B) costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly out of funds appropriated by section 1304 of this title for the payment of judgments and reimburse that appropriation account out of available funds or out of additional funds appropriated for such Federal agency to make such reimbursement; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay."; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

(2) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly from the appropriation made by section 1304 of such title for the payment of judgments. The Federal agency shall reimburse that appropriation account out of available funds or out of additional funds appropriated for such Federal agency to make such reimbursement. If the Federal agency is unable to make the reimbursement out of available funds, the head of such agency shall immediately take such action as may be necessary to transmit to Congress a request for an appropriation of additional funds to make such reimbursement.

(c) REFERENCE TO HEAD OF CONTRACTING ACTIVITY.—Subsections (b)(2) and (d) of section 3554 of title 31, United States Code, are amended by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity".

SEC. 1403. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions make the General Accounting Office or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN THE FEDERAL COURTS

SEC. 1421. NONEXCLUSIVITY OF REMEDIES.

Section 3556 of title 31, United States Code, is amended by striking out "a district court of the United States or the United States Claims Court" in the first sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 1422. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CLAIMS AGAINST THE UNITED STATES AND BID PROTESTS.—Section 1491 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d);

(2) in subsection (a)—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a) CLAIMS AGAINST THE UNITED STATES.—";

(B) in paragraph (2), by striking out "(2) To" and inserting in lieu thereof "(b) REMEDY AND RELIEF.—To"; and

(C) by striking out paragraph (3); and

(3) by inserting after subsection (b), as designated by paragraph (2)(B), the following new subsection (c):

"(c) BID PROTESTS.—(1) The United States Court of Federal Claims has exclusive jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract. The court has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the court may award any relief that the court considers proper, including declaratory and injunctive relief.

"(3) In exercising jurisdiction under this subsection, the court shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) The district courts of the United States do not have jurisdiction of any action referred to in paragraph (1).".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended by inserting "**BID PROTESTS;**" after "**GENERALLY;**".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1491 and inserting in lieu thereof the following:

"1491. Claims against United States generally; bid protests; actions involving Tennessee Valley Authority.".

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting after the third sentence the following: "The Administrator may revoke a delegation of authority with respect to a particular contract before or after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a Federal agency that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the seventh day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 7 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 7 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 1435. AWARD OF COSTS.

Section 111(f)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation. However, no party may be declared entitled to costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5, United States Code, for expert witnesses or to costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5, United States Code.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. JURISDICTION OF DISTRICT COURTS.

Section 111(f)(6)(C) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(6)(C)) is amended by striking out "a district court of the United States or the United States Claims Court" in the third sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 1438. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended by striking out paragraph (8) and inserting in lieu thereof the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions make the board or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate sanctions. Such sanctions may include the dismissal of the protest and an award to any other party of costs (including reasonable attorneys' fees not to exceed the rates provided for pursuant to paragraph (5)(C)) incurred as a result of such protest or conduct.".

SEC. 1439. DEFINITIONS.

(a) PROTEST.—Section 111(f)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)(A)) is amended to read as follows:

"(A) the term 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if that termination or cancellation is alleged to be based in whole or in part on improprieties concerning the award of the contract;".

(b) PREVAILING PARTY.—Section 111(f)(9) of such Act is amended by adding at the end the following new subparagraph:

"(C) the term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1440. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h)(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each procurement the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Compatibility restrictions.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator shall—

"(A) carry out a systematic, periodic review of information received under this subsection;

"(B) use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) have the authority to suspend the delegation to a Federal agency of authority to lease or purchase automatic data processing equipment upon any failure by the head of the Federal agency to report to the Administrator in accordance with paragraph (2).".

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), (5), and (7);

(2) by redesignating paragraph (6) as paragraph (5); and

(3) by inserting after paragraph (2) the following:

"(3) The terms 'commercial item', 'full and open competition', 'major system', 'nondevelopmental item', 'procurement', 'procurement system', 'responsible source',

'standards', and 'technical data', have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'simplified acquisition threshold' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 1502. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Delegation

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1503. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The head of the agency making such finding shall maintain a copy of the finding for not less 6 years after the date of the determination or decision.".

SEC. 1504. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection caption, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Section 2326(g)(1)(B) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1505. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT: CONTRACT TERMS AND CONDITIONS.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1506. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

SEC. 1507. REPEAL OF EXECUTED REQUIREMENT RELATING TO CERTIFICATE OF INDEPENDENT PRICE DETERMINATION IN CERTAIN DEPARTMENT OF DEFENSE CONTRACT SOLICITATIONS.

Section 821 of Public Law 101–189 (103 Stat. 1503) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(c)) is amended by striking out "and 'supplies'" and inserting in lieu thereof "'supplies', 'commercial item', 'nondevelopmental item', and 'simplified acquisition threshold'".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by redesignating sections 309 and 310 as sections 312 and 313, respectively; and

(2) by inserting after section 308 the following new section 309:

"DELEGATION

"SEC. 309. (a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, an agency head may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) an agency head may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by inserting after section 309 the following new section 310:

"DETERMINATIONS AND DECISIONS

"SEC. 310. (a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(c) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The agency head making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1554. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1553, is further amended by inserting after section 310 the following new section:

"UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS

"SEC. 311. (a) IN GENERAL.—An agency head may not enter into an undefinitized contractual action unless the request to the agency head for authorization of the contractual action includes a description of the anticipated effect on requirements of the executive agency concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATIONS OF FUNDS.—(1) A contracting officer of an executive agency may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal (as defined in subsection (f)) to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not obligate with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (f)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the agency head approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the agency head approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—An agency head shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by an agency head for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

"(A) Purchases in an amount not in excess of the amount of the simplified acquisition threshold.

"(B) Congressionally mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the agency head concerned to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the agency head is entitled to review in connection with the contract, as determined by the contracting officer.".

SEC. 1555. REPEAL OF AMENDMENTS TO UNCODIFIED TITLE.

The following provisions of law are repealed:

(1) Section 532 of Public Law 101-509 (104 Stat. 1470) and the matter set out in quotes in that section.

(2) Section 529 of Public Law 102-393 (106 Stat. 1761) and the matter inserted and added by that section.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by striking out "(a) The head of an agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—The head of an agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(c) PAYMENT AMOUNT.—Payments";

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(d) SECURITY FOR ADVANCE PAYMENTS.—Advance payments";

(5) by striking out "(d)(1) The Secretary of Defense" and inserting in lieu thereof "(e) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The Secretary of Defense"; and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(g) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically and in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(d) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (e)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(f) NAVY CONTRACTS.—Such section, as amended by subsection (a)(5), is further amended by inserting after subsection (e) the following new subsection (f):

"(f) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of firms considered to be small businesses; and

"(B) 90 percent, in the case of all other firms.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(g) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CROSS REFERENCE.—Such section, as amended by subsection (a), is further amended in subsections (c) and (d) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(h) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

(4) NAVY RESEARCH CONTRACTS.—Section 7522 of title 10, United States Code, is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

SEC. 2002. CONTRACTS: VOUCHERING PROCEDURES.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"CONTRACT FINANCING";

(2) by striking out "(a) Any executive agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—Any executive agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(c) PAYMENT AMOUNT.—Payments"; and

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(d) SECURITY FOR ADVANCE PAYMENTS.—Advance payments".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically and in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(d) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section, as amended by subsection (a), is further amended by adding at the end the following:

"(e) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The agency head shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the agency head determines necessary to permit the agency head to carry out the preceding sentence.

"(2) The agency head shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the agency head has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(f) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to such contractor.

"(2) An agency head receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an agency head under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the agency head whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the agency head in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each agency head shall prescribe procedures to ensure that, before the agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an agency head reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the agency head whether the suspension or reduction should continue.

"(7) Each agency head who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An agency head may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendments made by paragraph (1) are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(f) CONFORMING AND CLERICAL AMENDMENTS.—

(1) REFERENCE.—Section 305 of the Federal Property and Administrative Services Act of 1949, as amended by subsection (a), is further amended in subsections (c) and (d) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by striking out the item relating to section 305 and inserting in lieu thereof the following:

"Sec. 305. Contract financing.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) COMPTROLLER GENERAL EVALUATION.—Subsection (l) of section 2324 of title 10, United States Code, is amended to read as follows:

"(l)(1) The Comptroller General shall periodically evaluate the implementation of this section by the Secretary of Defense. Such evaluation shall consider the extent to which—

"(A) the implementation is consistent with congressional intent;

"(B) the implementation achieves the objective of eliminating unallowable costs charged to covered contracts; and

"(C) the implementation (as well as the provisions of this section and the regulations prescribed under this section) could be improved or strengthened.

"(2) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on such evaluation within 90 days after publication by the Secretary of Defense in the Federal Register of regulations that make substantive changes in regulations pertaining to allowable costs under covered contracts.".

(b) COVERED CONTRACT DEFINED.—Subsection (m) of such section is amended to read as follows:

"(m) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the Department of Defense, except that such term does not include a fixed-price contract without cost incentives.".

SEC. 2102. CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

(a) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM TREATMENT OF CONTRACT COSTS.—Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"ALLOWABLE COSTS

"SEC. 306. (a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—The head of an executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or an executive agency's supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the agency head determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the agency head shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on regulations issued by the agency head) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the agency head determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the agency head shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The agency head shall prescribe regulations providing for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an agency head under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act.

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the agency head concerned.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under regulations prescribed by the agency head concerned.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to regulations prescribed by the head of the executive agency concerned and subject to the availability of appropriations, the agency head, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the agency head determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of the executive agency concerned shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the agency head will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) The agency head shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The head of each executive agency concerned shall prescribe regulations to implement this section with respect to contracts of that executive agency. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the executive agency's contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, an executive agency's contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of an executive agency's contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REQUIRED REGULATIONS.—The regulations required to be prescribed under subsections (e) and (f)(1) shall require, to the maximum extent practicable, that such regulations apply to all subcontractors of a covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed by the agency head concerned.

"(2) The agency head concerned may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency head—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default, by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the agency head that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) PERIODIC EVALUATION OF IMPLEMENTATION.—(1) The Comptroller General shall periodically evaluate the implementation of this section by the heads of executive agencies. Such evaluation shall consider the extent to which—

"(A) the implementation is consistent with congressional intent;

"(B) the implementation achieves the objective of eliminating unallowable costs charged to covered contracts; and

"(C) the implementation (as well as the provisions of this section and the regulations prescribed under this section) could be improved or strengthened.

"(2) The Comptroller General shall submit to the Committees on Governmental Affairs and on Appropriations of the Senate and the Committees on Government Operation and on Appropriations of the House of Representatives a report on such evaluation within 90 days after the head of any executive agency publishes in the Federal Register regulations that make substantive changes in regulations pertaining to allowable costs under covered contracts.

"(m) COVERED CONTRACT DEFINED.—In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following:

"Sec. 306. Allowable costs.".

PART III—ACQUISITIONS GENERALLY

SEC. 2191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—The head of an agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials,

labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any subcontract under such a contract or combination of contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) SUBPOENA POWER.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of records of a contractor, access to which is provided to the Secretary of Defense by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(d) LIMITATION.—The right of the head of an agency under subsection (a), and the right of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(a), is further amended by inserting after section 304A the following new section:

"EXAMINATION OF RECORDS OF CONTRACTOR

"SEC. 304B. (a) AGENCY AUTHORITY.—The head of an executive agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any subcontract under such a contract or combination of contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304A with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) SUBPOENA POWER.—(1) The agency head may require by subpoena the production of records of a contractor, access to which is provided by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which the head of an executive agency exercises the authority provided in paragraph (1), the agency head shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the agency head concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the agency head determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(d) LIMITATION.—The right of an agency head under subsection (a), and the right of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1251(b), is further amended by inserting after the item relating to section 304A the following:

"Sec. 304B. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2401. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS; QUALITY CONTROL.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

Section 2403(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

SEC. 2403. REPEAL OF REQUIREMENT FOR COMPLETE DELIVERY OF SUBSISTENCE SUPPLIES AT SPECIFIC PLACE UPON INSPECTION.

(a) ARMY CONTRACTS.—

(1) REPEAL.—Section 4534 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4534.

(b) AIR FORCE CONTRACTS.—

(1) REPEAL.—Section 9534 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9534.

PART II—ACQUISITIONS GENERALLY

SEC. 2451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"SEC. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment;

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing;

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or non withholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 2452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENT-WIDE REQUIREMENT.—

(1) REPEAL.—Section 2410 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2453), is repealed.

(c) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2310e of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1993, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

PART II—ACQUISITIONS GENERALLY

SEC. 2551. CONCURRENT JURISDICTION OF UNITED STATES DISTRICT COURTS UNDER THE LITTLE TUCKER ACT.

Subsection (a) of section 1346 of title 28, United States Code, is amended to read as follows:

"(a)(1) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws.

"(2)(A) Except as provided in subparagraph (B), the district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"(B) The district courts shall not have jurisdiction over any civil action or claim against the United States which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such a contract is void, or seeks to determine and construe the terms of such a contract. The district courts do not have jurisdiction over any civil action or claim described in the preceding sentence pursuant to section 1331 or 1334 of this title or any other provision of law.".

SEC. 2552. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) PERIOD FOR FILING CLAIMS.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the occurrence of the event or events giving rise to the claim.".

(b) INCREASED THRESHOLD FOR CERTIFICATION, DECISION, AND NOTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) INCREASED MAXIMUM FOR APPLICABILITY OF SMALL CLAIMS PROCEDURE.—Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$25,000".

(d) REDUCED PERIOD FOR FILING ACTION IN COURT OF FEDERAL CLAIMS.—Section 10(a)(3) of such Act (41 U.S.C. 609(a)(3)) is amended by striking out "twelve months" and inserting in lieu thereof "90 days".

(e) CLAIM DEFINED.—Section 2 of such Act (41 U.S.C. 601) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) the term 'claim' includes a request for equitable adjustment to contact terms and a request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.).".

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. REQUIREMENT FOR INDEPENDENT COST ESTIMATES AND MANPOWER ESTIMATES BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Section 2434 of title 10, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall promulgate regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required to operate, maintain, and support the program upon full operational deployment.".

(b) TERMINOLOGY CORRECTION.—Subsection (a) of such section is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3002. ENHANCED PROGRAM STABILITY.

(a) BASELINE DESCRIPTIONS AND DEVIATION REPORTING.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2); and

(B) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall promulgate regulations governing—

"(1) the content of baseline descriptions;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition;

"(3) procedures for review of deviation reports within the Department of Defense; and

"(4) procedures for submission and approval of revised baseline descriptions.".

(b) TERMINOLOGY CORRECTION.—Subsection (a)(1) of such section, as redesignated by subsection (a)(1)(B)(ii), is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3003. REPEAL OF REQUIREMENT FOR DEFENSE ENTERPRISE PROGRAMS.

(a) AUTHORITY.—

(1) REPEAL.—Sections 2436 and 2437 of title 10, United States Code, are repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the items relating to sections 2436 and 2437.

(b) CONFORMING AMENDMENT.—Section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2430 note) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 3004. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3005. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. REPEAL OF TESTING REQUIREMENT FOR WHEELED OR TRACKED VEHICLES.

(a) REPEAL.—Section 2362 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2362.

SEC. 3012. MAJOR SYSTEMS AND MUNITIONS PROGRAMS: SURVIVABILITY AND LETHALITY TESTING.

(a) SUBSTITUTION OF VULNERABILITY TESTING FOR SURVIVABILITY TESTING.—Section 2366 of title 10, United States Code, is amended—

(1) by striking out "survivability" each place it appears in subsections (a)(1)(A), (a)(2)(A), (c)(1), (d), (e)(3), and (e)(6)(A) and inserting in lieu thereof "vulnerability"; and

(2) in subsection (b)(1), by striking out "Survivability" and inserting in lieu thereof "Vulnerability".

(b) LESS THAN FULL-UP TESTING AUTHORIZED.—Section 2366(e)(3) of such title is amended by inserting after "configured for combat," the following: "or, if the covered system is a high value system, by firing such munitions at components, subsystems, and subassemblies (or realistic replicas or surrogates) together with performing design analyses, modeling and simulation, and analysis of combat data,".

(c) WAIVER AUTHORITY AFTER FULL-SCALE DEVELOPMENT BEGINS.—Section 2366(c)(1) of such title is amended in the first sentence by striking out ", before the system enters full-scale development,".

(d) REFERENCE TO CONGRESSIONAL COMMITTEES.—Section 2366(d) of such title is amended in the first sentence by striking out "defense committees of Congress (as defined in section 2362(e)(3) of this title)" and inserting in lieu thereof "Committees on Armed Services and on Appropriations of the Senate and House of Representatives".

SEC. 3013. OPERATIONAL TEST AND EVALUATION OF DEFENSE ACQUISITION PROGRAMS.

Section 2399(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) The Secretary of Defense may, for a particular major defense acquisition program, prescribe and apply different operational test and evaluation procedures than those provided under subsection (a) and paragraphs (1) through (3) of this subsection if the Secretary first transmits to Congress—

"(i) a certification that such testing would be unreasonably expensive and impracticable, cause unwarranted delay, or be unnecessary because of the acquisition strategy for that system; and

"(ii) a description of the actions taken to ensure that the system will be operationally effective and suitable when the system is introduced into the field.

"(B) Alternative operational test and evaluation procedures prescribed pursuant to subparagraph (A) may not be used to proceed with a major defense acquisition program beyond low-rate initial production.".

SEC. 3014. LOW-RATE INITIAL PRODUCTION OF NEW SYSTEMS.

(a) EXCEPTION FOR STRATEGIC DEFENSE MISSILE SYSTEMS.—Subsection (c) of section 2400 of title 10, United States Code, is amended to read as follows—

(1) in paragraph (1), by striking out "and military satellite programs" and inserting in lieu thereof ", military satellite programs, and strategic defense missile programs";

(2) in paragraph (2), by striking out "and military satellite program" and inserting in lieu thereof ", military satellite program, and strategic defense missile program"; and

(3) by striking out the caption of such subsection and inserting in lieu thereof "LOW-RATE INITIAL PRODUCTION OF NAVAL VESSEL, SATELLITE, AND STRATEGIC DEFENSE MISSILE PROGRAMS.—".

(b) SUBMISSION OF TEST AND EVALUATION MASTER PLAN.—Paragraph (2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) any test and evaluation master plan prepared for that program;".

Subtitle C—Service Specific Laws

SEC. 3021. INDUSTRIAL MOBILIZATION.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Subtitle V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2538. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations

"(a) ORDERING AUTHORITY.—In time of war or when war is imminent, the President, through the Secretary of Defense or the Secretary of a military department, may order

from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

"(b) COMPLIANCE WITH ORDER REQUIRED.—A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

"(c) SEIZURE OF FACILITIES UPON NONCOMPLIANCE.—In time of war or when war is imminent, the President, through the Secretary of Defense or the Secretary of a military department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the Secretary of Defense or the Secretary of the military department concerned, is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the armed forces if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

"(1) to give precedence to the order as prescribed in subsection (b);

"(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the Secretary; or

"(3) to furnish them at a reasonable price as determined by the Secretary.

"(d) USE OF SEIZED FACILITY.—The President, through the Secretary of Defense or the Secretary of a military department, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

"(e) COMPENSATION REQUIRED.—Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

"(f) CRIMINAL PENALTY.—Whoever fails to comply with this section shall be imprisoned for not more than three years and fined not more than $50,000.".

(2) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end the following new item:

"2538. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4501 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4501.

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9501 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9501.

SEC. 3022. INDUSTRIAL MOBILIZATION: PLANTS; LISTS; BOARD ON MOBILIZATION OF INDUSTRIES ESSENTIAL FOR MILITARY PREPAREDNESS.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, as amended by section 3021(a)(1), is further amended by adding at the end the following:

"§ 2539. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness

"(a) LISTS OF ARMS AND AMMUNITION PLANTS.—The Secretary of Defense and the secretaries of the military departments may each maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions of the United States, that are equipped to manufacture for the armed forces arms or ammunition, or parts thereof, and may, when the Secretary of Defense or the Secretary concerned determines it necessary, obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

"(b) LISTS OF PLANTS CONVERTIBLE TO ARMS AND AMMUNITION FACTORIES.—The Secretary of Defense and the secretaries of the military departments may each maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions of the United States, that are capable of being readily transformed into factories for the manufacture of ammunition for the armed forces and that have a capacity sufficient to warrant conversion into ammunition plants in time of war or when war is imminent, and may, when the Secretary of Defense or the Secretary concerned determines it necessary, obtain complete information as to the equipment of each of those plants.

"(c) CONVERSION PLANS.—The Secretary of Defense or the Secretary concerned may prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

"(d) BOARD ON MOBILIZATION OF INDUSTRIES ESSENTIAL FOR MILITARY PREPAREDNESS.—The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness and may provide necessary clerical assistance to organize and coordinate operations under this section and section 2538 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter, as amended by section 3021(a)(2), is further amended by adding at the end the following new item:

"2539. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4502 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4502.

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9502 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9502.

SEC. 3023. PROCUREMENT FOR EXPERIMENTAL PURPOSES.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2373. Procurement for experimental purposes

"The Secretary of Defense and the secretaries of the military departments may each buy ordnance, signal, and chemical warfare supplies, including parts and accessories, and designs thereof, that the Secretary of Defense or the Secretary concerned considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense. Purchases under this section may be made inside or outside the United States by contract or otherwise. Chapter 137 of this title applies when such purchases are made in quantity.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2373. Procurement for experimental purposes.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4504 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9504 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9504.

SEC. 3024. REPEAL OF AUTHORITY FOR PROCUREMENT OF PRODUCTION EQUIPMENT.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4505 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4505.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9505 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9505.

SEC. 3025. AVAILABILITY OF DEPARTMENT OF DEFENSE SAMPLES, DRAWINGS, INFORMATION, EQUIPMENT, MATERIALS, AND CERTAIN SERVICES.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, as amended by section 3022(a)(1), is further amended by adding at the end the following:

"§ 2540. Availability of samples, drawings, information, equipment, materials, and certain services

"(a) AUTHORITY.—The Secretary of Defense and the secretaries of the military departments, under regulations prescribed by the Secretary of Defense and when determined by the Secretary of Defense or the Secretary concerned to be in the interest of national defense, may each—

"(1) sell, lend, or give samples, drawings, and manufacturing or other information (subject to the rights of third parties) to any person or entity;

"(2) sell or lend government equipment or materials to any person or entity—

"(A) for use in independent research and development programs, subject to the condition that the equipment or material be used exclusively for such research and development; or

"(B) for use in demonstrations to a friendly foreign government; and

"(3) make available to any person or entity, at an appropriate fee, the services of

any government laboratory, center, range, or other testing facility for the testing of materials, equipment, models, computer software, and other items.

"(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available pursuant to subsection (a)(3) are confidential and may not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

"(c) FEES.—Fees for services made available for testing under subsection (a)(3) shall be established in the regulations prescribed pursuant to subsection (a). Such fees may not be less than the direct costs involved, including the direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

"(d) USE OF COLLECTED FEES.—Fees received for services made available pursuant to subsection (a)(3) may be credited to the appropriations or other funds of the activity providing such services.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter, as amended by section 3022(a)(2), is further amended by adding at the end the following new item:

"2540. Availability of samples, drawings, information, equipment, materials, and certain services.".

(b) CONFORMING AMENDMENTS.—

(1) EXEMPTION FROM ADVERTISING REQUIREMENT.—Section 2314 of title 10, United States Code, is amended by inserting "or sale" after "procurement".

(2) REPEAL OF SUPERSEDED ARMY AUTHORITY.—Chapter 431 of title 10, United States Code, is amended—

(A) by striking out sections 4506, 4507, and 4508; and

(B) in the table of sections at the beginning of such chapter, by striking out the items relating to such sections.

(3) REPEAL OF SUPERSEDED AIR FORCE AUTHORITY.—Subchapter I of chapter 931 of title 10, United States Code, is amended—

(A) by striking out sections 9506 and 9507; and

(B) in the table of sections at the beginning of such subchapter, by striking out the items relating to such sections.

SEC. 3026. REPEAL OF DUPLICATIVE GENERAL PROCUREMENT AUTHORITY.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4531 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4531.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9531 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9531.

SEC. 3027. REPEAL OF AUTHORITY TO DELEGATE THE PROCUREMENT OF ARMY RATIONS.

(a) REPEAL.—Section 4533 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4533.

SEC. 3028. REPEAL OF AUTHORITY TO PURCHASE EXCEPTIONAL SUBSISTENCE SUPPLIES WITHOUT ADVERTISING.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4535 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4535.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9535 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9535.

SEC. 3029. REPEAL OF AUTHORITY TO OBTAIN ASSISTANCE OF UNITED STATES MAPPING AGENCIES.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4537 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4537.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9537 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9537.

SEC. 3030. REPEAL OF AUTHORITY TO RECLAIM UNSERVICEABLE AMMUNITION.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4538 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4538.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9538 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9538.

SEC. 3031. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Chapter 11 of title 10, United States Code, is amended by inserting after section 278 the following new section:

"§ 279. Gratuitous services of officers of certain reserve components

"The Secretary of Defense and the secretaries of the military departments may each accept the gratuitous services of officers of the Army Reserve, Naval Reserve, Air Force Reserve, and Marine Corps Reserve in the enrolling, organizing, and training of members of such reserve components or the Reserve Officers' Training Corps, or in consulting on matters relating to the armed forces.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of such title is amended by inserting after the item relating to section 278 the following new item:

"Sec. 279. Gratuitous services of officers of certain reserve components.".

(b) REPEAL OF SUPERSEDED PROVISIONS.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4541 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4541.

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9541 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9541.

SEC. 3032. CIVIL RESERVE AIR FLEET.

(a) DEFINITION OF CONTRACTOR.—Section 9511(8) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (A); and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

(b) CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.—Subchapter II of chapter 931 of such title is amended—

(1) by redesignating subsections (b) and (c) of section 9512 as subsections (c) and (d), respectively;

(2) by redesignating subsection (a) of section 9513 as subsection (b) and transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(3) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(4) in subsection (c) of section 9512, as redesignated by paragraph (1), by striking out "the terms required by section 9513 of this title and";

(5) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (3), by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(6) by striking out the heading of section 9513.

(c) USE OF MILITARY INSTALLATIONS BY CONTRACTORS.—

(1) AUTHORITY.—Subchapter II of such chapter, as amended by subsection (b), is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding the provisions of section

1107(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1507(b)), and any other provision of law, amounts collected in a fiscal year from a contractor for services or supplies or as landing fees or other charges authorized to be collected for use of an installation under a contract entered into under subsection (a) shall be credited to an appropriation for such fiscal year for the military department that has jurisdiction over such installation.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the Air Force (and any other armed force having jurisdiction over any installation covered by the contract) from all actions, suits, or claims of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

SEC. 3033. REPEAL OF NAVY AUTHORITY REGARDING RESEARCH AND DEVELOPMENT, PROCUREMENT, AND CONSTRUCTION OF GUIDED MISSILES.

(a) REPEAL OF OBSOLETE AUTHORITY.—Section 7201 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7201.

SEC. 3034. EXCHANGE OF SCIENTIFIC PERSONNEL.

(a) EXCHANGE AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350j. Exchange of scientific personnel

"(a) INTERNATIONAL EXCHANGE AGREEMENTS AUTHORIZED.—The Secretary of Defense is authorized to enter into agreements with the governments of allies of the United States and other friendly foreign countries for the exchange of military and civilian scientific personnel of the Department of Defense and military and civilian scientific personnel of the defense ministries of such foreign governments.

"(b) ASSIGNMENT OF PERSONNEL.—Pursuant to an agreement entered into under subsection (a), personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense, and personnel of the Department of Defense may be assigned to positions in the defense ministry of that foreign government. An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of such personnel to positions in private industry that support the defense ministry of such foreign government. A specific position and the individual to be assigned to that position shall be acceptable to both governments.

"(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an agreement authorized by subsection (a) to provide personnel having qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

"(d) PAYMENT OF PERSONNEL COSTS.—Each government shall pay the salary, per diem, cost of living, travel, cost of language or other training, and other costs (except for cost of temporary duty directed by the host government and costs incident to the use of host government facilities in the performance of assigned duties) for its own personnel in accordance with the laws and regulations of such government that pertain to such matters.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

"2350j. Exchange of scientific personnel.".

SEC. 3035. REPEAL OF AUTHORITY FOR SECRETARY OF THE NAVY TO PROVIDE TEMPORARY RELIEF FOR CONTRACTORS AND CONTRACTOR EMPLOYEES FROM LOSSES CAUSED BY ENEMY ACTION.

(a) REPEAL.—Section 7213 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7213.

SEC. 3036. REPEAL OF AUTHORITY FOR SECRETARY OF THE NAVY TO SELL DEGAUSSING EQUIPMENT.

(a) REPEAL.—Section 7230 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7230.

SEC. 3037. REPEAL OF AUTHORITY FOR ALTERNATIVE USE OF APPROPRIATIONS FOR CONSTRUCTION OR CONVERSION OF VESSELS.

(a) REPEAL.—Section 7296 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7296.

SEC. 3038. REPEAL OF AUTHORITY FOR CONVERSION OF COMBATANT AND AUXILIARY NAVAL VESSELS.

(a) REPEAL.—Section 7298 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7298.

SEC. 3039. CONSTRUCTION OF COMBATANT AND ESCORT VESSELS AND ASSIGNMENT OF VESSEL PROJECTS.

(a) REPEAL OF OBSOLETE AND INTERNALLY INCONSISTENT PROVISIONS.—Section 7299a of title 10, United States Code, is amended—

(1) by striking out subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) CONFORMING AMENDMENT.—Subsection (b) of such section, as redesignated by subsection (a)(2), is amended in paragraph (2) by striking out "subsection (a) or".

SEC. 3040. REPEAL OF REQUIREMENT FOR ESTIMATES IN CONNECTION WITH BIDS ON CONSTRUCTION OF NAVAL VESSELS.

(a) REPEAL.—Section 7301 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7301.

SEC. 3041. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 3042. FITNESS OF NAVAL VESSELS: EXAMINATION; STRIKING UNFIT VESSELS; DISPOSAL.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Section 7304 of title 10, United States Code, is amended to read as follows:

"§ 7304. Fitness of vessels: examination; striking from Naval Vessel Register; disposal

"(a) TRIENNIAL EXAMINATION OF VESSELS REQUIRED.—The Secretary of the Navy shall designate boards of naval officers to examine all naval vessels, including unfinished vessels. Each vessel shall be examined at least once every three years if practicable.

"(b) BOARD RECOMMENDATIONS.—A board designated under subsection (a) shall recommend to the Secretary of the Navy in writing which vessels, if any, should be stricken from the Naval Vessel Register. In making such recommendations, the board shall consider whether a vessel is unfit for service or whether an unfinished vessel cannot be finished without disproportionate expense.

"(c) ACTION OF THE SECRETARY.—If the Secretary concurs with a board's recommendation that a vessel be stricken from the Naval Vessel Register, the Secretary shall strike the name of that vessel from the Naval Vessel Register.

"(d) APPRAISAL OF STRICKEN VESSEL.—The Secretary of the Navy shall appraise each vessel stricken from the Naval Vessel Register.

"(e) SALE OF STRICKEN VESSEL.—(1) When the Secretary determines that it is in the national interest, the Secretary may sell a vessel stricken from the Naval Vessel Register.

"(2) A vessel stricken from the Naval Vessel Register and not subject to disposition under any other law, may be sold at public sale to the highest acceptable bidder, regardless of the vessel's appraised value, after being advertised for sale for a period of not less than 30 days.

"(3) If the Secretary determines that the bid prices received after advertising are not reasonable and that readvertising will serve no useful purpose, the vessel may be sold by negotiation to the highest acceptable offeror, but only if—

"(A) each responsible bidder has been notified of the intent to negotiate a sale of the vessel and has been given a reasonable opportunity to negotiate with the Secretary for the purchase of that vessel; and

"(B) the negotiated price—

"(i) is higher than the highest rejected price of any responsible bidder; or

"(ii) is reasonable and is in the national interest.

"(f) OTHER TRANSFERS.—(1) The Secretary of the Navy is authorized to transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register or any captured vessel to—

"(A) any State, Commonwealth, or possession of the United States, or to any municipal corporation or political subdivision thereof;

"(B) the District of Columbia; or

"(C) any not-for-profit or nonprofit entity.

"(2) A transfer under paragraph (1) shall be made at no cost to the United States and may not be made unless the transferee agrees to maintain the vessel in a condition satisfactory to the Secretary of the Navy.

"(g) USE FOR EXPERIMENTAL PURPOSES.—The Secretary of the Navy is authorized to

use for experimental purposes any vessel stricken from the Naval Vessel Register. A vessel so used shall first be stripped to the maximum extent practicable. The proceeds received from stripping the vessel shall be credited to appropriations available for the procurement of the scrapping services needed for stripping of that vessel. Excess receipts shall be deposited into the general fund of the Treasury.

"(h) INAPPLICABILITY OF OTHER LAW.—The provisions of title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) do not apply to the disposition of a naval vessel under this section.

"(i) LIMITATION.—Notwithstanding any other provision of law, no battleship, aircraft carrier, cruiser, destroyer, or submarine of the Navy may be sold, transferred, or otherwise disposed of, unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 633 of such title is amended to read as follows:

"7304. Fitness of vessels: examination; striking from Naval Vessel Register; disposal.".

(b) REPEAL OF SUPERSEDED PROVISIONS.—

(1) REPEAL.—Sections 7305, 7306, 7307, and 7308 of title 10, United States Code, are repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the items relating to such sections.

SEC. 3043. REPEAL OF POLICY ON CONSTRUCTING COMBATANT VESSELS.

(a) REPEAL.—Section 7310 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7310.

SEC. 3044. NAVAL SALVAGE FACILITIES.

(a) CONSOLIDATION OF AUTHORITY.—Chapter 637 of title 10, United States Code, is amended—

(1) in section 7361—

(A) in subsection (a), by inserting "AUTHORITY TO PROVIDE FACILITIES BY CONTRACT OR OTHERWISE.—" after "(a)";

(B) in subsection (b), by inserting "CONTRACTS AFFECTING THE DEPARTMENT OF TRANSPORTATION.—" after "(b)"; and

(C) in subsection (c)—

(i) by inserting "LIMITATION ON TERM CONTRACTS.—" after "(c)"; and

(ii) by striking out "under this section" and inserting in lieu thereof "under subsection (a)";

(2) by designating the text of section 7362 as subsection (d) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(3) in subsection (d) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "COMMERCIAL USE OF NAVAL VESSELS AND EQUIPMENT.—";

(4) by designating the text of section 7363 as subsection (e) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(5) in subsection (e) of section 7361 of such title, as so designated and transferred, by inserting before "Before any salvage vessel" the following: "CONDITIONS FOR TRANSFER OF EQUIPMENT.—";

(6) by designating the text of section 7365 as subsection (f) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(7) in subsection (f) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "SETTLEMENT OF CLAIMS.—";

(8) by designating the text of section 7366 as subsection (g) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(9) in subsection (g) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Not more than" the following: "LIMITATION ON APPROPRIATIONS.—"; and

(B) by striking out "this chapter" and inserting in lieu thereof "this section";

(10) by designating the text of section 7367 as subsection (h) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(11) in subsection (h) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Money received" the following: "DISPOSITION OF RECEIPTS.—"; and

(B) by striking out "this chapter" in the first sentence and inserting in lieu thereof "this section";

(12) by striking out the section headings for sections 7362, 7363, 7365, 7366, and 7367;

(13) by striking out the heading for section 7361 and inserting in lieu thereof the following:

"§ 7361. Navy support for salvage operations";

and

(14) in the table of sections at the beginning of such chapter—

(A) by striking out the item relating to section 7361 and inserting in lieu thereof the following:

"7361. Navy support for salvage operations.";

and

(B) by striking out the items relating to sections 7362, 7363, 7365, 7366, and 7367.

Subtitle D—Department of Defense Commercial and Industrial Activities

SEC. 3051. FACTORIES AND ARSENALS: MANUFACTURE AT.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, as amended by section 3025(a)(1), is further amended by adding at the end the following:

"§ 2541. Factories and arsenals: manufacture at

"(a) The Secretary of Defense or the Secretary of a military department may have supplies needed for the Department of Defense or such military department, as the case may be, made in factories or arsenals owned by the United States.

"(b) The Secretary of Defense or the Secretary of the military department concerned may abolish any United States arsenal that such Secretary considers unnecessary.".

(2) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter, as amended by section 3025(a)(2), is further amended by adding at the end the following new item:

"2541. Factories and arsenals: manufacture at.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4532 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4532.

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9532 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9532.

SEC. 3052. ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2) For purposes of this subsection, consulting services include—

"(A) management and professional support services;

"(B) studies, analyses, and evaluations;

"(C) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and

"(D) research and development.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISION.—

(1) DOD SPECIFIC LAW.—Section 2212 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2212.

Subtitle E—Fuel- and Energy-Related Laws

SEC. 3061. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

(a) REVISION OF AUTHORITY.—Section 2388 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) AUTHORITY TO CONTRACT.—The Secretary of Defense and the Secretary of a military department may each contract for storage facilities for, or the storage, handling, or distribution of, liquid fuels and natural gas.

"(b) PERIOD OF CONTRACT.—The period of a contract entered into under subsection (a) may not exceed 5 years. However, the contract may provide options for the Secretary to renew the contract for additional periods of not more than 5 years each, but not for more than a total of 20 years."; and

(2) in subsection (c), by inserting "OPTION TO PURCHASE FACILITY.—" after "(c)".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 2388. Liquid fuels and natural gas: contracts for storage, handling, or distribution".

(2) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of chapter 141 of title 10, United States Code, is amended to read as follows:

"2388. Liquid fuels and natural gas: contracts for storage, handling, or distribution.".

SEC. 3062. ACQUISITION OF PETROLEUM AND NATURAL GAS: AUTHORITY TO WAIVE PROCEDURES.

(a) ACQUISITION, SALE, AND EXCHANGE OF NATURAL GAS.—Section 2404 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter above paragraph (1), by inserting "or natural gas" after "petroleum";

(B) in paragraph (1)—

(i) by inserting "or natural gas market conditions, as the case may be," after "petroleum market conditions"; and

(ii) by inserting "or acquisition of natural gas, respectively," after "acquisition of petroleum"; and

(C) in paragraph (2), by inserting "or natural gas, as the case may be," after "petroleum"; and

(2) in subsection (b), by inserting "or natural gas" in the second sentence after "petroleum".

(b) EXPANSION OF EXCHANGE AUTHORITY.—Subsection (c) of such section is amended to read as follows:

"(c) EXCHANGE AUTHORITY.—The Secretary of Defense may acquire petroleum, petroleum-related services, natural gas, or natural gas-related services by exchange of petroleum, petroleum-related services, natural gas, or natural gas-related services.".

(c) SALE OF PETROLEUM AND NATURAL GAS.—Such section is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) AUTHORITY TO SELL.—The Secretary of Defense may sell petroleum or natural gas of the Department of Defense if the Secretary determines that the sale would be in the public interest. The proceeds of such a sale shall be credited to appropriations of the Department of Defense for the fiscal year in which received and shall be available for such fiscal year for the acquisition of petroleum, petroleum-related services, natural gas, or natural gas-related services.".

(d) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) SUBSECTION CAPTIONS.—Section 2404 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting "WAIVER AUTHORITY.—" after "(a)";

(B) in subsection (b), by inserting "SCOPE OF WAIVER.—" after "(b)"; and

(C) in subsection (e), as redesignated by subsection (c)(1), by inserting "PETROLEUM DEFINED.—" after "(e)".

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 2404. Acquisition of petroleum and natural gas: authority to waive contract procedures; acquisition by exchange; sales authority".

(3) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of chapter 141 of title 10, United States Code, is amended to read as follows:

"2404. Acquisition of petroleum and natural gas: authority to waive contract procedures; acquisition by exchange; sales authority.".

Subtitle F—Fiscal Statutes

SEC. 3071. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

Subtitle G—Miscellaneous

SEC. 3081. OBLIGATION OF FUNDS: LIMITATION.

Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Obligation of funds: limitation

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

SEC. 3082. REPEAL OF PROVISIONS FOR THE ENCOURAGEMENT OF AVIATION.

(a) REPEAL.—Chapter 135 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of such title and the beginning of part IV of such subtitle are amended by striking out the item relating to chapter 135.

SEC. 3083. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 3084. REPEAL OF PRICE ADJUSTMENT AUTHORITY AND PURCHASE AUTHORITY RELATING TO THE PROCUREMENT OF MILK.

(a) REPEAL.—Section 2389 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item related to section 2389.

SEC. 3085. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410e. Lease of vessels, aircraft, and vehicles

"The head of an agency named in paragraph (1), (2), (3), or (4) of section 2303(a) of this title may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement without previously having considered all costs of such lease (including estimated termination liability) and determined in writing that such lease is in the best interest of the Government.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2410e. Leases of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. SIMPLIFIED ACQUISITION THRESHOLD.

(a) TERM DEFINED.—Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

(b) INTERIM REPORTING RULE.—Until October 1, 1996, contracting activities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award in excess of $25,000 that were in effect on October 1, 1992.

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. SIMPLIFIED ACQUISITION PROCEDURES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SIMPLIFIED ACQUISITION PROCEDURES

"SEC. 29. (a) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not in excess of the simplified acquisition threshold.

"(b) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(c) In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.".

SEC. 4012. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the procurement of goods and services that has an anticipated value not in excess of the simplified acquisition threshold and that is subject to simplified acquisition procedures prescribed pursuant to section 29 of the Office of Federal Procurement Policy Act shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being procured.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not in excess of the simplified acquisition threshold under the authority of section 8(a) of this Act, section 2323 of title 10, United States Code, or section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656; 15 U.S.C. 644 note).

"(4) In utilizing procedures referred to in paragraph (1), contracting officers shall, wherever circumstances permit, provide for the use of fast payment terms and disbursement of payment through electronic fund transfer.".

SEC. 4013. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to exceed the simplified acquisition threshold,".

(b) CONTENT OF NOTICE.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) NOTICE UNDER THE SMALL BUSINESS ACT.—

(1) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to exceed the simplified acquisition threshold,".

(2) CONTENT OF NOTICE.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

Subpart A—Generally

SEC. 4021. INAPPLICABILITY OF FUTURE ENACTED PROCUREMENT LAWS TO CONTRACTS NOT EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4011, is further amended by adding at the end the following new section:

"INAPPLICABILITY OF CERTAIN LAWS TO CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD

"SEC. 30. (a) IN GENERAL.—The applicability of a provision of law described in subsection (b) to contracts not in excess of the simplified acquisition threshold may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) REFERENCED LAW.—A provision of law referred to in subsection (a) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1993 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

Subpart B—Armed Services Acquisitions

SEC. 4031. INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.

Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is not in excess of the simplified acquisition threshold.".

SEC. 4032. INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.

Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4033. INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.

Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (e) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

SEC. 4034. INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.

Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4035. INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.

Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4036. INAPPLICABILITY OF PREFERENCE FOR USE OF UNITED STATES VESSELS FOR TRANSPORTING SUPPLIES OF THE ARMED FORCES.

Section 2631 of title 10, United States Code, is amended by adding at the end the following: "The first sentence does not apply to a contract for the transportation of those supplies by sea if the contract does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

Subpart C—Civilian Agency Acquisitions

SEC. 4041. INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.

Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract that is not in excess of the simplified acquisition threshold.".

SEC. 4042. INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.

Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold.".

SEC. 4043. INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.

Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (e) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

Subpart D—Acquisitions Generally

SEC. 4051. INAPPLICABILITY OF LIMITATION ON USE OF FUNDS TO INFLUENCE CERTAIN FEDERAL ACTIONS.

Section 1352(e)(2)(B) of title 31, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

SEC. 4052. INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE RELATING TO KICKBACKS.

Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsection:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4053. INAPPLICABILITY OF THE MILLER ACT TO CONTRACTS BELOW THE SIMPLIFIED ACQUISITION THRESHOLD.

(a) IN GENERAL.—

(1) CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD.—The Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"SEC. 5. This Act does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(2) CONFORMING AMENDMENT.—Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

(b) ALTERNATIVE PAYMENT PROTECTIONS.—

(1) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials on contracts referred to in paragraph (2).

(2) COVERED CONTRACTS.—The protections required by paragraph (1) shall apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are in excess of $25,000 but not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(3) MILLER ACT REFERENCE.—The Miller Act referred to in paragraph (2) means the Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act".

SEC. 4054. INAPPLICABILITY OF CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

(a) IN GENERAL.—Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(b) CONFORMING AMENDMENT.—Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

SEC. 4055. INAPPLICABILITY OF THE DRUG-FREE WORKPLACE ACT OF 1988.

Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

SEC. 4056. INAPPLICABILITY OF A REQUIREMENT IN THE MERCHANT MARINE ACT, 1936, TO SHIP ON AMERICAN-FLAG COMMERCIAL VESSELS.

Section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)) is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) does not apply to a contract for transportation on ocean vessels in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))). The gross tonnage transported under such a contract may not be counted for purposes of determining the minimum gross tonnage required to be transported on privately owned United States-flag commercial vessels or for purposes of satisfying such requirement.".

SEC. 4057. INAPPLICABILITY OF CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.

(a) CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold".

(b) CONTRACT CLAUSE REQUIREMENT.—Subsection (g)(1) of such section is amended by inserting after "awarded by a Federal agency" the following: "(other than a contract in an amount that is not in excess of the simplified acquisition threshold)".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of title 10, United States Code, is amended by striking out "small purchases)" in the matter above subparagraph (A) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(6) in paragraph (5), as redesignated by paragraph (3), by striking out "the term 'small purchase threshold' has the meaning" and inserting in lieu thereof "the term 'simplified acquisition threshold' has the meaning".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter above paragraph (1) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended in the third sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements in excess of the simplified acquisition threshold".

SEC. 4074. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The Council shall amend the regulations so identified as necessary to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—The head of each Federal agency that has issued regulations, policies, or procedures referred to in subsection (c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall identify any such regulations, policies, or procedures that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The agency head shall amend the regulations so identified as necessary to provide that such regulations, policies, and procedures do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation, policy, or procedure for which such an amendment would not be in the national interest, as determined by the agency head.

(c) COMPLETION OF ACTIONS.—All actions under this section shall be completed not later than 180 days after the date of the enactment of this Act.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as amended by section 4001.

(2) The term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. ARMED SERVICES ACQUISITIONS.

(a) INAPPLICABILITY OF CERTAIN LABOR LAWS TO CONSTRUCTION OF NAVAL VESSELS.—Section 7299 of title 10, United States Code, is amended to read as follows: "No contract for the construction, alteration, furnishing, or equipping of a naval vessel shall be subject to the Act of March 3, 1931 (40 U.S.C. 276a(a)), commonly referred to as the 'Davis-Bacon Act', or to the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), unless the President determines that such requirement is in the interest of national defense.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 7299. Contracts: applicability of certain labor laws".

(2) The item relating to such section in the table of sections at the beginning of chapter 633 of title 10, United States Code, is amended to read as follows:

"7299. Contracts: applicability of certain labor laws.".

SEC. 4102. ACQUISITIONS GENERALLY.

(a) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

(b) WALSH-HEALEY ACT.—

(1) REPEAL OTHER THAN FOR CERTAIN DEFINITIONAL PURPOSES.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended to read as follows:

"SECTION 1. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a)."

(2) CONFORMING AMENDMENT.—Section 2304(h) of title 10, United States Code, is amended to read as follows:

"(h) For the purposes of the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to

as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures.".

(c) REPEAL OF REDUNDANT REQUIREMENT REGARDING APPLICABILITY OF THE DAVIS-BACON ACT AND THE WALSH-HEALEY ACT.—Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

(d) PROHIBITION ON CONVICT LABOR AND PRISON GOODS.—No agency of the United States shall purchase any goods, wares or merchandise whose transportation in interstate commerce, or whose importation, is prohibited by section 1761 of title 18, United States Code. The preceding sentence does not apply to a contract in an amount that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

SEC. 4103. DIRECT CONTRACTING WITH SMALL BUSINESSES.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended in subparagraph (A) by striking out "In any case in which the Administration certifies" and all that follows through "may be agreed upon between the Administration and the procurement officer." and inserting in lieu thereof the following: "In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent and responsible to perform any specific Government procurement contract to be awarded by any such officer, such officer shall be authorized in his discretion (i) to award such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer, or (ii) to award such procurement contract directly to a socially and economically disadvantaged small business concern designated by the Administration, except that such contract may not be awarded directly to that small business concern if the small business concern requests that the award be made through the Administration.".

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. REPEAL OF OBSOLETE LAWS RELATING TO PROCUREMENT OF NAVAL AIRCRAFT AND COMPONENTS.

(a) AUTHORIZED NUMBER.—Section 7341 of title 10, United States Code, is repealed.

(b) CONSTRUCTION OR MANUFACTURE IN FEDERAL GOVERNMENT PLANTS.—

(1) MINIMUM PERCENTAGE.—Section 7342 of title 10, United States Code, is repealed.

(2) AUTHORIZATION UNDER CERTAIN CIRCUMSTANCES.—Section 7343 of title 10, United States Code, is repealed.

(c) ANNUAL REPORT OF NAVY AIRCRAFT REQUIREMENTS.—Section 7345 of title 10, United States Code, is repealed.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 635 of title 10, United States Code, is amended by striking out the items relating to sections 7341, 7342, 7343, and 7345.

SEC. 4152. REVISION AND CODIFICATION OF PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2246. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2246. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

SEC. 4153. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A PARTICULAR SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005(b), is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(j)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

TITLE V—INTELLECTUAL PROPERTY

Subtitle A—Technology Transfer

SEC. 5001. COPYRIGHT PROTECTION FOR COMPUTER PROGRAMS OF THE FEDERAL GOVERNMENT.

(a) GENERAL AUTHORITY TO COPYRIGHT.—Section 15 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710d) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) RIGHTS TO COMPUTER PROGRAMS PREPARED BY GOVERNMENT EMPLOYEES.—(1) For purposes of title 17, United States Code—

"(A) a computer program prepared by an officer or employee of the Federal Government in the course of the officer's or employee's official duties shall be considered as a work made for hire within the meaning of paragraph (1) of the definition of the term 'work made for hire' set forth in section 101 of such title; and

"(B) notwithstanding section 105 of such title, the Federal Government shall be considered the author of the computer program for purposes of section 201(b) of such title.

"(2)(A) If the Federal agency concerned does not intend to register a copyright of the computer program or otherwise to promote the commercialization of the computer program, the Federal agency may enter into an agreement with the officer or employee of the Federal Government who prepared the computer program to allow such officer or employee to own a copyright protecting such computer program under title 17, United States Code.

"(B) The agreement shall be a written instrument that satisfies the requirements of section 201(b) of title 17, United States Code.

"(C) The agreement shall include—

"(i) a reservation for the Federal Government of a nonexclusive, nontransferable, irrevocable, paid-up license to exercise all rights under the copyright by or on behalf of the Federal Government throughout the world; and

"(ii) such other reservations as the head of the Federal agency concerned considers necessary to ensure distribution and utilization of the computer program.

"(3) In this subsection, the term 'computer program' has the meaning given such term in section 101 of title 17, United States Code.".

(b) WORKS IN CONNECTION WITH COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—

(1) COPYRIGHT PROTECTION FOR THE UNITED STATES.—Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended by adding at the end the following new subsection:

"(h) COPYRIGHT OF COMPUTER PROGRAMS.—(1) Notwithstanding section 105 of title 17, United States Code, a Federal agency may secure, on behalf of the United States as author or proprietor, copyright protection for any computer program prepared by an employee of the Federal Government in the course of work under, or work related to, a cooperative research and development agreement entered into by such Federal agency under the authority of subsection (a)(1) or under any similar authority.

"(2) A Federal agency may grant or agree to grant in advance to a collaborating party licenses or assignments for a copyright of a computer program registered pursuant to paragraph (1), or options thereto, retaining—

"(A) a nonexclusive, nontransferable, irrevocable, paid-up license to reproduce, adapt, translate, distribute, and publicly perform or display the computer program throughout the world by or on behalf of the Federal Government; and

"(B) such other rights that the Federal agency deems appropriate.".

(2) COMPUTER PROGRAM DEFINED.—Subsection (d) of such section is amended—

(A) by striking out "section—" and inserting in lieu thereof "section:";

(B) by capitalizing the initial letter of the first word in each of paragraphs (1), (2), and (3);

(C) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period;

(D) in paragraph (2), by striking out "; and" at the end and inserting in lieu thereof a period; and

(E) by adding at the end the following new paragraph:

"(5) The term 'computer program' has the meaning given such term in section 101 of title 17, United States Code.".

SEC. 5002. USE OF COPYRIGHTED WORKS OF THE FEDERAL GOVERNMENT.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "or copyrighted works" after "(including licensees of inventions"; and

(ii) by striking out "and" at the end;

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(3) to negotiate licensing agreements consistent with section 207 of title 35, United States Code, or under other authorities (in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for copyrighted works owned by the Federal Government pursuant to subsection (h) or copyrighted works that may be voluntarily assigned to the Federal Government."; and

(2) in subsection (b)—

(A) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) grant or agree to grant in advance, to a collaborating party—

"(A) patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, retaining—

"(i) a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention, or have the invention practiced, throughout the world by or on behalf of the Government; and

"(ii) such other rights as the Federal laboratory deems appropriate; and

"(B) copyright licenses or assignments, or options thereto, in any copyrighted work prepared in whole or in part by a laboratory employee under the agreement, retaining—

"(i) a nonexclusive, nontransferable, irrevocable, paid-up license to exercise all rights under the copyright, or have all rights under the copyright exercised, throughout the world by or on behalf of the Government; and

"(ii) such other rights as the Federal laboratory deems appropriate;

"(3) waive in advance, in whole or in part, any right of ownership which the Federal Government may have to—

"(A) any subject invention made under the agreement by a collaborating party or employee of a collaborating party, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention, or have the invention practiced, throughout the world by or on behalf of the Government; or

"(B) any subject copyrighted work prepared under the agreement by a collaborating party or employee of a collaborating party, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to reproduce the copyrighted work, or have the copyrighted work reproduced, throughout the world by or on behalf of the Government;"

(B) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) to the extent consistent with any applicable agency requirements and standards of conduct, permit an employee or former employees of the laboratory to participate in efforts to commercialize an invention that the employee or former employee made, or a copyrighted work that the employee or former employee prepared, while in the service of the United States (notwithstanding that such employee or former employee may have received royalties pursuant to section 14), but only if such employee or former employee did not participate in the selection of the collaborating party to the relevant cooperative research and development agreement or in the negotiation of a licensing agreement under which the invention or copyrighted work, as the case may be, is being commercialized."; and

(C) in the matter following paragraph (5)—

(i) by inserting "or copyrighted work" after "any invention"; and

(ii) in clause (i), by inserting "or to authors of copyrighted works" after "inventors".

SEC. 5003. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

(a) COPYRIGHTED WORKS.—Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended—

(1) in subsection (a)—

(A) in the matter above subparagraph (A), by striking out "inventions under agreements" and all that follows through "produced the invention" and inserting in lieu thereof "an invention or copyrightable work under an agreement entered into by a Government-operated Federal laboratory under section 12, and an invention or copyrightable work of a Government-operated Federal laboratory licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention or copyrighted work";

(B) in paragraph (1)(A)—

(i) in clause (i)—

(I) in the first sentence, by striking out "inventor" and all that follows and inserting in lieu thereof "inventor or copyrighted work to the author (or the co-inventors or co-authors) if the inventor or author (or each such co-inventor or co-author) has assigned his or her rights in the invention or copyrighted work to the United States."; and

(II) by striking out the second sentence;

(ii) in clause (ii)—

(I) by inserting "or authors" after "inventors" in the matter above subclause (I);

(II) by striking out "inventor," in subclauses (I) and (II) and inserting in lieu thereof "inventor or author";

(III) by inserting "or author's copyrighted work" in subclauses (I) and (II) after "inventor's invention";

(IV) in subclause (III), by inserting "and authors" after "such inventors"; and

(V) in subclause (IV), by striking out "licensed invention" and all that follows and inserting in lieu thereof "licensed invention between the time of the filing of the patent application and the licensing of the invention or to the technical development of a licensed copyrighted work between the time of the filing of the application for copyright registration and the licensing of the copyrighted work."; and

(iii) by adding at the end the following new clause (iv):

"(iv) An agency that has published its intention to promulgate regulations under clause (ii) with regard to authors of copyrighted works may elect not to pay authors under clause (i) until the earlier of the date two years after the date of the enactment of the Federal Acquisition Streamlining Act of 1993 or the date of the promulgation of such regulations. If an agency makes such an election and after two years the regulations have not been promulgated, the agency shall make payments (in accordance with clause (i)) of at least 15 percent of the royalties involved, retroactive to the date of the enactment of the Federal Acquisition Streamlining Act of 1993. If promulgation of the regulations occurs within two years after the date of the enactment of the Federal Acquisition Streamlining Act of 1993, payments shall be made in accordance with such regulations, retroactive to such date. The agency shall retain its royalties until the author's portion is paid under either clause (i) or (ii). Such royalties may not be transferred to the agency's Government-operated laboratories under subparagraph (B) and may not revert to the Treasury pursuant to paragraph (2) as a result of any delay caused by rule making under this subparagraph.";

(C) in paragraph (1)(B)—

(i) in the matter above clause (i), by striking out "going to the laboratory where the invention occurred" and inserting in lieu thereof "or copyrighted work going to the laboratory where the invention occurred or the copyrighted work was prepared"; and

(ii) in clause (i)—

(I) by inserting "or copyrighted works" after "licensing of inventions";

(II) by inserting ", or copyrighted works were prepared," after "inventions which occurred"; and

(III) by inserting "or copyrighted work" before "management";

(D) in paragraph (2), by inserting "and authors" after "inventors";

(E) in paragraph (3), by inserting "or author" after "inventor" both places it appears in the second sentence; and

(F) in the first sentence of paragraph (4)—

(i) by inserting ", or copyrighted work management services," after "management services";

(ii) by inserting "or authors" after "inventors";

(iii) by inserting "or copyrighting" after "patenting"; and

(iv) by inserting "or copyright" after "for any invention";

(2) in subsection (b)—

(A) in the matter above paragraph (1), by inserting "or copyrightable work" after "invention"; and

(B) in paragraph (2), by striking out "at the time" and all that follows and inserting in lieu thereof "at the time the invention was made or copyrightable work was prepared,"; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by inserting "or author" after "(including inventor"; and

(B) by striking out paragraph (2).

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1)(B)(i)(I) shall take effect with respect to a department or agency of the Federal Government as of the date of the enactment of this Act unless, within 90 days after that date, such department or agency publishes in the Federal Register a notice of election to file a notice of proposed rulemaking with regard to authors of copyrighted works pursuant to section 14(a)(1)(A)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A)(ii)), as amended by subsection (a)(1)(B)(ii).

SEC. 5004. EXCEPTION TO PROHIBITION ON COPYRIGHT PROTECTION FOR WORKS OF THE FEDERAL GOVERNMENT.

The text of section 105 of title 17, United States Code, is amended to read as follows:

"(a) Except as provided in subsection (b), copyright protection under this title is not available for any work of the United States Government.

"(b)(1) Subsection (a) does not preclude the United States from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

"(2) Subsection (a) does not preclude the United States from copyright protection under this title that is authorized in section 12(h) or 15(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(h) or 3710d(b)).".

Subtitle B—Government Use of Private Patents, Copyrights, and Trade Secrets

SEC. 5011. GOVERNMENT USE OR MANUFACTURE OF A PATENTED INVENTION.

(a) WITHHOLDING OF GOVERNMENT CONSENT FOR CONTRACTOR USE OR MANUFACTURE.—The second undesignated paragraph of section 1498(a) of title 28, United States Code, is amended by inserting after the first sentence the following: "The Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall prescribe in the Federal Acquisition Regulation the circumstances under which a contracting officer may withhold authorization or consent under this paragraph. The Federal Acquisition Regulation shall provide that authorization or consent may not ordinarily be granted for contracts for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(b) INJUNCTION NOT AUTHORIZED REGARDING GOVERNMENT CONTRACTOR USE OR MANUFACTURE.—Section 283 of title 35, United States Code, is amended by adding at the end the following: "Notwithstanding the preceding sentence, no such court may grant an injunction in the case of a violation of a right secured by patent that occurs in the performance of a Federal Government contract.".

SEC. 5012. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

(a) AUTHORIZED ACQUISITIONS.—Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

(b) REDUNDANT PROVISION.—

(1) REPEAL.—Section 7210 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7210.

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

SEC. 6001. AMENDMENTS TO OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

(a) RECUSAL.—Subsection (c) of section 27 of the Office of Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in paragraph (1)—

(A) in the matter above subparagraph (A), by inserting "only" after "subsection (b)(1)"; and

(B) in subparagraph (A), by inserting "(including the modification or extension of a contract)" after "any procurement";

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) Whenever the head of a procuring activity approves a recusal under paragraph (1), a copy of the recusal request and the approval of the request shall be retained by such official for a period (not less than five years) specified in regulations prescribed in accordance with subsection (o).

"(3)(A) Except as provided in subparagraph (B), all recusal requests and approvals of recusal requests pursuant to this subsection shall be made available to the public on request.

"(B) Any part of a recusal request or an approval of a recusal request that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public otherwise required under subparagraph (A).''; and

(3) in paragraph (4), by striking out "competing contractor" and inserting in lieu thereof "person".

(b) APPLICABILITY OF CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of such section is amended by adding at the end the following: "However, paragraph (1)(B) does not apply with respect to a contract for less than $500,000.".

(c) RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) No individual who, in the year prior to separation from service as an officer or employee of the Government or an officer of the uniformed services in a covered position, participated personally and substantially in acquisition functions related to a contract, subcontract, or claim of $500,000 or more and—

"(A) engaged in repeated direct contact with the contractor or subcontractor on matters relating to such contract, subcontract, or claim; or

"(B) exercised significant ongoing decisionmaking responsibility with respect to the contractor or subcontractor on matters relating to such contract, subcontract, or claim,

shall knowingly accept or continue employment with such contractor or subcontractor for a period of 1 year following the individual's separation from service, except that such individual may accept or continue employment with any division or affiliate of such contractor or subcontractor that does not produce the same or similar products as the entity involved in the negotiation or performance of the contract or subcontract or the adjustment of the claim.

"(2) No contractor or subcontractor, or any officer, employee, agent, or consultant of such contractor or subcontractor shall knowingly offer, provide, or continue any employment for another person, if such contractor, subcontractor, officer, employee, agent, or consultant knows or should know that the acceptance of such employment is or would be in violation of paragraph (1).

"(3) The head of each Federal agency shall designate in writing as a 'covered position' under this section each of the following positions in that agency:

"(A) The position of source selection authority, member of a source selection evaluation board, or chief of a financial or technical evaluation team, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the evaluation of proposals or the selection of a source for a contract in excess of $500,000.

"(B) The position of procuring contracting officer, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the negotiation of a contract in excess of $500,000 or the negotiation or settlement of a claim in excess of $500,000.

"(C) The position of program executive officer, program manager, or deputy program manager, or any other position, if the officer or employee in that position is likely personally to exercise similar substantial responsibility for ongoing discretionary functions in the management or administration of a contract in excess of $500,000.

"(D) The position of administrative contracting officer, the position of an officer or employee assigned on a permanent basis to a Government Plant Representative's Office, the position of auditor, a quality assurance position, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the on-site oversight of a contractor's operations with respect to a contract in excess of $500,000.

"(E) A position in which the incumbent is likely personally to exercise substantial responsibility for ongoing discretionary functions in operational or developmental testing activities involving repeated direct contact with a contractor regarding a contract in excess of $500,000.".

(d) DISCLOSURE OF PROPRIETARY OR SOURCE SELECTION INFORMATION TO UNAUTHORIZED PERSONS.—Subsection (l) of such section is amended—

(1) by inserting "who are likely to be involved in contracts, modifications, or extensions in excess of $25,000" in the first sentence after "its procurement officials"; and

(2) by striking out "(e)" each place it appears and inserting in each such place "(f)".

(e) RULES OF CONSTRUCTION.—Subsection (n) of such section is amended to read as follows:

"(n) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an inspector general of a Federal agency;

"(2) restrict the disclosure of information to, or receipt of information by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(3) restrict a contractor from disclosing its own proprietary information or the recipient of information so disclosed by a contractor from receiving such information; or

"(4) restrict the disclosure or receipt of information relating to a Federal agency procurement that has been canceled by the agency and that the contracting officer concerned determines in writing is not likely to be resumed.".

(f) TERM TO BE DEFINED IN REGULATIONS.—Subsection (o)(2)(A) of such section is amended—

(1) by inserting "money, gratuity, or other" before "thing of value.'"; and

(2) by inserting before the semicolon "and such other exceptions as may be adopted on a Governmentwide basis under section 7353 of title 5, United States Code".

(g) TERMS DEFINED IN LAW.—Subsection (p) of such section is amended—

(1) in paragraph (1) by striking out "clauses (i)-(viii)" and inserting in lieu thereof "clauses (i) through (vii)";

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking out clause (i);

(ii) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), and (viii) as clauses (i), (ii), (iii), (iv), (v), (vi), and (vii), respectively; and

(iii) in clause (i) (as redesignated by subclause (II) of this clause), by striking out "review and approval of a specification" and inserting in lieu thereof "approval or issuance of a specification, acquisition plan, procurement request, or requisition"; and

(B) in subparagraph (B), by striking out all after "includes" and inserting in lieu thereof the following: "any individual acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned, regardless of whether such individual is a consultant, expert, or advisor, or an officer or employee of a contractor or subcontractor (other than a competing contractor)."; and

(3) in paragraph (6)(A), by inserting "nonpublic" before "information".

SEC. 6002. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 208(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Except as permitted"; and

(2) by adding at the end the following new paragraph:

"(2) Whoever knowingly aids, abets, counsels, commands, induces, or procures conduct prohibited by this section shall be subject to the penalties set forth in section 216 of this title.".

SEC. 6003. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following provisions of law are repealed:

(1) Sections 2207, 2397, 2397a, 2397b, 2397c, and 2408 of title 10, United States Code.

(2) Section 281 of title 18, United States Code.

(3) Section 801 of title 37, United States Code.

(4) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218).

(b) CLERICAL AMENDMENTS.—

(1) TITLE 10.—Part IV of subtitle A of title 10, United States Code, is amended—

(A) in the table of sections at the beginning of chapter 131, by striking out the item relating to section 2207; and

(B) in the table of sections for chapter 141, by striking out the items relating to sections 2397, 2397a, 2397b, 2397c, and 2408.

(2) TITLE 18.—The table of sections for chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) TITLE 37.—The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

(4) DEPARTMENT OF ENERGY ORGANIZATION ACT.—The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

SEC. 6004. IMPLEMENTATION.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, regulations implementing the amendments made by this section to section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), including definitions of the terms used in subsection (f) of such section shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405 and 521) after coordination with the Director of the Office of Government Ethics.

(b) SAVINGS PROVISIONS.—

(1) CONTRACTOR CERTIFICATIONS.—No officer, employee, agent, representative, or consultant of a contractor who has signed a certification under section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) before the effective date of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(2) FEDERAL PROCUREMENT OFFICIAL CERTIFICATIONS.—No procurement official of a Federal agency who has signed a certification under section 27(l) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(l)) before the date of enactment of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(c) INSPECTOR GENERAL REPORTS.—Not later than May 31 of each of the years 1994 through 1998, the Inspector General of each Federal agency (or, in the case of a Federal agency that does not have an Inspector General, the head of such agency) shall submit to Congress a report on the compliance by the agency during the preceding year with the requirement for the head of the agency to designate covered procurement positions under section 27(f)(3) of the Office of Federal Procurement Policy Act (as added by section 6001(c)).

Subtitle B—Additional Amendments

SEC. 6051. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1091, is further amended by inserting after section 22 the following new section 23:

"CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL

"SEC. 23. (a) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—(1) No person who is not an employee may be paid by an agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless employees with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or any other Federal agency.

"(2) In the administration of this subsection, the head of each agency shall determine the standards of adequate training and capability of employees to conduct such acquisitions.

"(b) DELEGATION OF PROCUREMENT AUTHORITY.—With respect to an acquisition that is subject to section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), the Administrator of General Services may not issue a delegation of procurement authority for the acquisition unless the request for the delegation of procurement authority includes a determination of the contracting agency that—

"(1) such agency has and will utilize employees within the agency, or employees available from another agency, who are adequately trained and capable of conducting evaluations and analyses of proposals submitted for such an acquisition; or

"(2)(A) such agency does not have employees within the agency who are adequately trained and capable of conducting evaluations and analyses of proposals submitted for such an acquisition; and

"(B) adequately trained and capable employees are not readily available from other agencies in accordance with regulations promulgated by the Federal Acquisition Regulatory Council.

"(c) DEFINITION.—For purposes of this section, the term 'employee' has the meaning given such term in section 2105 of title 5, United States Code.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—

(1) GUIDANCE AND REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(B) provide guidance and promulgate regulations regarding—

(i) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(ii) the manner in which Federal employees with expertise may be shared with agencies needing expertise for such acquisitions.

(2) DEFINITION.—In paragraph (1), the term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

SEC. 6052. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 6053. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

TITLE VII—DEFENSE TRADE AND COOPERATION

SEC. 7001. PURCHASES OF FOREIGN GOODS.

(a) REPEAL OF EXECUTED REQUIREMENTS.—

(1) BUY AMERICAN PROVISIONS.—

(A) REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b-1(g)) by striking out paragraphs (2)(C) and (3).

(B) REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102-396 (106 Stat. 1924; 41 U.S.C. 10b-2(b)) is repealed.

(2) STUDIES OF BUY AMERICAN ACT WAIVERS.—Section 306 of the Trade Agreements Act of 1970 (19 U.S.C. 2516), relating to studies of certain employment effects and procurement effects of a waiver of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is repealed.

(b) REPEAL OF REDUNDANT PROVISION.—Section 2327 of title 10, United States Code, is repealed.

SEC. 7002. INTERNATIONAL COOPERATIVE AGREEMENTS.

(a) DEFENSE INTERNATIONAL AGREEMENTS.—

(1) TERMINOLOGY REVISIONS.—Section 2531 of title 10, United States Code, is amended—

(A) in the subsection captions for subsections (a) and (c), by striking out "MOUs AND RELATED" and inserting in lieu thereof "INTERNATIONAL";

(B) in subsection (a), by striking out "proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding," in the matter above paragraph (1) and inserting in lieu thereof "proposed international agreement, including a memorandum of understanding,";

(C) by striking out "memorandum of understanding or related agreement" each place it appears and inserting in lieu thereof "international agreement";

(D) in subsection (b), by striking out "memorandum or related agreement" each place it appears in the second sentence and inserting in lieu thereof "international agreement"; and

(E) in subsection (c)—

(i) by striking out "A" after "AGREEMENTS.—" and inserting in lieu thereof "An"; and

(ii) by striking out "memorandum or agreement" and inserting in lieu thereof "international agreement".

(2) EXPANDED SCOPE OF AGREEMENTS.—Section 2531(a) of title 10, United States Code, is amended by striking out "research, development, or production" in the matter above paragraph (1) and inserting in lieu thereof "research, development, production, or logistics support".

(3) CLERICAL AMENDMENTS.—

(A) SECTION HEADING.—The heading of section 2531 of title 10, United States Code, is amended to read as follows:

"§ 2531. Defense international agreements".

(B) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2531. Defense international agreements.".

(b) REPEAL OF UNNECESSARY AUTHORITY.—

(1) REPEAL.—Section 7344 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 635 of such title is amended by striking out the item relating to section 7344.

SEC. 7003. ACQUISITION, CROSS-SERVICING AGREEMENTS, AND STANDARDIZATION.

(a) LIMITED WAIVER OF RESTRICTIONS ON ACCRUED REIMBURSABLE LIABILITIES AND CREDITS FOR CONTINGENCY OPERATIONS.—Section 2347 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may waive the restrictions in subsections (a) and (b) for a period not to exceed 180 days upon a written determination that the armed forces are involved in a contingency operation or that involvement of the armed forces in a contingency operation is imminent. Upon making such a determination, the Secretary shall transmit a copy of the determination to the Committees on Armed Services of the Senate and House of Representatives.".

(b) COMMUNICATIONS SUPPORT.—Section 2350f of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Nothing in this section shall be construed to limit the authority of the Secretary of Defense, without a formal bilateral agreement or multilateral arrangement, to furnish communications support and related supplies to, or receive communications support and related supplies from, an allied country in accordance with this subsection.

"(2) The Secretary of Defense may furnish or receive such support and supplies on a reciprocal basis for a period not to exceed 90 days—

"(A) in order to meet emerging operational requirements of the United States and the allied country; or

"(B) incident to a joint military exercise with the allied country.

"(3) If interconnection of communication circuits is maintained for joint or multilateral defense purposes under the authority of this subsection, the costs of maintaining such circuits may be allocated among the various users.".

TITLE VIII—COMMERCIAL ITEMS

SEC. 8001. DEFINITIONS.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by section 4001(a), is further amended—

(1) by striking out "Act—"and inserting in lieu thereof "Act:";

(2) by capitalizing the initial letter in the first word of each paragraph;

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period;

(4) in paragraphs (4) and (10), by striking out "; and" at the end and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means—

"(A) property, other than real property, that is of a type regularly used by the general public or by nongovernmental entities in the course of normal business operations for purposes other than governmental purposes and—

"(i) has been sold or licensed to the general public;

"(ii) has not been sold or licensed to the general public but has been offered for sale or license to the general public; or

"(iii) is not yet available in the commercial marketplace but will be made available for commercial delivery within a reasonable period;

"(B) any item that, but for minor modifications made to meet Federal Government requirements or modifications of a type customarily available in the commercial marketplace, would satisfy the criteria in subparagraph (A);

"(C) any combination of items meeting the requirements of subparagraph (A) or (B) that are of a type customarily combined and sold in combination to the general public; and

"(D) installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), or (C) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(13) The term 'nondevelopmental item' means—

"(A) any commercial item;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification of the type normally available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

"(D) any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

SEC. 8002. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS.

(a) PREFERENCE REQUIRED.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4021, is further amended by adding at the end the following new section:

"PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS

"SEC. 31. (a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or other nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items or other nondevelopmental items.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or other nondevelopmental items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or other nondevelopmental items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or other nondevelopmental items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or other nondevelopmental items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items and other nondevelopmental items; and

"(6) require training of appropriate personnel in the acquisition of commercial items and other nondevelopmental items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or other nondevelopmental items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) SEPARATE STATEMENT OF PREFERENCE FOR DEPARTMENT OF DEFENSE.—Section 2325 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 8003. ACQUISITION OF COMMERCIAL ITEMS.

(a) REQUIRED FAR PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8002, is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATION PROVISIONS REGARDING ACQUISITIONS OF COMMERCIAL ITEMS AND COMPONENTS

"SEC. 32. (a) CONTRACT CLAUSES AND OTHER CLAUSES.—(1)(A) The Federal Acquisition Regulation shall include one or more sets of contract clauses containing the terms and conditions for the acquisition of commercial items and commercial components by executive agencies and by contractors in the performance of contracts of executive agencies.

"(B) The contract clauses referred to in subparagraph (A) shall include only—

"(i) those clauses that are required to implement provisions of law applicable to acquisitions of commercial items or commercial components, as the case may be;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in an acquisition of commercial items or commercial components, as the case may be; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate to be included in a contract or subcontract for commercial items or commercial components, as the case may be.

"(2) Subject to paragraph (3), the Federal Acquisition Regulation shall require that, to the maximum extent practicable, only the contract clauses referred to in paragraph (1) be used in a contract or subcontract for the acquisition of commercial items or commercial components by or for an executive agency.

"(3) The Federal Acquisition Regulation shall provide that a contract or subcontract referred to in paragraph (2) may contain contract clauses other than the contract clauses referred to in that paragraph only if the other clauses are essential for the protection of the Federal Government's interest in—

"(A) that contract or subcontract, as determined in writing by the contracting officer for such contract; or

"(B) a class of contracts or subcontracts, as determined by the head of an agency concerned, unless the determination of that head of an agency is disapproved by the Administrator.

"(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

"(b) MARKET ACCEPTANCE.—The Federal Acquisition Regulation shall include a requirement for the head of an executive agency, when determined appropriate in accordance with criteria set out in the regulation, to require offerors for a contract to demonstrate in the offer that the items offered—

"(1) have either—

"(A) achieved a level of commercial market acceptance necessary to indicate that the items are suitable for the executive agency's use; or

"(B) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

"(2) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

"(c) USE OF FIRM, FIXED PRICE CONTRACTS.—The Federal Acquisition Regulation shall include a requirement that firm, fixed price contracts be used, to the maximum extent practicable, for the acquisition of commercial items.

"(d) CONTRACT QUALITY REQUIREMENTS.—The Federal Acquisition Regulation shall include provisions that—

"(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the contractor's existing quality assurance system as a substitute for compliance with a requirement for the Federal Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Federal Government;

"(2) require that, to the maximum extent practicable, an executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

"(3) set forth guidance to executive agencies regarding the use of past performance of items and sources as a factor in contract award decisions.".

(b) DEFENSE CONTRACT CLAUSES.—

(1) REPEAL OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 2325 note) is repealed.

(2) SAVINGS PROVISION.—Notwithstanding section 32(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)), contracts of the Department of Defense entered into before October 1, 1994, and subcontracts entered into before such date under such contracts, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 2325 note).

SEC. 8004. CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8003, is further amended by adding at the end the following:

"CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS TO ACQUISITIONS OF COMMERCIAL ITEMS

"SEC. 33. (a) IN GENERAL.—(1) The applicability of a provision of law described in paragraph (2) to contracts for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(2) A provision of law referred to in paragraph (1) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1993 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.

"(b) WAIVER OF APPLICABILITY TO SUBCONTRACTS.—The applicability of a provision of law described in subsection (a)(2) to subcontracts under a contract for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.".

SEC. 8005. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) ARMED SERVICES ACQUISITIONS.—

(1) PROHIBITION ON CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4031, is further amended by inserting before the period at the end of the sentence added by section 4031 the following: "or to a contract for the acquisition of commercial items".

(2) REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 2302 of this title.".

(3) PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4034, is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(4) PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4032, is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(5) PREFERENCE FOR USE OF UNITED STATES VESSELS FOR TRANSPORTING SUPPLIES OF THE ARMED FORCES.—Section 2631 of title 10, United States Code, as amended by section 4036, is further amended by inserting before the period at the end of the sentence added by section 4036 the following: "or to a contract for the transportation of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) RESTRICTIONS ON SUBCONTRACTOR SALES TO THE UNITED STATES.—Section 303G of the

Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4042, is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(2) PROHIBITION ON CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4041, is further amended by inserting before the period at the end of the sentence added by section 4041 the following: "or to a contract for the acquisition of commercial items".

(c) ACQUISITIONS GENERALLY.—

(1) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(2) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT REQUIREMENT RELATING TO PROCUREMENT INTEGRITY CERTIFICATIONS.—Section 27(e)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by adding at the end the following new subparagraph:

"(C) This subsection does not apply to a contract for the acquisition of commercial items.".

(4) CERTAIN PROVISIONS OF THE ANTI-KICKBACK ACT OF 1986.—

(A) REQUIREMENT FOR CONTRACT CLAUSE.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 4052, is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(B) INSPECTION AUTHORITY.—Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(5) DRUG-FREE WORKPLACE ACT OF 1988.—The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.), as amended by section 4057, is further amended by inserting after the matter inserted by such section 4057 the following: ", other than a contract for the procurement of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))),".

(6) CLEAN AIR ACT.—Section 306 of the Clean Air Act (42 U.S.C. 7606) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) MERCHANT MARINE ACT, 1936.—Section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), as amended by section 4058, is further amended by adding at the end the following new paragraph:

"(4)(A) Paragraph (1) does not apply to a contract for transportation of commercial items on ocean vessels.

"(B) In subparagraph (A), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) FLY AMERICAN REQUIREMENTS.—Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1517) is amended by adding at the end the following new subsection:

"(e)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 8006. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The requirements of paragraph (3)(B) do not apply to contracts for the purchase of commercial items. The Administrator shall prescribe for such contracts appropriate limits on the applicability of a deadline for submission of bids or proposals that is required by subsection (a)(1). Such limits shall be incorporated in the Federal Acquisition Regulation.".

SEC. 8007. ADVOCATE FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS.

(a) ESTABLISHMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8004, is further amended by adding at the end the following:

"ADVOCATE FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

"SEC. 34. (a) ESTABLISHMENT.—There is established in the Office of Federal Procurement Policy the position of Advocate for Acquisition of Commercial and Nondevelopmental Items.

"(b) FUNCTIONS.—The Advocate for Acquisition of Commercial and Nondevelopmental Items shall—

"(1) monitor compliance by executive agencies with the preference for the acquisition of commercial and nondevelopmental items that is set forth in section 29;

"(2) make recommendations and proposals to the Administrator regarding the reform of procurement statutes and regulations to implement that preference; and

"(3) report to the Administrator on the prospective effect of proposed legislation and regulations on the acquisition of commercial items and nondevelopmental items.

"(c) REPORT.—The Administrator shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives an annual report describing for the year covered by the report all actions taken by the Office of Federal Procurement Policy to promote the acquisition of commercial items and other nondevelopmental items.".

(b) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of such Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items and other nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(c) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 8008. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as amending, modifying, or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(2) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(3) section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or any other provision of that Act; or

(4) the Act of June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), popularly referred to as the "Javits-Wagner-O'Day Act".

SEC. 8009. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE IX—EFFECTIVE DATE

SEC. 9001. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

THE FEDERAL ACQUISITION STREAMLINING ACT OF 1993—SECTION-BY-SECTION ANALYSIS

TITLE I—CONTRACT FORMATION

Subtitle A—Competition statutes

Part I—Armed Services Acquisitions

Subpart A—Competition requirements

Sec. 1001. would clarify references to the FAR, as recommended by the Section 800 panel.

Sec. 1002 is a technical change, which would move a provision prohibiting class determinations to a new section of the code, as recommended by the Section 800 panel.

Sec. 1003 would clarify that a higher-ranking official within the DOD may approve the use of non-competitive procedures, as recommended by the Section 800 panel.

Sec. 1004 would substitute the term "contracting activity" for the term "procuring activity", as recommended by the Section 800 panel.

Sec. 1005 would add a new section 2304a to Title 10, to address task order and delivery order contracts. The Section 800 panel recommended a new provision expressly authorizing the use of such contracts. The new section 2304a would do so, subject to time and dollar limitations and a requirement for competition whenever practical.

Subpart B—Planning, solicitation, evaluation, and award

Sec. 1011 would clarify CICA's solicitation provisions requiring the disclosure of evaluation factors and subfactors and authorizing awards without discussions. Similar language was included in H.R. 3161 last year, and has been included in S. 554 (for civilian agencies) this year.

Sec. 1012 is a technical change, which would move a provision regarding the consideration of option pricing to a new section of the code, as recommended by the Section 800 panel.

Sec. 1013 would require notice to all offerors within 3 days of contract award. This provision is a part of the accelerated debriefing and protest schedule established in Sections 1014 and 1402.

Sec. 1014 would require debriefings providing basic information on the award to unsuccessful offerors, if requested within 7 days after contract award. Similar language is included in S. 555. The Section 800 panel also recommended adding a debriefing requirement (with a longer time frame and less detail) to this section.

Sec. 1015 would require DOD to maintain protest files in protests to the Comptroller General, as recommended by the Section 800 panel.

Sec. 1016 would authorize DOD to pay costs and fees in bid protest settlements, as recommended by the Section 800 panel.

Subpart C—Kinds of contracts

Sec. 1021 would repeal the requirement for a determination prior to the use of cost or incentive-type contracts, as recommended by the Section 800 panel. Such determinations are unnecessary in light of the acquisition planning requirements of the Federal Acquisition Regulation. The repeal of this section is not intended to encourage increased use of cost of incentive-type contracts.

Sec. 1022 would make technical and conforming changes recommended by the Section 800 panel and legislative counsel.

Subpart D—Miscellaneous competitive statutes

Sec. 1031 would consolidate 10 USC 2317 with other acquisition work force provisions codified in 10 USC 1701 et seq. The Section 800 panel recommended repeal of this provision.

Sec. 1032 would repeal 10 USC 2318, requiring annual reports by DOD competition advocates. The separate requirement for annual reports on competition by competition advocates of all agencies (in section 20(b) of the OFPP Act) would remain in effect.

Part II—Civilian Agency Acquisitions

Subpart A—Competition requirements

Sec. 1051 would clarify references to the FAR, in the same manner as Sec. 1001.

Sec. 1052 would move a provision prohibiting class determinations to a new section of the code, in the same manner as Sec. 1002.

Sec. 1053 would authorize higher-ranking officials in civilian agencies to approve the use of non-competitive procedures, in the same manner as Sec. 103.

Sec. 1054 would substitute the term "contracting activity" for the term "procuring activity", in the same manner as Sec. 1004.

Sec. 1055 would add a new section 303H to the Federal Property Act, to address task order and delivery order contracts. This provision is identical to the provision added to Title 10 by Sec. 1005.

Subpart B—Planning, solicitation, evaluation, and award

Sec. 1061 would clarify CICA's solicitation provisions requiring the disclosure of evaluation factors and subfactors and authorizing awards without discussions. Conforming changes to Title 10 would be made by Sec. 1011.

Sec. 1062 would move a provision regarding the consideration of option pricing to a new section of the code, in the same manner as section 1012.

Sec. 1063 would require notice to all offerors within 3 days of contract award. An identical change to Title 10 would be made by section 1013.

Sec. 1064 would require civilian agencies to conduct debriefings providing basic information to unsuccessful offerors, if requested within 7 days after contract award. An identical change to Title 10 would be made by section 1014.

Sec. 1065 would require civilian agencies to maintain protest files in protests to the Comptroller General, in the same manner as section 1015.

Sec. 1066 would authorize civilian agencies to pay costs and fees in bid protest settlements, in the same manner as section 1016.

Subpart C—Kinds of contracts

Sec. 1071 would repeal the requirement for a determination prior to the use of cost or incentive-type contracts, in the same manner as section 1021. Such determinations are unnecessary in light of the acquisition planning requirements of the Federal Acquisition Regulation. The repeal of this section is not intended to encourage increased use of cost or incentive-type contracts.

Part III—Acquisitions Generally

Sec. 1091 would repeal Section 23 of the OFPP Act, which requires an annual report on competition each year through FY 1990, as recommended by the Section 800 panel. The separate requirement for annual reports on competition by agency competition advocates (in section 20(b) of the OFPP Act) would remain in effect.

Subtitle B—Truth in negotiations

Part I—Armed Services Acquisitions

Sec. 1201 would repeal the sunset date for the $500,000 cost or pricing data threshold, making the increase permanent. Although this provision would also repeal the statutory requirement for a DOD Inspector General report on the test, it is expected that the IG would routinely review and report on the Department's handling of below-threshold procurements.

Sec. 1202 would amend the TINA exceptions, as recommended by the Section 800 panel, to cover contracts for services that are sold at catalog prices and modifications to commercial item contracts that would not change the commercial item to a non-commercial item.

Sec. 1203 would require a written determination for the submission of cost or pricing data in a case where one of the TINA exceptions applies. A similar provision was agreed to in discussions of H.R. 3161 last year.

Sec. 1204 would add a new subsection (d) to Section 2306a, creating a new TINA exception for commercial items. The new exception would be available where competition is not feasible and the contracting officer determines that price data is adequate to determine price reasonableness. The Section 800 panel recommended a similar exemption.

Sec. 1205 is a technical change, to cross-reference the new consolidated audit provision in section 2313, as recommended by the Section 800 panel.

Sec. 1206 would codify provisions requiring the issuance of regulations regarding the disclosure of data in procurements below the $500,000 threshold. The Section 800 panel recommended the repeal of these requirements.

Sec. 1207 would authorize the parties to agree upon an appropriate effective date for certifications of cost or pricing data, as recommended by the Section 800 panel.

Sec. 1208 would repeal the uncodified provisions that are codified in section 1206.

Part II—Civilian Agency Acquisitions

Sec. 1251 would amend the Federal Property Act to add a new Section 304A, codifying TINA for civilian agencies. The new provisions would raise the civilian TINA threshold to $500,000, require regulations for contracts below the new threshold, and add a new TINA exemption for commercial items, parallel to the changes made for DOD in Part I.

Sec. 1252 would repeal the obsolete provision replaced by the new Section 304A.

Subtitle C—Research and development

Sec. 1301 would amend 10 USC 2356, revising DOD delegation authority for R&D contracts, as recommended by the Section 800 panel.

Sec. 1302 would amend 10 USC 2358, to consolidate the R&D authority of the military departments and repeal redundant and obsolete authority, as recommended by the Section 800 panel.

Sec. 1303 would amend 10 USC 2364, to delete specific R&D milestone requirements and give DOD broader discretion over specific implementation methodologies, as recommended by the Section 800 panel.

Subtitle D—Procurement protests

Part I—Protests to the Comptroller General

Sec. 1401 would amend section 3553 of Title 31.

Subsections (a) and (b) would make technical changes, to refer to calendar days instead of working days and to refer to "contracting activities" instead of the "procuring activities", as recommended by the Section 800 panel.

Subsection (c) would prohibit contractors from beginning performance in the first ten days after contract award, unless authorized

by the contracting officer. A contracting officer could authorize earlier performance unless he or she felt that a bid protest was likely and that immediate performance would not be in the best interest of the United States. This provision is intended to avoid added costs to the United States from starting, stopping, and restarting contract performance in cases where protests are considered likely and immediate performance is not necessary.

Sec. 1402 would amend 3554 of Title 31, regarding Comptroller General decisions on bid protests.

Subsection (a) would make technical changes to refer to calendar days instead of working days and to provide that an amendment that adds new ground of protest should be resolved to the maximum extent practicable, within the time period for final decision on the initial protest, as recommended by the Section 800 panel.

Subsection (b) would provide that the Comptroller General may recommend the payment of attorneys fees in bid protest cases, rather than directing agencies to pay such fees. This provision would address questions that have been raised about the constitutionality of existing law. Similar language was included in H.R. 3161 in the last Congress and has been included in S. 566 in this Congress. This subsection would also authorize the payment of consultant and expert witness fees as well as attorneys fees in protest cases (as recommended by the Section 800 panel), and would limit all such fees to the levels established in the Equal Access to Justice Act.

Subsection (c) would make technical changes to refer to "contracting activities" instead of "procuring activities", as recommended by the Section 800 panel.

Sec. 1403 would authorize the Comptroller General to issue regulations on the calculation of time periods and on electronic filings and disseminations, as recommended by the Section 800 panel.

Part II—Protests in the Federal Courts

Sec. 1421 is a conforming change to Sec. 1422, giving the U.S. Court of Claims exclusive judicial jurisdiction over bid protests.

Sec. 1422 would give the U.S. Court of Claims exclusive judicial jurisdiction over bid protests, and eliminate district court jurisdiction over such protests, as recommended by the Section 800 panel.

Part III—Protests in Procurements of Automatic Data Processing

Sec. 1431 would authorize the Administrator to revoke a delegation of authority after the award of a contract, where there is a finding of a violation of law or regulation in connection with the contract award. A similar provision is included in S. 555.

Sec. 1432 would clarify that at the request of an interested party, the Board shall review any decision by a federal agency alleged to have violated a statute, regulation, or the conditions of any delegation of procurement authority. The identical provision was included in S. 555 earlier this year.

Sec. 1433 would amend Section 111(f)(3) of the Federal Property Act.

Subsection (a) would conform the schedule for GSBCA hearings on suspension of procurement authority to the time frames established in section 1402.

Subsection (b) would substitute calendar days for working days and require that an amendment that adds new grounds of protest be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest, as recommended by the Section 800 panel.

Sec. 1434 would authorize the GSBCA to dismiss a protest that is frivolous, brought in bad faith, or does not state on its face a valid basis for protest. Similar provisions were included in S. 555 and recommended by the Section 800 panel.

Sec. 1435 would authorize the payment of consultant and expert witness fees as well as attorneys' fees in protest cases (as recommended by the Section 800 panel), and would limit all such fees to the levels established in the Equal Access to Justice Act.

Sec. 1436 would require public disclosure of any settlement agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds. This provision also authorizes agencies to make such payments from the judgment fund. A similar provision was included in S. 555.

Sec. 1437 is a conforming change to Sec. 1422, giving the U.S. Court of Claims exclusive judicial jurisdiction over bid protests.

Sec. 1438 would authorize the GSBCA to adopt appropriate rules and procedures which would, at a minimum, address the computation of time periods under the statute; provide procedures for electronic filing and dissemination of documents; and provide for sanctions (including the payment of costs) where a person brings a frivolous or bad faith protest, or willfully abuses the board's process. Similar provisions were recommended by the Section 800 panel.

Sec. 1439 would amend the definition of "protest" in section 111(f)(9) of the Federal Property Act to clarify that the term covers protests of solicitations, cancellations of solicitations, award or proposed awards of contracts, and the cancellation of an award (where such cancellation is alleged to be based on improprieties in the award process).

Sec. 1440 would require the GSA Administrator to collect and compile data on the procurement of automatic data processing equipment. A similar provision was included in S. 555.

Subtitle E—Definitions and other matters

Part I—Armed Services Acquisitions

Sec. 1501 would amend the definitions in 10 USC 2302 to cross-reference definitions in the OFPP Act, where appropriate.

Sec. 1502 would consolidate provisions on delegation of procurement functions, as recommended by the Section 800 panel.

Sec. 1503 would streamline provisions on determinations and decisions, as recommended by the Section 800 panel, while retaining the requirement that such findings be made in writing and retained for no less than 6 years.

Sec. 1504 would make technical changes to clarify the limitation on undefinitized contract actions, as recommended by the Section 800 panel.

Sec. 1505 would repeal an obsolete provision regarding production special tooling, as recommended by the Section 800 panel.

Sec. 1506 would clarify, as recommended by the Section 800 panel, that the authority established in 10 USC 2381(a) to issue regulations on bids is vested in the Secretary of Defense, as well as the secretaries of the military departments.

Part II—Civilian Agency Acquisitions

Sec. 1551 would amend the definitions in the Federal Property Act to cross-reference definitions in the OFPP Act, where appropriate.

Sec. 1552 would consolidate provisions on delegation of procurement functions, in the same manner as section 1502.

Sec. 1553 would streamline provisions on determinations and decisions, while retaining the requirement that such findings be made in writing and retained for no less than 6 years, in the same manner as section 1503.

Sec. 1554 would add a new section 311 to the Federal Property Act, to limit the use of undefinitized contract actions by civilian agencies. This provision would ensure uniform treatment of undefinitized contract actions by civilian agencies and the Department of Defense.

Sec. 1555 would repeal an improperly codified provision that purports to exempt from CICA all IRS contracts to hire experts for the examination of tax returns or litigating actions under the Internal Revenue Code.

Recommendations not adopted

Title I would not adopt recommendations of the Section 800 panel to revise the statement of procurement policy in 10 USC 2301; and grant the Comptroller General power to issue protective orders in bid protests. It would not repeal the requirement to issue regulations on certificates of independent price determination or the requirement to issue uniform rules on the dissemination of acquisition information. Although such rules have already been issued, the continued existence of the statute expresses Congress' intent that they be retained.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract payment

Part I—Armed Services Acquisitions

Sec. 2001 would consolidate contract financing provisions for DOD in 10 USC 2307 and repeal obsolete and superceded provisions, as recommended by the Section 800 panel.

Sec. 2002 would repeal 10 USC 2355, which creates unique vouchering requirements for DOD, as recommended by the Section 800 panel. The Office of Federal Procurement Policy should review existing vouchering systems and attempt to develop a standard, government-wide procedure.

Part II—Civilian Agency Acquisitions

Sec. 2051 would consolidate contract financing provisions for civilian agencies in Section 305 of the Federal Property Act, and ensure uniform requirements for progress payments by civilian agencies and DOD.

Subtitle B—Cost principles

Part I—Armed Services Acquisitions

Section. 2101 would amend the DOD contract cost principles in 10 USC 2324 to—(a) clarify the requirement of GAO evaluations; and (b) raise the threshold for coverage to $500,000. This bill would not adopt the Section 800 panel's recommendation to repeal the statutory contract cost principles.

Sec. 2102 would repeal 10 USC 2382, which provides standby profit controls for use during national emergencies, as recommended by the Section 800 panel. Contractor profits would continue to be negotiated pursuant to the principles established in the Federal Acquisition Regulation.

Part II—Civilian Agency Acquisitions

Sec. 2151 would amend Section 306 of the Federal Property Act to establish contract cost principles for civilian agencies. This provision would ensure uniform treatment of contract costs by civilian agencies and the Department of Defense.

Part III—Acquisitions Generally

Sec. 2191 would repeal section 24 of the OFPP Act, regarding travel expenses of government contractors, as recommended by the Section 800 panel.

Subtitle C—Audit and access to records

Part I—Armed Services Acquisitions

Sec. 2201 would amend 10 USC 2313 to provide a consolidated audit provision and repeal superceded provisions, as recommended by the Section 800 panel.

Part II—Civilian Agency Acquisitions

Sec. 2251 would add a new section 304B to the Federal Property Act to provide a consolidated audit provision for civilian agencies and ensure uniform audit authorities for civilian agencies and DOD.

Subtitle D—Cost accounting standards

Sec. 2301 would repeal an obsolete deadline for procedural regulations that have already been issued, while retaining the provision authorizing the issuance of such regulations.

Subtitle E—Price, delivery, and product quality

Part I—Armed Services Acquisitions

Sec. 2401 would repeal 10 USC 2383, which established special qualification requirements for contractors on spare parts contracts, as recommended by the Section 800 panel.

Sec. 2402 would amend 10 USC 2403, on contractor warrantees, to require he Department of Defense to establish guidelines and procedures for negotiating and administering contractor warrantees. The Department should take steps to test innovative approaches to warranties, as suggested by the Section 800 report; however, this provision would not repeal 10 USC 2403, as amended by the Section 800 panel.

Sec. 2403 would repeal provisions regarding the delivery of subsistence supplies, as recommended by the Section 800 panel.

Part II—Acquisition Generally

Sec. 2451 would amend 41 USC 15 to expand authority for settoffs against assignees, as recommended by the Section 800 panel.

Sec. 2452 would repeal an obsolete requirement for deposit of contractors with GAO, as recommended by the Section 800 panel.

Subtitle F—Claims and disputes

Part I—Armed Services Acquisitions

Sec. 2501 would appeal 10 USC 2410, establishing DOD-unique requirements for the certification of contract claims. Provisions of the Contract Disputes Act of 1978 regarding the certification of claims would remain in effect and would govern all claims, including those at DOD. Section 2501 would also codify a provision restricting legislative payment of claims.

Part II—Acquisitions Generally

Sec. 2551 would amend the Little Tucker Act to clarify jurisdiction over contract disputes, as recommended by the Section 800 panel.

Sec. 2552 would amend the Contract Disputes Act to clarify the periods for filing claims, raise thresholds for certifications, and clarify that claims included requests for equitable adjustments to contract terms and requests for relief under Public Law 85-804.

Recommendations not adopted

Title II would not adopt recommendations of the Section 800 panel to amend the Prompt Payment Act to lengthen the discount period; repeal the statutory contract cost principles; repeal the provision requiring contractor warranties for major weapons systems; and expand the applicability of Public Law 85-804.

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEM STATUTES

Subtitle A—Major systems statutes

Sec. 3001 would modify requirements for independent cost estimates and manpower estimates, as recommended by the Section 800 panel.

Sec. 3002 would streamline requirements for program baseline descriptions and deviation reporting, as recommended by the Section 800 panel. Although these modifications provide DOD with added flexibility, it is anticipated that the Department will continue to establish program baselines and provide essential program cost information.

Sec. 3003 would repeal the requirement for Defense Enterprise Programs, as recommended by the Section 800 panel.

Sec. 3004 would repeal the requirement for competitive prototyping in major programs, as recommended by the Section 800 panel. It is anticipated that the Department will continue to consider competitive prototyping as an option in the acquisition planning process, and to use competitive prototype strategies where appropriate.

Sec. 3005 would repeal the requirement for competitive alternative sources in major programs, as recommended by the Section 800 panel. it is anticipated that the Department will continue to consider competitive alternative sources as an option in the acquisition planning process, and to use competitive alternative sources where appropriate.

Subtitle B—Testing statutes

Sec. 3011 would repeal specific testing requirements for wheeled or tracked vehicles.

Sec. 3012 would modify requirements for survivability and lethality testing to authorize less than full-up testing for high-value systems, as recommended by the Section 800 panel.

Sec. 3013 would, as recommended by the Section 800 panel, authorize the Secretary of Defense to utilize alternative operational testing procedures upon a certification to Congress that use of the statutory procedures would be unreasonably expensive and impracticable, cause unwarranted delay, or be unnecessary. The Secretary would not be permitted to use such alternative procedures to support a final decision to proceed beyond low rate initial production.

Sec. 3014 would provide a new exception to low-rate initial production requirments for strategic defense missiles, as recommended by the Section 800 panel.

Subtitle C—Service specific laws

Sec. 3021 would consolidate existing statutes on industrial mobilization and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3022 would consolidate existing statutes on listing of plants for industrial preparedness purposes and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3023 would consolidate existing statues on procurement for experimental purposes and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3024 would repeal obsolete statutes regarding the procurement of production equipment, as recommended by the Section 800 panel.

Sec. 3025 would consolidate existing statutes authorizing the Secretary of Defense to make use of manufacturing information in the interest of national defense, and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3026 would repeal obsolete and duplicative general procurement authority granted to the Army and the Air Force, as recommended by the Section 800 panel.

Sec. 3027 would repeal an obsolete provision authorizing the delegation of procurement of Army rations, as recommended by the Section 800 panel.

Sec. 3028 would repeal obsolete provisions authorizing the purchase of subsistence supplies, as recommended by the Section 800 panel.

Sec. 3029 would repeal obsolete provisions authorizing the Army and the Air Force to obtain assistance from U.S. mapping agencies, as recommended by the Section 800 panel.

Sec. 3030 would repeal obsolete provisions authorizing the Army and the Air Force to reclaim unserviceable ammunition, as recommended by the Section 800 panel.

Sec. 3031 would consolidate existing statutes authorizing the services to accept the gratuitous services of reserve officers and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3032 would streamline and consolidate existing law on the civil reserve air fleet, as recommended by the Section 800 panel.

Sec. 3033 would repeal an obsolete provision regarding the acquisition of guided missiles by the Navy, as recommended by the Section 800 panel.

Sec. 3034 would add a new section 2350j to Title 10, authorizing international exchange of scientific personnel, as recommended by the Section 800 panel. This issue was left open because it was not clear why such exchanges would require statutory authority.

Sec. 3035 would repeal an obsolete provision authorizing the Secretary of the Navy to provide temporary relief for contractors from losses caused by enemy action, as recommended by the Section 800 panel.

Sec. 3036 would repeal an obsolete provision authorizing the Secretary of the Navy to sell degaussing equipment, as recommended by the Section 800 panel.

Sec. 3037 would repeal an obsolete provision regarding the construction of naval vessels, as recommended by the Section 800 panel.

Sec. 3038 would repeal an obsolete provision regarding the conversion of naval vessels, as recommended by the Section 800 panel.

Sec. 3039 would remove obsolete language from a provision on the assignment of naval construction projects, as recommended by the Section 800 panel.

Sec. 3040 would repeal an obsolete requirement for estimates on naval construction bids, as recommended by the Section 800 panel.

Sec. 3041 would repeal an obsolete requirement regarding construction of naval vessels on the Pacific coast, as recommended by the Section 800 panel.

Sec. 3042 would consolidate existing statutes on the fitness of naval vessels, as recommended by the Section 800 panel.

Sec. 3043 would repeal an obsolete provision of the construction of combatant vessels for the Navy, as recommended by the Section 800 panel.

Sec. 3044 would consolidate existing provisions regarding naval salvage authority, as recommended by the Section 800 panel.

Subtitle D—DOD commercial and industrial activities

Sec. 3051 would consolidate existing statutes on manufacture at DOD factories and arsenals and repeal superseded statutes, as recommended by the Section 800 panel.

Sec. 3052 would codify requirements to establish consulting services as a separate item in budgets submitted to Congress and repeal the uncodified language. The Section 800 panel recommended repeal of this provision.

Subtitle E—Fuel and energy-related laws

Sec. 3061 would consolidate and streamline statutes regarding contracts for storage,

handling, and distribution of fuels, as recommended by the Section 800 panel.

Sec. 3062 would clarify DOD's authority to exchange or sell fuels and fuel-related services, as recommended by the Section 800 panel.

Subtitle F—Fiscal statutes

Sec. 3071 would amend 31 USC 3321 to clarify the authority to designate disbursing officers within DOD, as recommended by the Section 800 panel.

Subtitle G—Miscellaneous

Sec. 3081 would amend a provision regarding production, warehousing, and distribution of supplies to delete unnecessary and redundant language, as recommended by the Section 800 panel.

Sec. 3082 would repeal obsolete provisions for the encouragement of aviation, as recommended by the Section 800 panel.

Sec. 3083 would repeal an obsolete and redundant provision regarding product evaluation activities, as recommended by the Section 800 panel.

Sec. 3084 would repeal an obsolete provision regarding price adjustment authority relating to the purchase of milk, as recommended by the Section 800 panel.

Sec. 3085 would codify a provision limiting the lease of vessels, aircraft, and vehicles by the Department of Defense, with modifications to make the provision less onerous. The Section 800 panel recommended repeal of this provision.

Recommendations not adopted

Title III would not adopt the recommendations of the Section 800 panel to eliminate detailed requirements for SAR and UCR reports on acquisitions of major weapons systems; delete or substantially modify conflict-of-interest provisions related to operational test and evaluation; increase the blanket delegation of procurement authority for the Department of Defense; revise statutes governing contracting out by the Department of Defense; and loosen restrictions on use of the so-called "M account".

The SAR/UCR system is already fully automated and appears to be working well. Blanket DPA's can be increased, if appropriate, without legislative action. The contracting-out statutes are currently under review by other congressional committees and subcommittees.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified acquisition threshold

Part I—Establishment of Threshold

Sec. 4001 would amend the OFPP Act to establish a new 'simplified acquisition threshold' of $100,000, as recommended by the Section 800 panel. This provision would continue data collection requirements on contracts between $25,000 and $100,000 for a period of two years after the new threshold goes into effect.

Part II—Simplification of Procedures

Sec. 4011 would add a new section 29 to the OFPP Act, authorizing the use of simplified procedures for acquisitions under the simplified acquisition threshold, as recommended by the Section 800 panel.

Sec. 4012 would reserve all contracts under the simplified threshold for small business, and specifically authorize continued set-asides of such contracts for minority small business, as recommended by the Section 800 panel.

Sec. 4013 would amend section 18 of the OFPP Act and section 8(e) of the Small Business Act to continue the requirement that a notice of any procurement over $25,000 be published in the Commerce Business Daily 15 days prior to the issuance of a solicitation. After the issuance of this notice, the agency would be free to pursue any procedures described in the notice; the requirement to allow the 30 days for the submissions of bids and proposals would apply only to contracts in excess of the simplified acquisition threshold.

Part III—Inapplicability of Laws to Acquisitions not in Excess of Simplified Acquisition Threshold

Subpart A—Generally

Sec. 4021 would add a new section 30 to the OFPP Act, authorizing the Federal Acquisition Regulation to waive the applicability of future-enacted procurement laws on a class basis for contracts below the simplified acquisition threshold, unless the provision expressly prohibits such a waiver.

Subpart B—Armed services acquisitions

Sec. 4031 would exempt procurements below the simplified acquisition threshold from contingent fees certifications, as recommended by the Section 800 panel.

Sec. 4032 would exempt procurements below the simplified acquisition threshold from the prohibitions on limiting subcontractor direct sales to the United States, as recommended by the Section 800 panel.

Sec. 4033 would exempt procurements below the simplified acquisition threshold from the audit requirements in 10 USC 2313, as recommended by the Section 800 panel.

Sec. 4034 would exempt procurements below the simplified acquisition threshold from the requirements to identify suppliers and sources of supplies.

Section 4034 would exempt procurements below the simplified acquisition threshold from the requirements to identify suspended or debarred subcontractors. The Section 800 panel recommended exempting such procurements from suspension and debarment provisions generally.

Sec. 4036 would exempt procurements below the simplified acquisition threshold from the preference of U.S. flag vessels, as recommended by the Section 800 panel.

Subpart C—Civilian agency acquisitions

Sec. 4041 would exempt civilian agency procurements below the simplified acquisition threshold from contingent fees certifications, in the same manner as section 4031.

Sec. 4042 would exempt civilian agency procurements below the simplified acquisition threshold from the prohibition on limiting subcontractor direct sales to the United States, in the same manner as section 4032.

Sec. 4043 would exempt civilian agency procurements below the simplified acquisition threshold from audit requirements, in the same manner as section 4033.

Subpart D—Acquistions Generally

Sec. 4051 would make a technical change to the Byrd Amendments, substituting "simplified acquisition threshold" for "$100,000", as recommended by the Section 800 panel.

Sec. 4052 would exempt procurements below the simplified acquisition threshold from the procedural requirements of the Anti-Kickback Act. The Section 800 panel recommended exempting such procurements from the anti—kickback laws generally.

Sec. 4053 would exempt procurements below the simplified acquisition threshold from the Miller Act, as recommended by the Section 800 panel.

Sec. 4054 would exempt procurements below the simplified acquisition threshold from the Contract Work Hours and Safety Standards Act, as recommended by the Section 800 panel.

Sec. 4055 would exempt procurements below the simplified acquisition threshold from the Drug-Free Workplace Act of 1988, as recommended by the Section 800 panel.

Sec. 4056 would exempt procurements below the simplified acquisition threshold from the requirement to ship on American-Flag commercial vessels, as recommended by the Section 800 panel.

Sec. 4057 would make technical changes to the Procurement Integrity Act, substituting "simplified acquisition threshold" for "$100,000", and making conforming changes.

Part IV—Conforming Amendments

Sec. 4071 would make a conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in Title 10 provisions, as recommend by the Section 800 panel. The changes in this Part will ensure that agencies have the intended flexibility to utilize streamlined procedures for acquisitions under the new threshold.

Sec. 4072 would make a conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in Title 41 provisions, in the same manner as section 4071.

Sec. 4073 would make conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in the OFPP Act, as recommended by the Section 800 panel.

Sec. 4074 would make conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in the Small Business Act, as recommended by the Section 800 panel.

Part V—Revision of Regulations

Sec. 4081(a) would require the FAR Council to review the Federal Acquisition Regulation to identify and amend, as appropriate, regulations that are applicable below the new simplified acquisition threshold.

Sec. 4081(b) would require agency heads to review supplemental regulations, policies, and procedures to identify and amend, as appropriate, regulations that are applicable below the new simplified acquisition threshold.

Subtitle B—Socioeconomic and small business laws

Sec. 4101 is a conforming change to section 4102(c), which would repeal the Walsh-Healey Act.

Sec. 4102(a) would repeal Section 306 of the Trade Agreements Act of 1979, an obsolete provision requiring a completed report on labor surplus areas, as recommended by the Section 800 panel.

Sec. 4102(b) would repeal the Walsh-Healey Act, as recommended by the Section 800 panel (except for the purpose of authorizing the Secretary of Labor to define the terms "regular dealer" and "manufacturer", because the definitions authorized under the Walsh-Healey Act have been adopted by a number of other statutes). A conforming amendment would be made to Section 2304(h) of title 10.

Sec. 4102(c) is a conforming change to section 4102(c), which would repeal the Walsh-Healey Act.

Sec. 4102(d) would exempt procurements below the simplified acquisition threshold from the prohibition on use of convict labor and prison goods, as recommended by the Section 800 panel.

Sec. 4103 would amend section 8(a) of the Small Business Act to authorize agencies to contract directly with an 8(a) contractor,

rather than indirectly through the Small Business Administration, unless the contractor objects. This change was recommended by the Section 800 panel.

Subtitle C—Miscellaneous armed services acquisition laws

Sec. 4151 would repeal several obsolete laws relating to procurement of naval aircraft, including one provision addressing the acquisition of lighter-than-air aircraft, as recommended by the Section 800 panel.

Sec. 4152 would codify a provision from the FY 1991 DOD Appropriations Act, which prohibits the use of appropriated funds to prepare materials, reports, lists, or analyses on the economic effect of acquisition programs in specific states or congressional districts, as recommended by the Section 800 panel.

Recommendations not adopted

Title IV would not adopt recommendations of the Section 800 panel to apply the simplified acquisition threshold to the Buy American Act and U.S. source restrictions codified in 10 USC 2507 and to repeal provisions related to the small business Certificate of Competency program.

TITLE V—INTELLECTUAL PROPERTY

Subtitle A—Technology transfer

Sec. 5001 would amend section 15 of the Stevenson-Wydler Technology Innovation Act to cover rights in computer programs in the same manner as patents and copyrights, as recommended by the Section 800 panel.

Sec. 5002 would amend section 12 of the Stevenson-Wydler Technology Innovation Act to clarify the treatment of employees of government-owned, contractor-operated laboratories, as recommended by the Section 800 panel.

Sec. 5003 would amend section 14 of the Stevenson-Wydler Technology Innovation Act to clarify the treatment of copyrighted works, as recommended by the Section 800 panel.

Sec. 5004 would amend 17 USC 105 to conform to the change made by section 5003 with respect to the treatment of copyrighted works, as recommended by the Section 800 panel.

Subtitle B—Government use of private patents, copyrights and trade secrets

Sec. 5011 would require the issuance of regulations regarding the circumstances under which a contracting officer should withhold authorization or consent for a contractor to violate private patents in the performance of a government contract, as recommended by the Section 800 panel. Under this provision, no injunction could be issued for a violation of patent that occurs in the performance of a government contract.

Sec. 5012 would make several minor technical changes to provisions regarding DOD acquisition of intellectual property rights, as recommended by the Section 800 panel.

Recommendations not adopted

Title V would not adopt recommendations of the Section 800 panel to revise the statutes governing rights in technical data and to address the imposition of secrecy orders. The technical data revisions would be premature in light of the ongoing review of a separate DOD-industry panel, known as the "Section 807 panel". The secrecy order revisions would be premature because the handling of classified information is currently being reviewed by the executive branch.

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics provisions

Sec. 6001 would amend the Procurement Integrity section of the OFPP Act to streamline the recusal provision; consolidate the revolving door ban with similar provisions applicable only to the Department of Defense; harmonize the gratuities provision with government-wide ethics provisions; revise certification provisions to eliminate unnecessary administrative burdens; and clarify several other provisions. An identical provision was passed by the Senate as an amendment to the DOD Authorization bill in 1991, but was never enacted into law.

Sec. 6002 would amend the criminal conflict of interest provision in 18 USC 208 to expressly cover persons who aid or abet violations. An identical provision was passed by the Senate as part of the 1991 Senate amendment.

Sec. 6003 would repeal several superseded and obsolete procurement ethics laws. These include—

The post-employment and revolving door provisions in sections 2397, 2397a, 2397b, and 2397c, of title 10; section 281 of title 18, section 801 of title 37; and Part A of Title VI of the Department of Energy Organization Act. Each of these provisions would be superceded by the amended Procurement Integrity provision and would have been repealed by the 1991 Senate amendment. All except for the provisions of the DOE Organization Act were recommended for repeal by the Section 800 panel.

The DOD contractor gratuities provision in section 2207 of title 10 which has already been superceded by the enactment of the procurement Integrity law.

The prohibition on doing business with persons convicted of defense-contract related felonies in section 2408 of title 10, which is unnecessary in light of existing suspension and debarment provisions.

Sec. 6004 addressed the implementation of the changes in this Subtitle. Similar provisions were included in the 1991 Senate amendment.

Subtitle B—Additional amendments

Sec. 6051 would add a new section 23 to the OFPP Act, which would prohibit the use of consultants to conduct evaluations or analyses of any aspect of a proposal if qualified federal employees are available to do the job. A similar provision was included in S. 554 earlier this year.

Sec. 6052 would repeal a section 17 of the OFPP Act, calling for a study and report that have already been issued.

Sec. 6053 would amend section 22(a) of the OFPP Act to clarify that 60 days notice should be provided for significant changes to acquisition regulations unless there are compelling circumstances for an earlier effective date.

Recommendations not adopted

Title VI would not adopt recommendations of the section 800 panel to substantially amend the False Claims Act, repeal the Procurement Integrity provision, repeal the Byrd Amendment, and repeal the whistleblower protection provision codified at 10 USC 2409.

Substantial amendments to the False Claims Act are currently being considered by the Judiciary Committee, which has jurisdiction over that Act. A recommendation to repeal the Procurement Integrity provision was considered by the Senate in 1991; the Senate decided that the amendments included in this bill were more appropriated. Amendments to the Byrd Amendment have already passed the Senate as a part of the Lobbying Disclosure Act of 1993, and are more appropriately considered as a part of that broader lobbying bill. Section 2409a was enacted as a test program; because the test period has not yet expired, it is premature to repeal the provision.

TITLE VII—DEFENSE TRADE AND COOPERATION

Sec. 7001 would repeal obsolete and redundant provisions in the Buy American Act, as recommended by the Section 800 panel.

Sec. 7002 would amend 10 USC 2531 to replace the term "Memorandums of Understanding" with the broader term "International Cooperative Agreements" and to expand the authorized scope of such agreements to cover logistics support, as recommended by the Section 800 panel.

Sec. 7003 would provide added flexibility for acquisition, cross-servicing agreements, and standardization under joint and multilateral defense agreements, as recommended by the Section 800 panel.

Recommendations not adopted

Title VII would not adopt recommendations of the Section 800 panel to replace the "domestic components" test in the Buy American Act with a "substantial transformation" test; repeal domestic source restrictions for jewel bearings, night vision devices, PAN carbon fibers, and other items; revise the statement of defense trade policy in 10 USC 2533; repeal the prohibition on purchases from terrorist states; and exempt NATO purchases and purchases under cooperative agreements from the procurement laws.

TITLE VIII—COMMERCIAL ITEMS

Sec. 8001 would amend the OFPP Act to add new definitions of "commercial item", "nondevelopmental item", "component", and "commercial component". Similar definitions of commercial and nondevelopmental items were recommended by the Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8002 would add a new section 31 to the OFPP Act to create a preference for the acquisition of commercial items and other nondevelopmental items. Similar provisions were recommended by the Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8003 would add a new section 32 to the OFPP Act to require the issuance of uniform contract clauses for commercial item contracts. This provision would also address market acceptance; the use of firm, fixed price contracts for commercial items; and reliance on existing quality assurance systems for commercial items. Similar provisions were recommended by the Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8004 would authorize the applicability of future enacted procurement statutes to contracts and/or subcontracts for the acquisition of commercial items to be waived on a class basis, through the Federal Acquisition Regulation.

Sec. 8005 would exempt commercial items procurement from the requirement to identify suppliers and sources of supplies; the prohibition on contingent fees; the requirement to identify suspended or debarred subcontractors; the preference for U.S. flag vessels; so-called "Fly American" requirements; the procedural requirements of the Anti-Kickback Act; the Federal Water Pollution Control Act; the Clean Air Act; the Contract Work Hours and Safety Standards Act; the certification requirements of the Procurement Integrity provision; and the Drug-Free Workplace Act. This section would also restrict the applicability to commercial item contracts of the statutory prohibition on limiting subcontractor direct sales to the

government. Similar exemptions were recommended by the Section 800 panel.

Sec. 8006 would authorize greater flexibility in setting deadlines for the submission of offers in contracts for the purchase of commercial items.

Sec. 8007 would amend the OFPP Act to expand the responsibilities of OFPP's commercial items advocate and to give agency competition advocates the added responsibility of promoting the acquisition of commercial items and other nondevelopmental items. Similar provisions were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8008 would identify certain provisions that are not intended to be affected or modified by this Title. Similar language was included in H.R. 3161 in the last Congress.

Sec. 8009 would require a Comptroller General review of federal government use of market research. A similar provision was included in S. 260 and H.R. 3161 in the last Congress.

Recommendations not adopted

Title VIII would not adopt recommendations of the Section 800 panel to include items that are made to government specifications in the definition of commercial items and to provide all NDI's the same contractual treatment provided for commercial items. It would not exempt commercial items from the Buy American Act and domestic source restrictions; special provisions regarding disabled Vietnam veterans and the handicapped; or the requirement for small business subcontracting plans.

TITLE IX—EFFECTIVE DATE

This Title would provide that the amendments made by this Act are effective upon enactment, except as otherwise provided.

SUMMARY—FEDERAL ACQUISITION STREAMLINING ACT OF 1993

SIMPLIFIED ACQUISITION THRESHOLD

Raises small purchase threshold from $25,000 to $100,000, as recommended by the Section 800 Panel and NPR.

Maintains current requirement that notice of procurements over $25,000 be published in Commerce Business Daily. Once notice is issued, streamlined procedures in notice can kick in.

Leaves open the options available to the Administration for the development of an EDI system, as proposed by the NPR.

Reserves contracts under threshold for small business; authorizes continued set-asides of such contracts for minority small business, as recommended by the Section 800 panel.

Exempts procurements below threshold from statutory restrictions (which generally were recommended by the NPR and the Section 800 Panel) such as the: contingent fees certification; contract audit requirements; procedural requirements of Anti-Kickback Act; Miller Act; Contract Work Hours and Safety Standards Act; Drug-Free Work Place Act of 1988; prohibition on limiting subcontractor direct sales to the United States; requirement to identify suspended or debarred subcontractors; the prohibition on the use of convict labor and prison goods; preference for transportation on U.S.-flag vessels; and identification of suppliers and sources.

COMMERCIAL ITEMS

Encourages use of commercial and other nondevelopmental items (NDI), as recommended by the Section 800 Panel and NPR.

Defines Commercial and NDIs similar to S. 260 last year, and the Section 800 Panel, and establishes preference for them.

Exempts purchases of such items—which generally was recommended by the NPR and the Section 800 Panel—from the: procedural requirements of Anti-Kickback Act; Drug-Free Work Place Act of 1988; requirement to identify suspended and debarred subcontractors; requirement to identify suppliers and sources of supplies; preference for transportation on U.S.-flag vessels; Fly American Provisions; prohibition on limiting subcontractor direct sales to the United States; contingent fees certification; procurement integrity certification; Contract Work Hours and Safety Standards Act; Federal Water Pollution Control Act certifications; and Clean Air Act certifications.

Amends the Truth in Negotiations Act to create a new commercial items exception, similar to the recommendation of the Section 800 Panel.

COMPETITION IN CONTRACTING

Amends CICA to require solicitations contain evaluation factors and subfactors and their relative weights, similar to the recommendation of the NPR.

Authorizes task order and delivery order contracts subject to time and dollar limitations and a specific competition requirement, in accordance with a similar recommendation by the Section 800 Panel.

BID PROTESTS

Consolidates judicial jurisdiction over bid protests in the Claims Court, as recommended by the Section 800 Panel.

Establishes new, accelerated schedule for notice of contract award, and a new contractor debriefing procedure, as recommended by the Section 800 Panel.

Authorizes the payment of consultant and expert witness fees (in addition to attorney's fees) in protests to the GAO and the GSA Board of Contract Appeals (GSBCA), as recommended by the Section 800 Panel. Limits all such fees to the levels established in the Equal Access to Justice Act.

Authorizes GSBCA to dismiss a protest that is frivolous or brought in bad faith and allows the GSBCA to invoke sanctions where a person brings a frivolous or bad faith protest, or willfully abuses the board's process, as recommended by the Section 800 Panel and the NPR.

Makes procedural changes including: Providing for public disclosure of any settlement agreement that involves a direct or indirect expenditure of appropriated funds.

Amends GAO's authority to provide that it may recommend payment of attorney's fees in bid protest cases, rather than directing agencies to pay such fees.

PROCUREMENT ETHICS

Amends procurement integrity law (in the spirit of the NPR) along lines of Senate passed amendment to 1991 DOD Authorization bill to: streamline the recusal provisions; consolidate DOD and civilian revolving door provisions; and revises certification provisions.

Repeals: Post-employment revolving door provisions in Title 10; DOD contractor gratuity provision; prohibition on doing business with people convicted of DOD contract-related felonies (unnecessary given suspension/debarment).

Prohibits use of consultants to conduct proposal analyses where qualified federal employees are available.

ESTABLISHING A UNIFORM PROCUREMENT SYSTEM

Codifies TINA for civilian agencies and establishes $500,000 cost and pricing data threshold government-wide in accord with similar recommendations made by NPR and the Section 800 Panel.

Establishes statutory contract cost principles for civilian agencies similar to those which exist for DOD. Threshold for application of these principles is $500,000.

Repeals Walsh-Healy Act with respect to minimum wage requirements (covered in other law), as recommended by the Section 800 Panel.

Authorizes agencies to contract directly with 8(a) contractors, as recommended by the Section 800 Panel.

Repeals and consolidate obsolete and redundant DOD laws, as recommended by the Section 800 Panel.

THE FEDERAL ACQUISITION ACT OF 1993—SUMMARY OF MAJOR ISSUES

I. COMMERCIAL ITEMS

Title VIII of the bill would encourage the use of commercial and other non-developmental items and make it substantially easier for federal agencies throughout the government to purchase such items. The purchase of proven products such as commercial and nondevelopmental items can eliminate the need for research and development, minimize acquisition leadtime, and reduce the need for detailed design specifications or expensive product testing.

Sections 8001 and 8002 contain definitions of commercial and nondevelopmental items, and would establish a preference for such items. Section 8003 would require the issuance of uniform contract clauses for commercial item contracts and require the issuance of regulations to make it easier to buy such products. Similar provisions were recommended by the Vice President's National Performance Review and Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sections 8004 and 8005 would reduce impediments to the purchase of commercial items by exempting such purchases from a series of statutes that are unique to government purchases, and have no counterpart in the commercial sector. Section 8004 would authorize the Federal Acquisition Regulatory Council to waive the applicability of future statutes to commercial item procurements, unless such a waiver is expressly prohibited by the statute. Section 8005 would create express commercial item exemptions from the requirement to identify suppliers and sources of supplies; the requirement to identify suspended or debarred subcontractors; the preference for transportation on U.S. flag vessels; so-called "Fly American" requirements; the procedural requirements of the Anti-Kickback Act; the Drug-Free Workplace Act; the Contract Work Hours Safety Standards Act; the Clean Air Act, the Federal Water Pollution Control Act; contingent fees certifications; and Procurement Integrity certifications. Similar exemptions were recommended by the Vice President's National Performance Review and the Section 800 panel.

Other provisions, in Sections 1204 and 1251 of the bill, would amend the Truth in Negotiations Act for DOD and civilian agencies to create a new commercial items exception. This new exception would be available where competition is not feasible and the contracting officer determines that price data are adequate to determine price reasonableness. This approach would relieve commercial contractors from their number one complaint—the burden of collecting cost data for the government. The Section 800 panel recommended a similar exemption.

II. SIMPLIFIED ACQUISITION THRESHOLD

Title IV of the bill would raise the small purchase threshold from $25,000 to $100,000

and relabel it the "simplified acquisition threshold", as recommended by the Vice President's National Performance Review and the Section 800 panel. Of federal agency contract actions over $25,000, roughly 60% are under $100,000—but these purchases account for only 5% of the contract dollars. The new simplified acquisition threshold should substantially simplify the process of making small purchases and reduce the amount of manpower needed for such purchases, resulting in substantial savings for the government.

Section 4001 of the bill would establish the new simplified acquisition threshold of $100,000. Sections 4011 and 4013 would authorize the use of simplified procedures for acquisitions under the new threshold. The bill would continue the requirement that a notice of any procurement over $25,000 be published in the Commerce Business Daily 15 days prior to the issuance of a solicitation. After the issuance of this notice, however, simplified acquisition procedures could be used—for example, by shortening the period for the submission of bids and proposals.

The procedural changes made in these sections would be enhanced by the establishment of an effective electronic data interchange (EDI) system to provide access to information on contracting opportunities. The Vice President's National Performance Review has committed the executive branch to establish such a system in the next year.

Sec. 4012 would reserve all contracts under the $100,000 simplified acquisition threshold for small business, and specifically authorize continued set-asides of such contracts for minority small business, as recommended by the Section 800 panel. At present, only contracts under the $25,000 small purchase threshold are reserved for small business.

Title IV would also raise the threshold on a number of other procurement-related provisions to $100,000, as recommended by the Vice President's National Performance Review and the Section 800 panel. Section 4021 would authorize the Federal Acquisition Regulatory Council to waive the applicability of future statutes to contracts below the simplified acquisition threshold, unless such a waiver is expressly prohibited by the statute. Sec. 4081 would require a review of federal procurement regulations to identify and amend regulations that apply below the new $100,000 threshold.

Sections 4031 through 4060 would exempt procurements below the simplified acquisition threshold from contingent fees certifications; the requirement to identify suppliers and sources; the prohibition on limiting subcontractor direct sales to the United States; contract audit requirements; the requirement to identify suspended or debarred subcontractors; the preference for U.S. flag vessels; the procedural requirements of the Anti-Kickback Act; the Miller Act; the Contract Work Hours and Safety Standards Act; the Drug-Free Workplace Act of 1988; and the prohibition on use of convict labor and prison goods.

III. BID PROTESTS

Title I of the bill would make a number of changes to provisions regarding bid protests to the Comptroller General, the General Services Board of Contract Appeals (GSBCA) and in the federal courts. Bid protests are used by contractors to challenge contracting decisions that they believe violate law or regulation. Such protests serve not only to safeguard the rights of individual contractors, but also to ensure the integrity of the contracting system. When the protest process becomes too judicialized, however, it may impede the contracting process and make agency officials less willing to try innovative approaches to get the job done.

Sections 1013, 1014, 1063, 1064, 1402 would establish a new, accelerated schedule for notice of contract award, contractor debriefings, and bid protests. Under these provisions, agencies would be required to notify unsuccessful offerors of award decisions within 3 days of contract award, and to provide debriefings if requested within 7 days after contract award. Contractors could begin performance in the first 10 days after contract award, upon authorization by the contracting officer. Contracting officers would be empowered to withhold such authorization in cases where a bid protest is likely and immediate performance is not in the best interest of the United States.

By requiring contractor debriefings (as recommended by the section 800 panel and provided by S. 1958, H.R. 3161, and S. 555), these provisions should reduce the number of unmeritorious protests—because many contractors now file protests simply to get information about why they were not successful. By authorizing contracting officers to withhold authorization to begin performance, they should help agencies avoid added costs which occur when contractors unnecessarily start, stop, and restart contract performance.

Sections 1403 and 1435 would authorize the payment of consultant and expert witness fees (in addition to attorneys' fees) in protests to the GAO and the GSBCA, as recommended by the Section 800 panel. These provisions would also limit all such fees to the levels established in the Equal Access to Justice Act for attorneys fees against the United States generally. At present, there is no statutory limit on attorneys' fees in bid protest actions, and federal agencies may be required to reimburse any reasonable fees incurred by a successful protestor.

Section 1403 would also amend the provisions applicable to bid protests to the GAO to provide that the Comptroller General may recommend the payment of attorneys fees in bid protest cases, rather than directing agencies to pay such fees. This provision (which parallels language included in H.R. 3161 in the last Congress and S. 556 in this Congress) would address questions that have been raised about the constitutionality of existing law.

Sections 1434 and 1438 would address frivolous or bad faith protests to the GSBCA, as recommended by the Section 800 panel. Section 1434 would authorize the GSBCA to dismiss a protest that is frivolous, brought in bad faith, or does not state on its face a valid basis for protest. Sec. 1438 would authorize the GSBCA to invoke sanctions (including the payment of costs) where a person brings a frivolous or bad faith protest, or willfully abuses the board's process. Dismissal, but not sanctions, would be available for frivolous protests at GAO, because GAO protests are less formal and are frequently brought on a pro se basis.

Title I would also adopt a number of provisions from S. 555, to clarify GSBCA protest jurisdiction and procedures. Section 1431 would clarify the GAO's authority to revoke a delegation of authority after the award of a contract, where there is a finding of a violation of law or regulation in connection with the contract award. Section 1432 would clarify the GSBCA's authority to review contracting decisions that are alleged to have violated a statute, regulation, or the conditions of any delegation of procurement authority. Section 1436 would provide for the public disclosure of any settlement agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds. Section 1439 would clarify that the scope of GSBCA's protest jurisdiction.

This Title would also consolidate judicial jurisdiction over bid protests in the court of claims, as recommended by the Section 800 panel.

IV. PROCUREMENT ETHICS

Title VI of the bill would substantially streamline the procurement ethics laws, as recommended by the Vice President's National Performance Review and the Section 800 panel. Over the last decade, Congress has enacted a series of new procurement ethics provisions. Although each of these provisions, standing alone, addresses a specific ethics problem, the cumulative impact has been a complex patchwork of overlapping and sometimes redundant requirements.

In 1989, the President's Task Force on Ethics recommended the repeal of all procurement specific ethics laws except for a narrow provision on the disclosure of inside information. The Senate examined this proposal and decided instead to streamline and consolidate the procurement ethics laws, while retaining needed safeguards. Title VI mirrors the provisions adopted by the Senate as an amendment to the DOD Authorization bill in 1991.

Section 6001 would amend the Procurement Integrity section of the OFPP Act to streamline the recusal provision; consolidate the revolving door ban with similar provisions applicable only to the Department of Defense; harmonize the gratuities provision with government-wide ethics provisions; revise certification provisions to eliminate unnecessary administrative burdens; and clarify several other provisions. Section 6002 would amend the criminal conflict of interest provision in 18 USC 208 to expressly cover persons who aid or abet violations.

Section 6003 would repeal several superseded, obsolete, or redundant procurement ethics laws, including sections 2207, 2397, 2397a, 2397b, 2397c, and 2408 of title 10; section 281 of title 18, section 801 of title 37; and Part A of title VI of the Department of Energy Organization Act. Each of these provisions would have been repealed by the 1991 Senate amendment, was recommended for repeal by the Section 800 panel, or both.

V. ESTABLISHING A UNIFORM PROCUREMENT SYSTEM

The bill would make a number of changes to the procurement code to ensure the uniform treatment of DOD and civilian agency procurements, as recommended by the Vice President's National Performance Review.

Section 1251 of the bill would amend the Federal Property Act to codify the definitions and requirements of the Truth in Negotiations Act (TINA) for civilian agencies. TINA is the statute which requires contractors in sole-source procurements to provide the government with "cost or pricing" data to support the validity of their prices. A similar codification was added to Title 10 in 1986, but applied only to the Department of Defense.

Section 2151 would amend the Federal Property Act to establish contract cost principles for civilian agencies identical to those already in effect for DOD. Contract cost principles provide that certain types of costs—such as the entertainment costs, lobbying expenses, advertising costs, and so-called "golden parachute" payments—should not be paid by the taxpayers and are not "allowable" on federal contracts. The new provision would also establish cost certification

procedures and penalties identical to those that have long been applicable in DOD procurements. The Section 800 panel recommended repeal of the statutory contract cost principles. This provision would retain these provisions, and ensure uniform treatment of DOD and civilian agency contracts.

Section 2501 would repeal 10 USC 2410, which establishes DOD-unique requirements for the certification of contract claims. The Contract Disputes Act of 1978 establishes government-wide requirements for the certification of claims. Under the bill, these requirements would remain in effect and would be amended to clarify that they govern all claims, including those at DOD.

In addition, Section 2002 would repeal 10 USC 2355, which creates unique vouchering requirements for DOD, as recommended by the Section 800 panel. The Office of Federal Procurement Policy would be expected to review existing vouchering systems and develop a standard, government-wide vouchering procedure.

VI. OTHER RECOMMENDATIONS ADOPTED

The bill would also adopt several dozen other recommendations of the Section 800 panel to streamline and improve the acquisition laws. For example, the following provisions would adopt recommendations of the Section 800 panel:

Sections 1003 and 1053 would allow an agency flexibility to designate higher-ranking officials to approve the use of non-competitive procedures;

Sections 1005 and 1055 of the bill would expressly authorize the use of umbrella contracts, as recommended by the Section 800 panel, but subject to time and dollar limitations and specific competition requirements;

Sections 1201 and 1251 would raise the threshold for cost or pricing data to $500,000 on a permanent basis for DOD and civilian agencies;

Section 1303 would give DOD broader discretion over acquisition planning in R&D contracts;

Sections 2001 and 2051 would consolidate contract financing provisions for DOD and civilian agencies, respectively;

Sections 2101 and 2151 would raise the threshold for the contract cost principles to $500,000;

Section 2102 would repeal a provision providing for standby profit controls for use during national emergencies (which hasn't been used for more than 30 years);

Section 2191 would repeal a provision requiring contractor employees to travel at government airfares (because government agreements with air carriers do not cover travel by contractor employees);

Sections 2201 and 2251 would provide consolidated audit provisions for DOD and civilian agencies, respectively;

Section 2401 would repeal a requirement for special qualification of spare parts contractors;

Section 2551 would amend the Little Tucker Act to clarify jurisdiction over contract disputes;

Section 2552 would amend the Contract Disputes Act to clarify the periods for filing claims and raise thresholds for certifications;

Section 3001 would streamline requirements for independent cost estimates and manpower estimates;

Section 3002 would streamline requirements for program baseline descriptions and deviation reporting;

Section 3003 would repeal the requirement for Defense Enterprise Programs;

Section 3004 would repeal the requirement for competitive prototyping in major programs;

Section 3005 would repeal the requirement for dual-sourcing in major programs;

Sections 3011 through 3014 would consolidate and simplify requirements for operational testing and evaluation on major defense programs;

Sections 3021 through 3084 would repeal and consolidate obsolete and redundant DOD-unique laws;

Section 4102 would repeal the Wash-Healey Act, which no longer has any impact on prevailing minimum wage rates (with the exception of certain definitional provisions);

Section 4103 would authorize agencies to contract directly with an 8(a) contractor, rather than indirectly through the Small Business Administration, unless the contractor objects;

Sections 5001 through 5004 would amend the Stevenson-Wydler Technology Innovation Act to allow employees to gain rights in copyrights as well as patents; and

Sections 7002 and 7003 would broaden DOD's authority to use international cooperative agreements and provide added flexibility for acquisition, cross-servicing, and standardization under joint and multilateral defense arrangements.

VII. RECOMMENDATIONS NOT ADOPTED

Finally, about a dozen recommendations of the Section 800 panel would not be adopted by the bill:

The proposed revisions to the False Claims Act are not included in the bill, as these issues are currently under consideration by the Judiciary Committee.

The proposed revisions to statutes governing rights in technical data are not included in the bill, because these issues are currently under review by a separate DOD-industry panel, known as the "Section 807 panel".

The proposed revisions to procedures for the imposition of secrecy orders are not included in the bill, because the handling of classified information is currently being reviewed by the executive branch.

The proposed revisions to statutes governing contracting out by the Department of Defense are not included in the bill, because these statutes are currently under review by other subcommittees with jurisdiction over the issue.

The contract cost principles would not be repealed as recommended, because this statute constitutes an important statement of congressional policy, and the Section 800 panel did not identify any substantive deficiency in the statute.

Detailed reporting requirements for the acquisition of major weapons systems would not be repealed as recommended, because these reports have already been fully automated, and provide Congress with useful information.

The contractor warranty provision would not be repealed because the report states that although the provision has been poorly implemented, it serves an important purpose. Improved implementation guidelines would be required by the bill.

The bill would not increase the blanket delegation of procurement authority (in ADP procurements) for the Department of Defense, because this action can be taken, if appropriate, without legislative action.

The bill would not roll back conflict-of-interest provisions related to operational test and evaluation, because these provisions were recently enacted to address specific concerns about the integrity of product testing.

The bill would not loosen restrictions on the use of the so-called "M Accounts", as these limits were recently enacted to address specific abuses of DOD funds.

Mr. LEVIN. Mr. President, I am pleased to introduce, with my colleagues, Senators GLENN, NUNN, BINGAMAN, BUMPERS, and LIEBERMAN, the Federal Acquisition Streamlining Act of 1993—the most significant procurement reform legislation to be considered by the Senate since Senator COHEN and I introduced the Competition in Contracting Act 10 years ago.

This bill would implement the most important procurement recommendations of both the Vice President's National Performance Review and the DOD-Industry panel on streamlining the acquisition laws—the so-called section 800 panel. More importantly, it could save billions of taxpayer dollars every year.

As the Vice President's report on reinventing government states, excessive regulation in the existing procurement system "adds costs without adding value; it impedes Government's access to state-of-the-art commercial technology; and its complexity forces businesses to alter standard procedures and raise prices when dealing with the government."

We must simplify procurement regulations and procedures and we must do it now. The bill we are introducing today would achieve this objective by eliminating obsolete and redundant laws, while streamlining and reforming others, to create a simpler and more efficient procurement system.

The Federal Acquisition Streamlining Act is the product of many months of work. Starting in late January, the majority and minority staffs of the Senate Governmental Affairs, Armed Services, and Small Business Committees have met on a weekly basis to review the acquisition laws on a line-by-line basis to determine where these laws could be streamlined, simplified, or reformed. The bill that we are introducing today is the consensus product of that review.

Our review was based, in large part, on the work of the section 800 panel on acquisition reform, which delivered its report to the Congress in late January. This report is 8 volumes and 1,800 pages long; it contains hundreds of recommendations and a review of every procurement-related statute the panel was able to identify.

With the exception of a few obsolete provisions, every one of these statutes serves some valid purpose. We have competition requirements to ensure that we obtain low prices, avoid favoritism and conflict of interest, and provide everybody with a fair chance to compete for Government contracts. We have audit requirements and cost principles to ensure that we get what we pay for under cost type contracts. We have socio-economic requirements to promote desirable social objectives like promoting small and minority businesses. We have ethics requirements to ensure that our procurement officials

do not engage in employment discussions with contractors with whom they are negotiating contracts or show favoritism by giving inside information to contractors.

However, when all these laws—and hundreds more requirements that are imposed by regulation—are added together, the result is an almost impossibly complex and unwieldy system. There is much that we can do and should do to streamline this system and make it cheaper and easier for the Government to buy the products and services we need, without sacrificing the important objectives served by the procurement laws.

Most importantly, this bill would make it easier for the Government to buy commercial products instead of requiring products to be designed to Government-unique specifications. As I explained when I first introduced commercial products legislation 5 years ago, it only makes sense that products that are already in use—known as nondevelopmental items or NDI's—are less expensive and easier to purchase than new, Government-unique items. The acquisition of NDI's can lower initial purchase costs by reducing or eliminating the need for research and development. Acquisition leadtime can be reduced since NDI's are readily available and can be produced on existing production lines. Because the product is already developed and has been shown to work, the need for detailed design specifications and extensive testing is also reduced.

As the Vice President's report on reinventing government states, "Our government buys such items as integrated circuits, pillows, and oil pans, designed to Government specifications—even when there are equally good commercial products available." We can save a huge amount of money by taking advantage of these proven commercial products, instead of trying to reinvent the wheel at taxpayer expense.

For example, a 1991 study by the Logistics Management Institute found that a single Navy command had been able to save:

Five million dollars by substituting commercial standards for Government-unique specifications for thermal insulation materials; $3.7 million by purchasing general purpose automobiles with standard commercial paint, instead of requiring that all vehicles be painted medium Navy gray; $5 million by purchasing commercially available fire and rescue trucks instead of custom designed vehicles; $1 million by buying commercially available generators and floodlights, instead of specially designed, DOD-unique floodlights and generators.

Earlier this year, the Defense Science Board task force on acquisition reform concluded that DOD alone could save more than $2 billion a year by using more commercial items and commercial specifications.

I have been fighting for this goal for years—holding three subcommittee hearings, issuing two committee reports, authoring two successful amendments to DOD authorization bills, and introducing two bills to extend these reforms governmentwide. I am proud that title VIII of the bill—the commercial products title—incorporates all of the major elements, and much of the language, of the legislation that I have previously introduced—and which passed the Senate in two consecutive Congresses—to remove obstacles to Government purchases of commercial products and encourage Federal agencies to make greater use of products that have already been proven in the commercial marketplace.

Like the commercial product bills I have introduced in the past, title VIII would:

Establish new, governmentwide definitions of commercial items and other off-the-shelf products; create a preference for the acquisition of such items; require Federal agencies to use simplified procurement specifications to the maximum extent possible; require agencies to conduct market research to determine whether their needs can be met by commercial and off-the-shelf products; require the use of uniform, simplified contracts for the purchase of commercial items; authorize the use of market acceptance criteria in commercial procurements; encourage the consideration of contractors' past performance in decisions to award future contracts; permit commercial contractors to use existing quality assurance systems instead of extensive Government testing; and require Federal agencies to take advantage of commercial warranties.

In addition to these measures, the bill would take two other very significant steps—recommended by both the Vice President's National Performance Review and the section 800 panel—to simplify the acquisition of commercial products.

First, the bill would modify the Truth in Negotiations Act to permit contracting officers to waive its applicability to the acquisition of commercial items in appropriate cases. This means that commercial companies would not be subject to the requirement to produce extensive cost or pricing data to justify the prices they charge for their products. This data requirement creates an unneeded paperwork burden in cases where fair prices have already been reached through competition in the commercial marketplace.

Second, the bill would waive a series of Government-unique statutory requirements that have no parallel in the commercial marketplace. These requirements create an impediment to the purchase of commercial items, because they require commercial companies to make extensive changes to their business operations if they choose to sell to the Government. We join with the Vice President in seeking to take this important step to streamline the acquisition system.

Mr. President, this bill contains many other significant changes to the procurement system, which should enable us to purchase goods and services more efficiently, at a lower overall cost to the taxpayer. For example, the bill would:

Establish a new simplified acquisition threshold of $100,000, as recommended by the Vice President's National Performance Review and the section 800 panel; raise the threshold on a number of other procurement-related provisions to $100,000, as recommended by the Vice President's National Performance Review and the section 800 panel; authorize the use of umbrella contracts, as recommended by the section 800 panel, but subject to time and dollar limitations and specific competition requirements; streamline and consolidate the procurement ethics laws, while retaining needed safeguards; amend the Federal Property Act to codify the definitions and requirements of the Truth in Negotiations Act [TINA] for civilian agencies; raise the threshold for cost or pricing data to $500,000 on a permanent basis for DOD and civilian agencies; amend the Federal Property Act to establish contract cost principles for civilian agencies identical to those already in effect for DOD; establish a new, accelerated schedule for notice of contract award, contractor debriefings, and bid protests; require contractor debriefings when requested by a disappointed bidder; authorize the payment of consultant and expert witness fees in bid protests—in addition to attorneys' fees—while limiting all such fees to the levels established in the Equal Access to Justice Act; amend the provisions applicable to bid protests to the GAO to address questions that have been raised about the constitutionality of existing law; address frivolous or bad faith protests, by authorizing the dismissal of such protests and the use of sanctions in appropriate cases; and clarify GSBCA protest jurisdiction and procedures, as proposed by Senator GLENN in a series of bills introduced in the last two Congresses.

This bill is the product of a true collaborative effort among three Senate committees and between both Democrats and Republicans. It would not have been possible without the commitment of Senators GLENN, NUNN, and BUMPERS, who have whole-heartedly embraced the goal of acquisition streamlining and made the staffs of their respective committees available to work on this project over a period of many months. It would not have been possible without the efforts of Senator

BINGAMAN, who initiated the section 800 review of the defense acquisition laws and pushed us all to give the panel's report the attention it deserved.

Finally, this bill could not have been drafted without the full participation of the Republican staffs of the Governmental Affairs, Armed Services, and Small Business Committees. It is my hope that we can continue to work on a bipartisan basis as this bill goes through the committee process, and can enact a sensible bill that has strong support from both Democrats and Republicans.

The Federal Acquisition Streamlining Act is an important piece of reinventing government. It deserves the close attention and quick action from the Senate. I hope our colleagues will join us in supporting this far-reaching measure.

Mr. NUNN. Mr. President, President Clinton and Vice President GORE presented the details of the administration's acquisition reform agenda at a White House ceremony today. Acquisition reform is a central feature of the administration's blueprint for reinventing government. The proposals put forth by the administration today underscore the commitment of President Clinton to achieving significant savings in the defense acquisition process, and reflect the diligent efforts of Vice President GORE to promote major changes in the way that the Government buys goods and services.

I was particularly pleased that the administration has endorsed the Federal Acquisition Streamlining Act of 1993, which will be introduced today with the sponsorship of Senators GLENN, BINGAMAN, LEVIN, BUMPERS, and myself. The introduction of this legislation is another major step in the effort to promote significant changes in the Government's complex and burdensome acquisition process.

Acquisition reform is not a particularly glamorous subject. The maze of statutes and regulations that govern the purchases of everything from pencils to nuclear submarines presents a daunting challenge to any reformer. I want to commend each of the cosponsors of the bill for the diligent attention that they have brought to this subject. As a member of the Armed Services, Governmental Affairs, and Small Business Committees, I have worked with each of these Members on a wide variety of procurement issues. Their many years of combined experience is reflected in the provisions of this bill.

Senator JOHN GLENN, as chairman of the Governmental Affairs Committee and as chairman of the Subcommittee on Military Readiness and Defense Infrastructure of the Senate Armed Services Committee, has been a leader in promoting governmentwide procurement reform.

Senator CARL LEVIN, as chairman of the Governmental Affairs Subcommittee on the Oversight of Government Management, and as chairman of the Armed Services Subcommittee on Coalition Defense and Reinforcing Forces, has mastered the intricate details of the defense procurement system.

Senator JEFF BINGAMAN, as chairman of the Armed Services Subcommittee on Defense Technology, Acquisition, and the Industrial Base has been a major force in promoting acquisition reform. In fact, his initiatives are largely responsible for the legislation that we are introducing today.

Senator DALE BUMPERS, chairman of the Committee on Small Business, has ensured that the procurement system takes into account the special needs, capabilities, and contributions of the small business community.

Over the past decade, Congress and the executive branch have struggled to make sense out of the complex process of supplying our men and women in uniform with the best, most cost-effective weapons systems. In the 1980's, the need for reform was underscored by the spare parts horror stories, the criminal enterprises characterized by the Ill Wind prosecution, the frequency of cost-overruns, and the increasing delays in fielding new systems. At the same time, the graphic success of the equipment used by our Armed forces in Operation Desert Storm illustrated the fact—overlooked by many before the war—that the acquisition system in place in the 1970's also could produce the finest weapons systems in the world. The problem, however, was—and is—that the system that produced those weapons took too long and cost too much. In the aftermath of the cold war, with the increasing pressure to reduce the defense budget, we simply cannot afford huge costs associated with an inefficient acquisition system.

During the 1980's, the acquisition laws and regulations proliferated as Congress and the executive branch attempted to balance the need for reform with the need to ensure continued effective research and procurement. The result was a proliferation of often contradictory requirements that increasingly encumbered the acquisition process, as illustrated in testimony before the committee from the Department of Defense, industry witnesses, and such independent observers as the General Accounting Office.

During the late 1980's, the Armed Services Committee and Senator BINGAMAN's subcommittee repeatedly sought recommendations from the Department of Defense to reform the acquisition system. Year after year, the Department complained about the acquisition laws, but no significant legislative proposals were forthcoming. In 1990, Senator BINGAMAN concluded that we simply could not wait for the Department to act. Working on a bipartisan basis with the members of his subcommittee, he developed legislation, which was enacted as section 800 of the National Defense Authorization Act for fiscal year 1991, requiring the Department of Defense to establish an advisory panel on streamlining and codifying the acquisition laws.

The advisory panel completed a mammoth undertaking, producing an 1,800-page report that reviews more than 600 procurement laws and makes specific proposals to amend or repeal nearly 300 laws. The report focuses on the most critical issue facing us today—how to transform a outmoded system that was designed to regulate defense-dependent industries into a system that will facilitate the commercial-military integration and the development of dual-use industries that can meet the defense technology and industrial base requirements for the nineties and beyond.

The report of the advisory panel establishes a solid foundation for acquisition reform. Many of the procurement streamlining recommendations in the Vice President's National Performance Review are based upon the report of the advisory panel.

The bill that we are introducing reflects the advisory panel's report, the Vice President's National Performance Review, and an extensive bipartisan review undertaken on a joint basis by the staffs of the Armed Services, Governmental Affairs, and Small Business Committees.

The statutory changes proposed in our bill are detailed and complex. The underlying issues, however, involve the foundations of the acquisition process—auditing practices, oversight activities, competition in contracting, paperwork reduction, integration of the Government and commercial sectors, and simplified small purchases, and strengthening the technology and industrial base.

The bill we are introducing today includes major changes in the procurement laws. First, the bill establishes a $100,000 simplified acquisition threshold, which will replace the current $25,000 small purchase threshold. The simplified threshold expands the number of statutes that are waived for small purchases, and expands the streamlined process of making small purchases. This will reduce the amount of manpower needed for such purchases, resulting in substantial savings for the Government.

Second, the bill facilitates the use of commercial and other nondevelopmental items and makes it substantially easier for Federal agencies to purchase such items. The purchase of proven products such as commercial and nondevelopmental items can eliminate the need for research and development, minimize acquisition leadtime, and reduce the need for detailed design specifications or expensive product testing.

Third, the bill revises and simplifies the bid protest process. Fourth, the bill

consolidates and simplifies the confusing and often contradictory rules that govern procurement ethics. Finally, the bill promotes efficiency by establishing procedures that will apply on a uniform basis to both the Department of Defense and the civilian agencies, to the maximum extent practicable. This will greatly facilitate the ability of suppliers, particularly in the commercial sector, to meet the needs of the Government without excessive overhead.

The bill we are introducing today will be the subject of joint hearings before the Committees on Armed Services, Governmental Affairs, and Small Business in which representatives of the executive branch, as well as witnesses from public and private sectors, will be afforded an opportunity to make specific comments and recommendations on the legislation.

This is an ambitious task, but I believe that there is a growing consensus that the time for action has come. I look forward to working with the Clinton administration, with my colleagues in the Senate and House of Representatives, and with representatives from government, industry, and academia, in enacting comprehensive acquisition-reform legislation.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator GLENN, Senator LEVIN, Senator NUNN, Senator BUMPERS, and Senator LIEBERMAN today in introducing the Federal Acquisition Streamlining Act of 1993. The introduction of this bill in both Houses today begins a legislative process. It is a process in which I fully expect changes to be made in the bill as a result of comments the Governmental Affairs, Armed Services, and Small Business Committees will receive in our hearings. Those changes will be made in markup and on the floor and in conference. In the areas of simplified acquisition threshold and purchase of commercial products, I myself expect to propose and support changes during that process to enhance the application of these provisions. Each of the sponsors of this bill would have liked to have gone further in certain areas, and we will undoubtedly have a vigorous discussion of possible enhancements throughout the legislative process.

But today I want to stress how far we have come to get to this point. This is the first serious effort at acquisition reform in many, many years. We have had commission after commission and executive branch management review after executive branch management review, all reaching similar broad conclusions that our current acquisition system is broken, that we have piled statute upon statute and regulation upon regulation, each perhaps having merit taken individually, but together weighing down the system in inefficiency and redtape at great cost to the taxpayers of this Nation.

What we were not able to get out of these commissions and executive branch management reviews in the past were any detailed prescriptions for changes in the large body of acquisition law. The commissions did not stay together long enough to get into the necessary level of detail. And the executive branch seemed only capable of tying itself up in knots over any proposals for legislative relief, however modest.

Back in 1990, after 4 years of getting no recommendations for reform to implement the 1986 Packard Commission's acquisition reform recommendations from the executive branch, the Armed Services and Governmental Affairs Committees on a bipartisan basis tried to break out of this impasse by creating the Acquisition Law Advisory Panel or section 800 panel. Section 800 refers to section 800 of the fiscal year 1991 Defense Authorization Act, which created the panel. The section 800 panel was charged with reporting at the end of 1992 with detailed statute-by-statute recommendations on how to streamline the acquisition process and get better value for the taxpayers' investment. We knew that the American Bar Association had been able to draw up a uniform procurement code for State governments, which the overwhelming majority of States had adopted, and we hoped that the section 800 panel report would be able to jumpstart the acquisition reform process in 1993, whoever was elected in 1992. The panel, composed of both private sector representatives and Federal officials, was appointed by mid-1991 and used the remaining 18 months of its tenure to pursue its mandate.

The section 800 panel under Rear Adm. W.L. Vincent's able leadership did just what we had requested. They reviewed the entire body of acquisition law, producing a 1,800-page report that discusses more than 600 procurement statutes and makes specific proposals to amend or repeal nearly 300 laws. Their report has been the point of departure for every serious discussion of procurement reform this year, both here in the Congress and in the executive branch and in the private sector. All the members of the panel deserve a great deal of credit for their tireless efforts. I ask unanimous consent that the list of panel members be included in the RECORD at the end of my statement, together with the executive summary of their report.

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

SECTION 800 PANEL MEMBERS

Pete Bryan, Director, Contract Policy & Administration, Office of the Secretary of Defense.

Allan Burman, Administrator for Federal Procurement Policy.

Anthony Gamboa, Deputy General Counsel, Department of the Army.

Jack Harding, Vice President, Contracts, Raytheon Corporation.

LeRoy Haugh, Vice President, Procurement & Finance, Aerospace Industries Association.

Thomas J. Madden, Partner, Venable, Baetjer, Howard and Civiletti.

Ralph Nash, Jr., Professor of Law, George Washington University.

F. Whitten Peters, Partner, Williams and Connolly.

Gary Quigley, Deputy General Counsel, Defense Logistics Agency.

Major General John D. Slinkard, USAF, Deputy Chief of Staff for Contracting, Headquarters, Air Force Materiel Command.

Rear Admiral W. L. Vincent, USN, Commandant, Defense Systems Management College.

Robert D. Wallick, Partner, Steptoe & Johnson.

Harvey Wilcox, Deputy General Counsel, Department of the Navy.

STREAMLINING DEFENSE ACQUISITION LAW—REPORT OF THE ADVISORY PANEL ON STREAMLINING AND CODIFYING ACQUISITION LAWS

INTRODUCTION

A. Background

Hundreds of individual laws create the underpinnings of the defense acquisition system. Large and small, significant and trivial, new and old, these laws emanate from the fundamental Constitutional responsibility of the Congress "To raise and support Armies (and) * * * To provide and maintain a Navy."[1] Expanded many times by regulations, by supplements to regulations, by directives, and by established practice, these laws have been interpreted and applied by various courts, boards of contract appeals, and the General Accounting Office. Separately and together, they govern the way tens of thousands of Government workers buy—and hundreds of thousands of Americans manufacture, perform, and sell—the millions of items and services required by a modern fighting force—literally everything from desert camouflage uniforms to precision-guided munitions.

With the passage of the National Defense Authorization Act for FY91, Congress declared that the time had come to start the process of rationalizing, codifying, and streamlining this body of laws. Section 800 of that Act directed the official responsible for administering acquisition law and regulation—the Under Secretary of Defense for Acquisition—to appoint an advisory panel of Government and civilian experts. Under the leadership of the Commandant of the Defense Systems Management College,[2] this panel was to review all laws affecting DOD procurement, "with a view toward streamlining the defense acquisition process," and to issue a report for transmission by the Secretary of Defense to the Congress in January 1993. The report was to be a practical plan of action for moving from present law to an understandable code containing specific recommendations to Congress: to eliminate any laws "unnecessary for the establishment of buyer and seller relationships in procurement;" to ensure the "continuing financial and ethical integrity" of defense procurement programs; and to "protect the best interests of the Department of Defense." Finally, the panel was asked to "prepare a proposed code of relevant acquisition laws."[3]

Maintaining a fair, efficient, and open system of defense procurement has been a fundamental public policy since the earliest

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Footnotes at end of article.

days of the Republic, as well as a specific congressional goal since DOD was created by the National Security Act of 1947. In the decades that followed, six major executive branch commissions separately examined the perennial problem of defense management. In addition to serving as benchmarks for reform, these commissions also resulted in some significant improvements. The recommendations of the 1972 Commission on Government Procurement concerning the need for a uniform procurement system "led to the establishment of the Office of Federal Procurement Policy and the development of the Federal Acquisition Regulations."[4] In 1986, a new wave of change resulted in the passage of the Goldwater-Nichols Act—a landmark law that resolved entrenched issues of defense structure and command authority—as well as the creation of yet another commission—the President's Blue Ribbon Commission on Defense Management headed by David Packard.[5]

The Packard Commission provided a comprehensive analysis of the major problem areas affecting defense management, and it also made a specific recommendation to recodify the Federal laws governing procurement:

"* * * the legal regime for defense acquisition is today impossibly cumbersome. * * * At operating levels within DOD, it is now virtually impossible to assimilate new legislative or regulatory refinements promptly or effectively. For these reasons, we recommend that Congress work with the Administration to recodify Federal laws governing procurement into a single, consistent, and greatly simplified procurement statute."[6]

Although the Packard Commission's recommendations attracted wide public attention, they nevertheless failed to prompt the sweeping legislative changes that many had thought possible in the aftermath of the Goldwater-Nichols reforms. A 1988 congressional report noted that the Packard Commission's status as the sixth major study of defense acquisition over four decades meant that it was merely the latest to address continuing problem areas in defense procurement. As House Armed Services Committee Chairman Les Aspin stated in his foreword to the report, "Perhaps the next executive commission on acquisition should be created, not to propose the reforms, but to implement them."[7] In June 1989, Secretary of Defense Dick Cheney set forth just such a plan in his Defense Management Review [DMR], an ambitious effort not only to implement the recommendations of the Packard Commission, but to provide a framework for continuing improvements in Pentagon acquisition practices.[8]

One of the Packard Commission's findings, endorsed by the DMR, was the need for broad changes in the acquisition statutes:

"With the enactment of additional major legislation since 1986, when the Packard Commission finished its work, there is increased urgency to addressing the body of procurement law in its totality—in order to simplify, and clarify the framework under which DOD and other departments operate, and more broadly * * * to make the acquisition process fundamentally more effective.[9]

The DMR subsequently provided a benchmark for a number of important acquisition initiatives: the identification of almost 400 acquisition directives for cancellation or consolidation; the streamlining of the Defense Federal Acquisition Regulation Supplement to a document less than half the size of its predecessor; and, in response to a DMR White Paper, congressional action to cancel 30% of the recurring reports that it had originally required for oversight purposes.[10]

This executive-legislative branch partnership was implicitly recognized by the Senate in approving the legislation which authorized the formation of the "Advisory Panel on Streamlining and Codification of the Acquisition Laws."

"The Packard Commission and Secretary Cheney's Defense Management Review represent the most recent efforts to promote efficiency in Government procurement practices. The purpose of this Advisory Panel will not be to plow the same ground as previous studies; rather, it will be to take the general principles set forth in these studies and prepare a pragmatic, workable set of recommended changes to the acquisition laws."[11]

B. Strategic changes

The authorization of the Panel took place in the midst of fundamental changes in the international security environment, highlighted by the unification of Germany, the transformation of Eastern Europe, and the break-up of the Soviet Union. Before the Panel could even begin its deliberations, however, the United States found itself at war in the Persian Gulf, the results of Operation Desert Storm providing another clear demonstration that procurement decisions made in peacetime have life-or-death consequences in combat. Those lessons were still being absorbed when the failed coup d'état of August 1991 heralded the end of Soviet communism, the collapse of the Soviet Union, and the emergence of the new Commonwealth of Independent States. The United States thus emerged victorious from a short, hot war and a much longer Cold War—all in the space of six months.

These strategic changes had profound implications for the American defense establishment. Not only could U.S. military forces be reduced, but the money spent on defense could be redirected toward other national priorities. Those changes in turn had equally profound implications for the Panel. The dramatic reductions in defense spending were sufficient by themselves to create a presumption that the acquisition system of the future would demand better management by fewer people of far fewer tax dollars. "Better" in this case was synonymous with the simpler, more flexible, and more responsive procedures needed to match the sweeping personnel reductions and management realignments that had become the order of the day. Under the blueprint established by the DMR, for example, cost reductions of more than $70 billion between 1990 and 1997 had to come as a result of "improved business practices * * * not from program or force level cuts."[12] In its review, therefore, the Panel had a clear obligation to seek out legislative reforms which would enable both Government and industry to operate more efficiently with reduced budgets.

Other major influences upon the Panel's deliberations were the changes occurring in the defense industrial base. Operation Desert Storm demonstrated that an industrial base built around the global requirements of the Cold War had the capacity to respond to the demands of a regional conflict. However, as a study by the Air Force Association noted, this industrial base,

"* * * no longer exists. Even as the nation watched the war on television, the companies that produced the impressive weapons were releasing workers, closing plants, and searching for nondefense business."[13]

This exodus from the defense marketplace was not solely due to the downturn in defense spending:

"Firms, particularly subcontractors and suppliers of system components, are moving from defense to the commercial market, where the profits are better and where business is conducted in a more stable, less adversarial manner."[14]

Two congressional studies completed in the aftermath of the Gulf War simultaneously praised the performance of U.S. weapons systems while citing the burden of regulatory controls imposed through the DOD acquisition system as an importance factor in the decline of the industrial base.[15]

While the Panel's charter called for legislative rather than regulatory reform, there is an important linkage, often missed in public and congressional criticism of DOD contracting methods: many of the regulations which impose the most burdensome controls are specifically mandated by statute.[16] With widespread public perceptions that the term "Government procurement" is synonymous with "scandal," the stakes have never been higher for DOD administrators understandably determined to avoid the appearance of wrongdoing or, worse yet, any controversy suggesting the need for still more legislation. Risk aversion leads in turn to a search for safety through the ever tightening knot of restrictive rule making and detailed regulations. This "missing link" between law and regulation overlooked by so many analysts was addressed in a study specially prepared in 1992 for the Panel by the American Defense Preparedness Association. It found that acquisition laws represented the apex of a "cascading pyramid" of restrictive regulations, overly detailed military specifications, and common procurement practices that typically added 30–50% to the costs of doing business with the Department of Defense.[17]

Although these costs have customarily been measured in both time and money, they also burden technological innovation. Ironically, it is technological sophistication which has characterized American weapons development for more than a generation, and is an essential component of our continued military superiority. It is also important to remember that these laws are part of a system that has been successfully applied for almost a half century to procure the weapons and material used by American armed forces in actual combat in Korea, Vietnam, and the Persian Gulf, as well as a host of Cold War confrontations. By the early 1990s, however, this record of success could not completely offset a growing concern among lawmakers and procurement experts who worried about the system's ability to respond to future scientific challenges. For one thing, the procurement process typically operated at a pace which was far slower than the technological developments it sought to capture. Worse yet, it imposed bureaucratic requirements which were so unique and intrusive (e.g., cost accounting standards) that many contractors totally separated their Government and commercial production facilities. These barriers not only added to the costs of doing business with the Government, but they also "walled off" the rapid advances being made in commercial research and development from each exploitation and use in military systems.

A particular vivid example of this barrier occurred during the Gulf War. According to a story cited by Donald A. Hicks, a former Under Secretary of Defense for Research and Engineering, the U.S. Army placed an emergency order for 6,000 commercial radio receivers, waiving all military requirements

and specifications. Because of the urgency of preparations for war—as well as the ever present threat of second-guessing once that urgency had faded—no responsible procurement official could be found who would waive the requirement for the company to certify that the Army was being offered the lowest available price. Since the radio was widely marketed and any misstatement might constitute a felony, no company official would make this certification. The impasse was resolved only when the Japanese Government bought the radios without a price certification, donated them to the U.S. Army, and credited the purchase against Japan's financial contribution to the Operation Desert Storm.[18]

The Gulf War demonstrated the devastating tactical effect of sophisticated weaponry of all kinds, particularly when precision munitions were coupled with advanced command and control systems. If these developments truly represent what DOD referred to as a "military technological revolution," then the information needed to hone the American combat edge will increasingly depend on developments in the commercial sector.[19] A number of public and private studies have documented the need for more effective integration of commercial and military technology. These analyses have pointed out that this linkage is not only needed to ensure a stable, viable defense industrial base as Government spending is reduced, but is equally important to ensure a wartime surge capability as traditional defense plants are eliminated. Recognizing this trend, Congress has given clear guidance in a series of defense authorization bills that it too is concerned with this objective. Unfortunately, this guidance has not reduced the barriers to commercial access. The impediments to civilian-military integration, therefore, became a topic of continuing interest to the Panel, typifying in many ways the overriding need to streamline the defense procurement laws in a new era of fiscal austerity and great strategic uncertainty.[20]

C. Goals and objectives

At the first meeting of the Panel, the members established the basic framework for the conduct of this study. As a result of that discussion, they agreed that their congressional charter (Public Law 101-510, section 800) provided the following goals for their efforts:

Streamline the defense acquisition process and prepare a proposed code of relevant acquisition laws.

Eliminate acquisition laws that are unnecessary for the establishment and administration of the buyer and seller relationships in procurement.

Ensure the continuing financial and ethical integrity of defense procurement programs.

Protect the best interests of DOD.

During several of its initial meetings, the Panel heard testimony from a wide variety of experts representing Government, the military, and industry. Noted defense analyst Dr. Jacques S. Gansler spoke of the need for closer integration of commercial and military technologies, while Senator William Roth was equally forthright in urging the members to propose dramatic changes in the laws governing the procurement process. In his presentation to the Panel, Senator Jeff Bingaman also acknowledged that many acquisition laws enacted in the 1980s had been passed without careful consideration for their impact on the existing framework. Because Congress was clearly concerned with its ultimate accountability for the procurement system, he pointed out, a comprehensive revamping of the system of acquisition laws was now in order. General officers from the military services, as well as senior civilian executives representing such key procurement elements as the Defense Logistics Agency, were also invited to testify as the Panel sought to identify the most critical problem areas. Industry groups, such as the Council of Defense and Space Industry Associations, the American Bar Association, and the U.S. Chamber of Commerce, were also contacted during this phase of the review.

Although individual perspectives varied, there was surprising agreement on the burden placed upon the acquisition community by the increasingly complex web of procurement laws. Many of these viewpoints were summarized in a timely article by Professor William E. Kovacic of George Mason University:

"The perceived imperative to embrace immediate statutory cures for apparent (procurement) deficiencies in the 1980s inspired several enactments of sweeping scope and questionable draftsmanship. * * * Once adopted, such enactments typically resist subsequent retrenchment, as any suggested ex post weakening of requirements usually is successfully attacked by the advocates of the original legislation as an unwarranted dilution of congressional efforts to discourage fraud and otherwise improve procurement performance. There is, in effect, an upward statutory ratchet in procurement regulation that ensures that regulatory commands become ever more restrictive."[21]

In the early months of the Panel's activities, its members sought to simplify their original goals and to identify more specific criteria to guide their recommendations for statutory change. The key to this effort was a broadly based pattern of outreach activities, all aimed at ensuring a review process that was open to the widest possible variety of public access and comments. Monthly Panel meetings, held in several locations at Fort Belvoir, Virginia and the District of Columbia, were regularly advertised in the Federal Register and became the venue for both formal presentations and more informal consultations between the concerned public and the members. Federal Register announcements and widely distributed letters were also used as a means of soliciting public comments in the principal functional areas selected for review. Panel members and their staffs routinely provided briefings on their work to both the executive and legislative branches as well as to a wide variety of public interest and industry groups. Through these individual and collective efforts, the Panel was able to establish from its inception a remarkably free-ranging dialogue with both the acquisition community and the general public.

One of the first concrete results of that dialogue was the Panel's agreement on the 10 objectives that would help to guide its review:

(1) Acquisition laws should identify the broad policy objectives and the fundamental requirements to be achieved. Detailed implementing methodology should be reserved to the acquisition regulations.

(2) Acquisition laws should promote financial and ethical integrity in ways that are:

(a) simple and understandable;

(b) not unduly burdensome; and

(c) encourage sound and efficient procurement practices.

(3) Acquisition laws should establish a balance between an efficient process and

(a) full and open access to the procurement system; and

(b) socioeconomic policies.

(4) Acquisition laws should, without alteration of commercial accounting or business practices, facilitate:

(a) Government access to commercial technologies; and

(b) Government access to the skills available in the commercial market place to develop new technologies.

(5) Acquisition laws should, without requiring contractors to incur additional costs, facilitate the purchase by DOD or its contractors of commercial or modified commercial products and services at or based on commercial market prices.

(6) Acquisition laws should enable companies (contractors or subcontractors) to integrate the production of both commercial and Government-unique products in a single business unit without altering their commercial accounting or business practices.

(7) Acquisition laws should promote the development and preservation of an industrial base and commercial access to Government developed technologies.

(8) Acquisition laws should provide the means for expeditious and fair resolution or procurement disputes through uniform interpretation of laws and implementing regulations.

(9) Acquisition laws should encourage the exercise of sound judgment on the part of acquisition personnel.

(10) Acquisition laws should, when generating reporting requirements, permit as much as possible the use of data that already exists and is already collected without imposing additional administrative burdens.

D. Approaches

Before these goals and objectives could be applied to the task of streamlining, it was necessary to define the universe of laws affecting defense acquisition. The last attempt to compile these laws had occurred in the early 1970s, when the Commission on Government Procurement identified over 4,000 statutes (Public Laws and U.S. Code sections) thought applicable to the procurement process.[22] In addition to being outdated, however, the criteria used in making those judgments could not be readily determined or easily applied. More helpful was the biennial report prepared by the House Armed Services Committee, Laws Relating to Federal Procurement.[23] The statutes identified there were correlated with a key word search on acquisition related terms contained in a FAR/DFARS data base.[24] Fiscal laws accompanying acquisition related statutes were also included in this initial compilation, as well as various executive orders. Throughout their search, the researchers routinely included any laws of possible applicability in order to minimize the risk of overlooking any pertinent statute.

From these sources, the Panel initially identified 889 provisions of law that appeared to have some relationship to DOD acquisition. In reviewing this list, however, the Panel soon decided that some of these statutes did not warrant further consideration. Laws relating to basic DOD organizational structure, the operation of the defense commissary system and nonappropriated fund activities, as well as traditional supply functions were determined to have only a minimal impact on the buyer-seller relationship which was the main focus of the Panel's efforts. Fiscal laws were similarly excluded from more detailed review because the Panel decided that they affected defense budgeting more than defense acquisition. Recently passed legislation dealing with the acquisition work force, although considered both

relevant and important, was not considered because it was still in the implementation process. The provisions of the public contract statutes in Title 41 of the U.S. Code were generally excluded from review in favor of a tighter focus on their parallel provisions in Title 10, the primary reference for DOD.[25] Several exceptions to this rule included the Office of Federal Procurement Policy Act and certain other provisions of Title 41 which had a direct impact upon DOD acquisition. Following this initial winnowing process, the Panel continued to filter out laws when subsequent review revealed them to be of only marginal importance to its declared objectives.

Even after this screening, the Panel was left with a universe of over 600 DOD-related procurement laws that it was required to review in line with its congressional charter. Those numbers highlighted the importance of approaching defense acquisition as a system. Defined doctrinally, the defense acquisition system is "a single uniform system whereby all equipment, facilities, and services are planned, developed, acquired, maintained, and disposed of within the Department of Defense."[26] The requirement to think systemically, combined with the need to divide the labor of reviewing so many statues, led the Panel to establish working groups covering six major functional areas: contract formation; contract administration; service-specific and major systems statues; socioeconomic requirements, small business, and simplified acquisition; standards of conduct; and intellectual property. In addition, two ad hoc working groups addressed commercial procurement and international defense cooperation.

The functional working groups each consisted of two Panel members, one from the public sector and one from the private sector. They quickly became the focal points for research and analysis in these functional areas, reviewing the laws assigned to them and preparing recommendations for decision by the Panel as a whole. In reviewing the major statutes, the working groups typically began the process with a legislative history and a literature search. Building upon the wide public contacts that had already been established, comments were solicited from the acquisition community and other interested parties, often through the use of Federal Register notices or questionnaires. Minutes of Panel meetings, legislative abstracts, and various position papers were also distributed through the extensive mailing and telefax lists that were eventually developed by each working group and the Panel as a whole. Specific inputs were also obtained from departmental staffs, trade associations, and Governmental agencies with particular expertise, such as the Air Force Contract Law Center. Where appropriate, public meetings on issues being examined by the working groups were also held to ensure that a wide range of opinions was considered. Similarly, when specific issues were scheduled for discussion at Panel meetings, interested groups from both the public and private sectors were routinely invited to speak.[27] These inputs eventually became a kind of dialogue between the Panel, the acquisition community, and the general public that was important in framing recommendations. The tentative decisions reached throughout this process were then reviewed in toto by the Panel at the conclusion of its deliberations. This "last look" was intended to ensure that the individual decisions made over many months were consistent with one another—and with the Panel's goal and objectives.

E. Overview of conclusions and recommendations

The Panel's review of the major functional areas it chose for this study produced specific recommendations to retain, amend, or repeal individual statutes.[28] In a number of other instances, the Panel recommended the consolidation of several statutes or even the creation of new laws. The principal conclusions reached in each of these areas are highlighted here:

Contract Formation: The 80 statutes in this area include the fundamental statutes that require and implement the policy of full and open competition on which the DOD procurement system is based. These laws cover the critical path of procurement, including publicizing requirements, competing or justifying the absence of competition, soliciting offers, evaluating bids or proposals, and pricing and awarding contracts. The Panel analyzed alternatives to the policy of full and open competition, and concluded that this standard should be retained. It also concluded that the competitive statutes continue to provide a sound framework for conducting the DOD procurement process in an open, fair, and ethical manner—while still meeting mission requirements.

The Panel has proposed changes to the baseline statement of congressional procurement policy in 10 U.S.C §2301 and the accompanying definitions in section 2302. These changes stress the need for an appropriate balance between an efficient procurement system, full and open access to that system, and sound implementation of socioeconomic policies. They also stress a clear priority for meeting DOD requirements through the procurement of commercial or other nondevelopmental items, both as end items and as components. A significant change to section 2304 recommends deletion of the authority for master agreements for advisory and assistance services as well as the substitution of a new rule structure for contracts that do not procure or specify a firm quantity of supplies or services and involve delivery or task orders. The Panel also made two important recommendations for amendment of 41 U.S.C. §416, "Procurement Notices." The first would allow exemption of commercial items from the minimum statutory time periods that offerors have to submit bids or proposals after publication in the Commerce Business Daily by permitting the Administrator for Federal Procurement Policy to issue more flexible rules prescribing appropriate time periods. The second seeks to improve the use of automated means of providing notice for purchases made under the Panel's recommended "simplified acquisition threshold." The Administrator for Federal Procurement Policy would be required here as well to issue rules for notice procedures through the use of automated means, taking into account the costs and availability of these means to potential offerors, especially small businesses.

The Panel also made two important recommendations to modify the Truth in Negotiations Act (10 U.S.C. §2306a). The first is to stabilize the threshold for cost or pricing data at $500,000. The second is to utilize more effectively the forces of the commercial market place by expanding and clarifying the use of the exception for adequate price competition. The new wording would allow a broadened exemption from cost or pricing data requirements if: (1) a product or service is purchased from a company or business unit which produces the same or similar products for the commercial market; (2) the company uses the same or similar production processes for the commercial market; and (3) the price is fair and reasonable.

In the area of procurement protests, the Panel has recommended amendments to a number of statutes in order to promote efficiency, improve information flow, encourage the filing of protests with procuring agencies, and speed the resolution of protests under the current system administered by the General Accounting Office (GAO) and the General Services Administration Board of Contract Appeals (GSBCA). The Panel also recommends that Congress consolidate into a single judicial forum the current bid protest jurisdiction of the Court of Federal Claims and the District Courts. A further recommendation is that Congress consider and further study whether competition policy might be better served through the resolution of protests by a single agency located within the executive branch whose powers would be comparable to those exercised by the four existing forums. With proper authority, this single forum might provide more uniform and cost-effective treatment of protests. It could also provide two different methods for consideration of protests: first, a procedure similar to the relatively inexpensive and expeditious one now provided by the GAO; and second, a procedure which would be similar to the adjudicatory process provided by the GSBCA. The GSBCA-type procedure would be available for all types of procurements over $100,000, if elected by the protester.

Contract Administration: The major task in this area involved bringing some order to the 107 statutes which affect the basic business relationship between DOD and its contractors. The extensive duplications and repetitions throughout the U.S. Code suggested the need to focus on seven key areas: payment; cost principles; audit and access to records; cost accounting standards; administration of contract provisions; claims and disputes; and extraordinary contractual relief. Many of the Panel's recommendations in these areas involve merging duplicative code sections into a single major statute in order to clarify and simplify its requirements. The proposed statute on contract payment (10 U.S.C. §2307), for example, will consolidate similar provisions from three other statutes. Such clarification also permit the elimination of statutory detail more appropriately covered by regulation. That objective underlies the Panel's recommendation on 120 U.S.C. §2324 (cost principles) which would retain only those provisions delineating that law's basic policy and penalty provisions—and eliminating the excessive detail found in this statute today. The Panel's review in this area also concentrated on removing obstacles to the participation of small business and commercial entities in general. One example is the law (41 U.S.C. §422) establishing the Cost Accounting Standards Board, which promulgates criteria for allocating costs and therefore affects financial reimbursements under Government contracts. Although this statute is recommended for retention, the Panel urged the Board to waive or modify cost accounting standards for most transactions involving commercial entities. A related area involves claims certification requirements, a problem which has caused seemingly endless litigation at the Court of Federal Claims and boards of contract appeals. In conjunction with the recent changes in the Defense Authorization Act for FY93 and its anticipated regulatory implementation, the Panel's recommendations should help to achieve a simplified, unified set of certification requirements. All of these recommendations are

consistent with one of the Panel's key objectives for streamlined acquisition laws: statutes should identify broad policy objectives and fundamental requirements while leaving matters of implementation to be covered by regulations.

Service-Specific and Major Systems Statutes: The 220 statutes falling under this heading highlight the difficulty of reducing the defense procurement code from its present condition to a more workable instrument. The consolidations recommended as a result of the Panel's review of this area are intended to streamline a process which has often been made needlessly complex by obsolete or overlapping statutes. These recommendations affect the following major procurement functions:

Modifications are suggested to the reporting requirements concerning major defense programs (such as Selected Acquisition Reports and Unit Cost Reports) mandated by several different statutes. Those recommendations reflect the need for a common baseline for both executive management and legislative oversight.

Four major testing laws are recommended for consolidation into a single streamlined statute which retains existing fundamental policies but provides greater flexibility.

Similar recommendations for consolidation are submitted for numerous service-specific chapters within Title 10, both to eliminate obsolete authorities—some dating from before World War II—and to provide a common framework for those authorities which are still necessary.

Changes are suggested to a number of fuel and energy-related statutes detailing the procurement authority exercised by the DOD in order to enhance their coherence and efficiency.

The numerous provisions affecting DOD commercial and industrial activities were recommended for consolidation into three distinct statutes setting forth clearer guidelines for A-76 contracting and core defense logistics functions.

The Brooks Act was closely studied to determine its impact upon DOD's authority to procure automatic data processing equipment (ADPE). While the Panel presents no formal recommendations on this issue, it suggests that Congress consider modifying the oversight authority of the General Services Administration in order to permit DOD to exercise greater internal responsibility in ADPE procurements below a designated threshold.

The specific solutions suggested by the Panel in each of the areas affecting major systems and the procurement authorities of the uniformed services reflect its objectives concerning the basic attributes of acquisition laws: that they should identify broad policy objectives and fundamental requirements; that they should encourage the exercise of sound judgment by procurement personnel; and that reporting requirements generated in law should insofar as possible not impose additional administrative burdens. Taken together, these recommendations represent an essential step in rationalizing a body of law which is at present too large, too diffuse, and far too complex.

Socioeconomic Laws, Small Business, and Simplified Acquisition Threshold: In assessing the 114 laws that impose various socioeconomic requirements upon the acquisition process, the Panel determined that the overriding need in this area was to establish uniform thresholds and criteria for applying socioeconomic laws to DOD procurements. The principal recommendation in this area concerns the adoption of a "simplified acquisition threshold" that would exempt DOD contracts below $100,000 from most socioeconomic requirements and corresponding contract clauses. The exemption from these contract clauses would permit the use of expedited procurement procedures for contracts at or below the $100,000 level, reducing paperwork and overhead costs for both the Government and its suppliers. The new threshold would streamline over 50% of all DOD contract actions above $25,000, while affecting only 5% of all contract dollars, thus paving the way for more effective management of DOD's increasingly limited manpower resources.[29] Perhaps most significant, however, is the recommendation that procurements in this range be reserved under most conditions for small businesses. The primary rationale for this recommendation is that smaller contracts provide the best opportunities for small businesses, especially those which are both small and disadvantaged. The Panel's recommendations are also linked to the gradually increased use of electronic contracting and advertising methods, not only to improve the efficiency of the acquisition process, but also to provide better notification of procurement opportunities. Equally important, these recommendations take place within a context that reaffirms and is intended to improve DOD's capability to support the small business and minority contracting goals established by the Congress. The combination of simpler procedures with wider public notice also provides stronger incentives for small businesses of all kinds to compete for Government contracts. Finally, the Panel recommends that Congress adopt a consolidated chapter in Title 10 which clarifies and streamlines the labor, environmental, small business, and minority contracting requirements applicable to DOD. These recommendations promote several of the Panel's key objectives: that acquisition laws should establish a balance between an efficient process and socioeconomic policies; and that acquisition laws should, without requiring contractors to incur additional costs, facilitate the purchase by DOD or its contractors of commercial products and services based on commercial market prices. Because Government and business have a common interest in reducing overhead, the Panel's intent is to maintain the socioeconomic balance while streamlining its statutory requirements.

Standards of Conduct: The 119 statutes falling within this field reflect the fundamental importance of ethics and integrity in the defense acquisition process—as well as the fact that this issue has frequently received congressional attention. Consequently, the Panel was more concerned with the consolidation of existing ethical requirements, rather than the addition of new ones. Particular attention was given to those statutes covering post-employment restrictions of Government personnel, the operation of the rule making process affecting Government procurement, contractor certifications, and false claims. The Panel's recommendations consistently aim at eliminating the duplication of related requirements and the pyramiding of penalties that occur frequently throughout the current code. Those recommendations also address various administrative procedures—often mandated by statute—which add both confusion and cost, but do not demonstrably promote integrity. Those recommendations are consistent with one of the Panel's main objectives: that acquisition laws should promote financial and ethical integrity in ways that are simple, understandable, not unduly burdensome, and which encourage sound and efficient procurement practices. The amendments and other clarifications recommended here are especially important in view of the personal and institutional stakes that are always present in matters relating to procurement integrity.

Intellectual Property: The Panel examined seven key areas in this fast developing field: patent infringement; secrecy; university research patents; recoupment; copyrights; technology transfer; and technical data. Its findings reflect the fact that modern technology is heavily dependent upon proprietary invention and entrepreneurial innovation: to have access to this technology, the Government must respect these market-driven norms. Accordingly, the Panel recommends:

Statutory changes which allow the Secretary to utilize technical data rights policies that provide protection for commercially valuable technology;

Amendment of the Bayh-Dole Act to encourage the prompt filing of patent applications by inventors working on federally sponsored research;

The elimination of mandatory Government recoupment of non-recurring costs in defense products being offered through the foreign military sales program;

New limitations on the imposition and duration of secrecy orders applied to certain inventions by Title 35 of the U.S. Code; and

Enhancements to the Federal Government's authority to secure copyright protection for computer programs developed under Government auspices.

These recommendations specifically implement the Panel's objectives of integrating civilian and military procurement. More importantly, however, they also reflect the urgency expressed in Congress and the acquisition community that procurement efficiency in high technology is essential for the competitiveness and development of the national industrial base.

Commercial Procurement: The centerpiece of the Panel's effort to promote more effective integration between the military and civilian markets is a consolidated new subchapter on commercial procurement which is recommended for inclusion in Title 10. The draft statute, which is closely coordinated with the changes being recommended to the Truth in Negotiations and Competition in Contracting Acts, states that commercial items are to be used whenever they will satisfy the requirements of DOD. This policy statement is reinforced by broader definitions of such key terms as "commercial item" and "component" and is implemented with due regard to nondevelopment items and existing sources of supply. However, the most important part of the new statute may be the list of related laws which it specifically exempts from any DOD contract for the purchase of a commercial item. Simply stated, any commercial item meeting the definition of that term would be exempt from statutory contract requirements listed in the law. Another significant feature of the draft statute is its reliance on commercial standards and practices, such as established catalogues or prevailing market prices, in determining if the cost of a commercial product is reasonable. These practices are also reflected in a limitation on the Government's right to audit or to require additional documentation beyond prevailing market practices. The Panel's overall trust is to make DOD's buying processes conform more closely to the norms of the commercial marketplace.

Those changes are intended not only to fulfill the Panel's objectives regarding commercial-military integration, but also to apply long standing and repeated congressional guidance on this subject as well.

Defense Trade and Cooperation: The Panel reviewed this functional area because of a conviction that international considerations will play an increasingly important role in the defense acquisition system. Recognizing the importance of a team approach, Secretary of Defense Dick Cheney has repeatedly advocated greater cooperation between the NATO allies in all phases of the procurement process, particularly in research and development.[30] In examining those statutes which affect DOD ability to play a constructive role in defense trade, the Panel found that there were almost as many legislative barriers to cooperation in the international arena as there were to military-civilian cooperation on the domestic scene. In addition to the Buy American Act, there were numerous product and source restrictions on the books, barriers that were continued or augmented with the passage of each appropriations or authorization act.[31] The Panel determined that its advice in this area would be guided by three principles.

First, DOD acquisition policy should be consistent and reciprocal with the acquisition and trade policies of its allies. DOD should have, for example, the statutory authority to purchase NATO-standard items—which may or not be available from American sources. The Panel's principal recommendations on the Buy American Act—to substitute the "substantial transformation" test of the Trade Agreements Act for the current "component test"—are intended to foster the use of American commercial items, as well as to adjust the critical balance between flexibility and reciprocity. Second, DOD's acquisition policy should be consistent with the promotion of a strong U.S. defense technology, industrial, and mobilization base. Because military-commercial integration is not the solution to all problems, DOD must have the ability to restrict acquisitions to domestic sources when it is in the nation's interest. The Panel's recommendations on 10 U.S.C. §2504 will ensure that future agreements concluded between the United States and foreign Governments will be coordinated with defense industrial base requirements. Third, DOD acquisition policy must be coordinated with international operational agreements, allied logistics support, standardization, and sales of U.S. equipment to foreign countries. Because foreign military sales are an important factor in maintaining the American defense industrial base, DOD should have the authority to coordinate the buying and selling of products and services in order to negotiate with our allies and other foreign countries. The repeal of recoupment for non-recurring research and development costs contained in the Panel's review of 10 U.S.C. §2761 is an example of the flexibility needed in this area.

In summary, while civilian-military integration, like charity, begins at home, promoting and developing the U.S. defense industrial base also means adjusting to the twin realities of competition and cooperation in the global defense marketplace.

F. Constraints

It will ultimately be for the Congress to decide how well the Panel's recommendations met its declared objectives as well as the goals suggested by the original mandate. However, in assessing those results, both Congress and the general public should be aware of the constraints which affected the Panel's work.

The key constraint was time, especially when measured against the magnitude of the task. The 16 months between the convening of the Panel and the printing of this Report obviously constrained the process of considering the 889 statutes comprising the universe of acquisition laws—a number so high that it surprised even veteran observers of these matters. While an extension of the statutory deadline of January 15, 1993 could have been justified, the Panel members strongly believed that it was more important to place their recommendations squarely on the agenda of a new Administration and a new Congress. Inevitably, priorities were set in order to bring the greatest analytical attention to the most obvious and best understood problems, especially in those areas that offered the greatest prospects for improvement. In addition to focusing on the most relevant acquisition laws, the Panel necessarily excluded regulations, executive orders, and most case law from the study. However, the most significant effects imposed by the time constraint may have come when the Panel chose to recommend a law's retention or to exclude it from more detailed consideration, either because the evidence for change was ambiguous or because it was impossible to obtain additional data without the expenditure of far greater resources than the Panel had at its disposal. The Panel is, therefore, recommending the retention of more laws than might otherwise have been identified for amendment or repeal. It is important to note that these recommendations are made on the basis of the "best evidence" available to the Panel at the time of its decision.

The second constraint reflects a general concern about the number of laws considered during this review, as well as their replacement within the U.S. Code. Many of the statutes affecting defense procurement arise from titles of the Code beyond Title 10, often reflecting the divergent interests and agendas of many different congressional committees and subcommittees. The organization of the Code also reflects multiple functions which may apply in different ways to different agencies of the Government. The recognition of those realities affected one of the Panel's original goals, which was to "prepare a proposed code of relevant acquisition laws." Early in its deliberations, the Panel decided that this goal did not imply the creation of a "model code" for DOD procurement to be located at a single point within the body of Title 10—primarily because the administrative tidiness of such a compilation would be less helpful than the jurisdictional questions that would inevitably be raised. Equally important was the need to assemble and review the array of procurement laws before creating a "model code" in Title 10 or anywhere else. Consequently, though it has recommended the consolidation of certain laws and chapters in several of the areas noted above, the statutes which the Panel has assembled, reviewed, and presented in the following pages represent its best judgments on the core functions of the defense procurement process. Should those recommendations be enacted, therefore, a new code of relevant acquisition laws will have been created.

There can be no doubt, however, that the task of codification will require a great deal of leadership and teamwork in the new Congress. A recent study by the Business Executives for National Security, for example, is merely the latest to note that no fewer than 107 congressional committees and subcommittees exercise some degree of Pentagon oversight: "The result is massive jurisdictional confusion."[32] But without better coordination, defense procurement law will remain complex, confused, and often chaotic. The evidence accumulated during the review also suggests that an ancillary result of jurisdictional confusion is the proliferation of laws which can impose burdensome and often conflicting requirements. While the Panel is particularly appreciative of the strong congressional support for its efforts, it respectfully suggests that the enactment of the reforms recommended here will not achieve a lasting effect unless Congress also gives continued attention to its responsibility for maintaining a disciplined and coherent legal structure.

The final point of this introduction may not be so much a constraint as a caveat. The work of this Panel represents its best efforts to provide a common baseline for those who seek to improve defense acquisition laws as well as the policies which implement them. In each of the areas they reviewed, however, the Panel members were struck by the magnitude of the task which future reformers will face in making comprehensive legislative changes. There is also no question that these recommendations are best thought of as a "first cut" at a large problem, and certainly not as an ideal solution to it. Moreover, the Panel recognizes the importance of seeking Government-wide consistency in procurement matters and hopes that its recommendations can serve as the baseline for parallel changes in the legislative underpinnings of civilian agency acquisition. While these findings do not fully achieve the Packard Commission's ultimate goal of providing a "single, consistent, and greatly simplified procurement statute,"[33] they clearly carry out the will of Congress by translating those general principles into a "pragmatic, workable set of recommended changes to the acquisition laws."[34] It is therefore our sincere hope that the changes charted in the following pages will make a substantial and lasting contribution to the development of a more efficient defense procurement system, one that is capable of meeting any future challenge to American national security.

FOOTNOTES

[1] U.S. Const. art I, §8.

[2] The Defense Systems Management College is a DOD educational institution which has, since 1971, trained program managers and program executives from the uniformed services, defense industry, and all branches of the Federal Government.

[3] Pub. L. No. 101-510, §800, 104 Stat. 1587. See H.R. Conf. Rep. No. 923, 101st Cong., 2d Sess. 107 (1990) to accompany H.R. 4739 (National Defense Authorization Act for Fiscal Year 1991).

[4] Defense Policy Panel and Acquisition Policy Panel of the H.R. Comm. on Armed Services, 100th Cong., 2d Sess., Defense Acquisition: Major U.S. Commission Reports (1949-1988) (Comm. Print 1988), vi.

[5] Pub. L. No. 99-433, 100 Stat. 992. See H.R. Conf. Rep. No. 824, 99th Cong., 2d Sess., (1986) to accompany H.R. 3622 (Goldwater-Nichols Department of Defense Reorganization Act of 1986).

[6] "A Quest for Excellence: Final Report by the President's Commission on Defense Management" 55 (June 1986).

[7] Defense Policy Panel and Acquisition Policy Panel of the H.R. Comm. on Armed Services, 100th Cong., 2d Sess., "Defense Acquisition: Major U.S. Commission Reports (1949-1988)" (Comm. Print 1988), vii.

[8] U.S. Dep't. of Defense, "Defense Management Report to the President by Secretary of Defense Dick Cheney" (1989).

[9] Id. at 26.

[10] U.S. Dep't. of Defense, "Annual Report to the President and the Congress' 28-29 (1992). Hereafter, 92 Annual Report.

[11] S. Rep. No. 384, 101st Cong., 2d Sess. 819 (1990) to accompany S. 2884 (National Defense Authorization Act For Fiscal Year 1991).

[12] U.S. Dep't of Defense, "Implementation of the Secretary of Defense's Defense Management Report to the President: Progress Report" 19 (1992).

[13] Air Force Ass'n., Arlington, VA, "Lifeline Adrift: The Defense Industrial Base in the 1990's" i (1991).

[14] Id.

[15] Office of Technology Assessment, "U.S. Congress, Redesigning Defense: Planning the Transition to the Future U.S. Defense Industrial Base," OTA-ISC-500, (1991); H.R. Comm. on Armed Services, 102d Cong., 2d Sess., "Future of the Defense Industrial Base, Report of the Structure of US Defense Industrial Base Panel" (Comm. Print 1992).

[16] One notable exception to the usual "missing link" between law and regulation was provided by the report of a 1992 congressional panel studying the industrial base which charged that "Defense Department provisions requiring compliance with Government Cost Accounting Standards and the Truth in Negotiations Act are serious impediments to commercial companies wishing to sell to the department." H.R. Comm. on Armed Services, 102d Cong., 2d Sess., "Future of the Defense Industrial Base, Report of the Structure of US Defense Industrial Base Panel" 13 (Comm. Print 1992).

[17] George K. Krikorian, Presentation to the Acquisition Law Advisory Panel, Ft. Belvoir, VA (June 3, 1992). See also Mr. Krikorian's statement before the House Armed Services Committee Subcommittee on Investigations, July 22, 1992, and his article, "DOD's Cost Premium Thirty to Fifty Percent, National Defense" (Journal of the American Defense Preparedness Association) 12-13 (Sept. 1992).

[18] Donald A. Hicks, "Requirements for a Viable Defense Industrial Base", Speech to the Economist Conference on Defense Spending Retrenchment, London, UK (Oct. 21, 1991).

[19] "92 Annual Report," at 6.

[20] H.R. Comm. on Armed Services, 102d Cong., 2d Sess., "Future of the Defense Industrial Base, Report of the Structure of U.S. Defense Industrial Base Panel" 13-16 (Comm. Print 1992). See also two reports by the Center for Strategic and International Studies, "Deterrence in Decay: The Future of the U.S. Industrial Base" Washington, DC (May 1989) and "Integrating Commercial and Military Technologies for National Strength: An Agenda for Change," Washington, DC (March 1991). For a DOD perspective, see Robert B. Costello, "Bolstering Defense Industrial Competitiveness." Report by the Under Secretary of Defense (Acquisition) to the Secretary of Defense (July 1988).

[21] William E. Kovacic, "Regulatory Controls as Barriers to Entry in Government Procurement," 25 Policy Sciences 31 (1992).

[22] "Report of the Commission on Government Procurement, Table and Digest of Procurement-Related Laws." (1973).

[23] H.R. Comm. on Armed Services, 102d Cong., 1st Sess., "Laws relating to Federal Procurement As Amended Through April 6, 1991" (Comm. Print 1991).

[24] The data base used was originally compiled by the Logistics Management Institute for the DMR and reported as "Regulatory Relief: Simplifying and Eliminating Contract Clauses," Report PL903RI Prepared for the Defense Management Review Regulatory Relief Task Force, Bethesda, MD (Nov. 1989).

[25] A list of the statutes considered but excluded from further review is at Appendix E of this Report.

[26] U.S. Dep't of Defense, Defense Systems Management College, "Introduction to Defense Acquisition Management," 1 (Ft. Belvoir, VA, 1989).

[27] Examples included: the National Association of Minority Business when the Small Business Act was under discussion; the Management Review Division of the General Services Administration during discussion of the Brooks Act; an industry coalition, the Integrated Dual-Use Commercial Companies, during several discussions of commercial products and services; and the General Accounting Office during discussions of protests.

[28] In those cases where an amendment (including recodifications) was recommended, the analysis of that statute contains a subsection entitled "Proposed Statute". This subsection contains or references the current statutory language together with the proposed changes highlighted by underlining (for additions) or strikeovers (for deletions).

[29] This discussion is presented more fully in Chapters 4.0 and 4.1 of this report.

[30] See, e.g., "92 Annual Report," at 15-17.

[31] U.S. Office of the Secretary of Defense, "The Impact of Buy American Restrictions Affecting Defense Procurement: Report to the Congress," 18-22, Table 3.1 (July 1989).

[32] Business Executives for National Security, Washington, DC, "Report of the Commission on Fundamental Defense Management Reform," 36 (1992).

[33] See note 6, supra.

[34] See note 11, supra.

Mr. BINGAMAN. Mr. President, our bill builds on this foundation. The Armed Services Committee directed the staff on a bipartisan basis and in partnership with the staff of the Governmental Affairs and Small Business Committees to carry out a thorough review of the section 800 panel's proposals and to make recommendations to the members on an acquisition reform bill that we could see enacted in this Congress. Each of us is committed to this goal.

That months' long process produced a draft last month, about the same time the administration was completing the national performance review which was reaching very similar conclusions. The draft did not follow the section 800 panel's recommendations in every detail, as Senator GLENN has pointed out in his statement. But it did make recommendations on every section 800 provision, carrying out the most significant and far-reaching recommendations of both the section 800 panel and the national performance review, and included additional ideas which arose in the staff discussions. It is a slightly amended version of that draft which we are introducing today with the support of the administration, support that will be crucial to getting this bill enacted. I compliment the President and the Vice President for seizing this opportunity to make a fundamental change in how the Government does business and getting behind this effort so forcefully.

I will not go into the provisions of the bill. Senator GLENN, who has been a leader on this issue for many years, has included both a summary and section-by-section analysis in his statement. Senator LEVIN, who together with Senator COHEN has led the effort to simplify commercial product purchases and who coauthored with Senator COHEN the last major piece of acquisition legislation—the Competition in Contracting Act of 1984, has described the commercial product provisions in detail. But I would like to point out that one of the fundamental principles we are trying to advance in this bill is integration of the commercial and military sectors of our economy. The Armed Services Committee under Senator NUNN's able leadership and the Department of Defense under Bill Perry's and John Deutch's leadership have concluded that it is critical that DOD rely in the future to the maximum extent possible on the commercial sector for the products and services it needs to secure our defense. We can not afford to try to support a duplicative effort in what Adm. Bobby Inman has termed a defense ghetto walled off by the acquisition system from the mainstream of American and international commerce. In our view we must make it easier for defense-dependent firms to use commercial practices and produce commercial products and for commercially oriented firms to do business with Government.

This commercial-military integration strategy will not meet all of DOD's needs. Clearly, there are areas such as advanced conventional munitions or nuclear attack submarines or aircraft carriers where the only customer is the Government and the Government must decide how large a base to maintain and have an acquisition system in part suited to dealing with that largely captive base. But a commercial-military integration strategy can and must work in the large number of dual-use areas—electronics, materials, manufacturing processes, software—where the commercial market is the dominant buyer and DOD really has no choice but to leverage that market.

In a sense we are saying that DOD's leverage as its budget declines—and it has been declining since 1986—DOD's leverage to impose additional burdens on the large and growing commercial sector is sharply declining, but our laws have not caught up. We are still acting as if DOD and the Federal Government more generally has all the leverage and that firms will beat a path to our door to do business with us. In 1986, the manufacturing sector of our economy was about $850 billion. DOD was consuming about $120 billion a year in manufactured products, fully 15 percent of that sector's output. In fiscal year 1994, DOD's purchases will be well less than 10 percent of the $1.1 trillion manufacturing sector's output. By the end of the decade DOD will be less than 5 percent.

If we do not reform our acquisition system to foster commercial-military integration, as our bill does, we run the risk that DOD will be able to do business with only an ever diminishing set of captive contractors—those contractors willing to put up with all the requirements passed down to them in their contracts, but increasingly disconnected from the innovations occurring in the commercially oriented private sector. This would have grave consequences for our security. That it fosters commercial-military integration is one of the most compelling arguments in favor of our legislation. It is also a key yardstick by which we should judge the proposals we receive for changing the legislation.

Mr. President, I know that this bill, which is over 300 pages long, will require a careful, deliberative process here in the Congress. We are committed to proceeding in our respective committees promptly with hearings, hopefully joint hearings as often as possible, to receive the comments of the many groups interested in our proposals. We will proceed on a bipartisan

basis, as all of our efforts have proceeded since the inception of the section 800 process. I look forward to a constructive process that produces the most comprehensive acquisition reform legislation in a very long time. I hope that those with an interest in only a few specific details of our bill will seek to understand the overall spirit in which the bill is put forward before asking us to maintain the status quo in their particular area.

There is frankly a danger of this bill unraveling. All the laws on the books in the acquisition area respond to some real problem or seek to advance some meritorious goal. Many have Members of Congress' names attached to them. If we are to loosen the grip of these individual laws to streamline the acquisition process, improve its efficiency, and foster commercial-military integration, a majority of the Congress will have to join us in the pursuit of these broader goals.

I believe that we will see that support and that this legislation will be enacted in this Congress in a form very similar to what we are introducing today. The time is ripe because the public is looking for a more efficient Government, a better performing Government. They do not want to see 23 hands touch a simple computer procurement or millions of dollars spent in an effort to save thousands as too often occurs today.

My colleagues and I are offering a prescription for change in a fundamental area of Government activity. It is time for change and time for the inefficiencies to go. The section 800 panel has taken the excuses away from us and from the executive branch. We have the roadmap for where we need to go. The question is now whether we will make the journey. As of today, Senator GLENN has placed that question before the Senate. I hope that the response will be overwhelmingly positive.

By Mr. FORD:

S. 1588. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996; to the Committee on Commerce, Science, and Transportation.

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1993

Mr. FORD. Mr. President, today I am introducing legislation to reauthorize the National Transportation Safety Board for 3 years. A hearing will be held on this measure on Friday, October 29, 1993.

The authorization levels in this legislation are the same as being considered in the House of Representatives. There are no substantive amendments to the Independent Safety Board Act.

The NTSB was created by the Department of Transportation Act of 1966, and made an independent agency by the Independent Safety Board Act of 1974. The NTSB is primarily responsible for investigating and determining the cause of aviation, highway, rail, pipeline and marine accidents. Following its investigations, the NTSB also has the responsibility of making recommendations to Federal, State and local agencies to prevent the recurrence of accidents.

I look forward to early action on this legislation. It is my hope that soon after the Commerce Committee hearing the bill will be reported from the committee and ready for Senate floor action.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1588

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 "Independent Safety Board Act Amendments of 1993".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Sec. 309(a) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1907(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for the purposes of this Act not to exceed $37,580,000 for the fiscal year ending September 30, 1994, $44,000,000 for the fiscal year ending September 30, 1995, and $45,100,000 for the fiscal year ending September 30, 1996. Such sums shall remain available until expended.".

By Mrs. BOXER (for herself, Mr. WARNER, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. METZENBAUM, Mrs. MURRAY, Mr. HARKIN, Ms. MIKULSKI, and Mr. FEINGOLD):

S. 1589. A bill to amend title 18, United States Code, to prohibit any State motor vehicle department from disclosing certain personal information about a person doing business with such department; to the Committee on Governmental Affairs.

DRIVER'S PRIVACY PROTECTION ACT OF 1993

Mrs. BOXER. Mr. President, I ask unanimous consent that the text of the Driver's Privacy Protection Act of 1993, which I am introducing, be printed in the RECORD.

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

S. 1589

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

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Driver's Privacy Protection Act of 1993".

(b) PURPOSE.—The purpose of this Act is to protect the personal privacy and safety of licensed drivers consistent with the legitimate needs of business and government.

SEC. 2. AMENDMENT TO TITLE 18, UNITED STATES CODE.

Title 18 of the United States Code is amended by inserting immediately after chapter 121, the following new chapter:

"CHAPTER 122—PROHIBITION ON RELEASE OF CERTAIN PERSONAL INFORMATION

"Sec. 2720. Prohibition on release of certain personal information.
"Sec. 2721. Unlawful use of personal information.
"Sec. 2722. Definitions.
"Sec. 2723. Penalties.
"Sec. 2724. Effect on State and local laws.

"§ 2720. Prohibition on release of certain personal information

"(a) DISCLOSURE.—It is unlawful for any department of motor vehicles of any State or any other person or organization to disclose or obtain, except as authorized by this chapter, personal information about any individual obtained by such department in connection with a motor vehicle operator's permit, motor vehicle title, identification card, or motor vehicle registration issued by the department to that individual, unless such individual has authorized such disclosure.

"(b) EXCEPTIONS.—It is not unlawful to disclose or obtain personal information, otherwise unlawful under this chapter, for any of the following routine uses if the person receiving such information has certified to the Department that the information will be used only for one of the specified permissible purposes:

"(1) For the use of any Federal, State or local court in carrying out its functions.

"(2) For the use of any Federal, State or local agency in carrying out its functions, including a law enforcement agency.

"(3) For the use in connection with matters of automobile and driver safety, including manufacturers of motor vehicles conducting a recall of motor vehicles.

"(4) For the use in any civil or criminal proceeding in any Federal, State or local court, if such proceeding involves a motor vehicle.

"(5) For use in research activities, if the motor vehicle department determines that such information will not be used to contact the individual and that individual is not identified or associated with the requested personal information.

"(6) For use in marketing activities if the motor vehicle department—

"(A) has provided the individual with regard to whom the information is requested with the opportunity, in a clear and conspicuous manner, to prohibit a disclosure of such information for marketing activities;

"(B) has received assurances that the information will be used, rented, or sold solely for a permissible use under this chapter, including marketing activities; and

"(C) has received assurances from any person purchasing such information from a motor vehicle department for marketing purposes that such person to whom they sell or rent the information and the permissible purpose for which the purchaser will use the information.

"(7) For use by any insurer or insurance support organization; or their employees, agents, and contractors, in connection with claims investigation activities and antifraud activities.

"(8) For use by any organization, or its agent, in connection with a business transaction, when the purpose is to verify the accuracy of personal information submitted to that business or agent by the person whom such information pertaining, or, if the information submitted is not accurate, to obtain

correct information for the purpose of pursuing remedies against a person who provided false information or presented a check or similar item that was not honored.

"(9)(A) For use by any organization, if such organization has certified that it has obtained a statement from the person to whom the information pertains authorizing the disclosure of such information under this chapter in accordance with an agreement entered into pursuant to subparagraph (B).

"(B) Any motor vehicle department of a State is authorized to enter into an agreement (A) pursuant to which the motor vehicle department may subsequently release information to that organization on the basis of a certification that the entity has obtained or will have obtained consent from the individual to whom the information pertains to obtain such personal information from the State motor vehicle department.

"§ 2721. Unlawful use of personal information

"(a) UNLAWFUL ACTS BY STATE MOTOR VEHICLE DEPARTMENTS, ORGANIZATIONS OR PERSONS.—It is unlawful for any State motor vehicle department or organization or person to disclose, sell or otherwise make available, or use personal information about any individual referred to in section 2720 except in accordance with this chapter.

"(b) UNLAWFUL ACTS BY PERSONS OR ORGANIZATIONS.—It is unlawful for any person or organization—

"(1) to make any false representation to obtain personal information from a department of motor vehicles of any State or other person about any individual referred to in section 2720; or

"(2) to use personal information obtained from any department of motor vehicles of any State or other person for any purpose other than as requested by that person or organization, or other than the purpose for which such information was disclosed.

"(c) EXCEPTION.—The prohibition referred to in subsection (a) of section 2720 and subsections (a) and (b) of this section shall not apply to any person to whom the information pertains.

"§ 2722. Definitions

"As used in this chapter:

"(1) The term 'personal information' includes an individual's photograph, driver's identification number, name, address, telephone number, social security number, and medical and disability information. Such term does not include information on vehicular accidents, driving violations, and driver's status.

"(2) The term 'person' means any individual.

"(3) The term 'State' means each of the several States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) The term 'organization' means any person other than an individual, including but not limited to, a corporation, association, institution, a car rental agency, employer, and insurers, insurance support organization, and their employees, agents, or contractors.

"§ 2723. Penalties

"(a) WILLFUL VIOLATIONS.—

"(1) Any person who willfully violates this chapter shall be fined under this title, or imprisoned for a period not exceeding 12 months, or both.

"(2) Any organization who willfully violates this chapter shall be fined under this title.

"(b) NONWILLFUL VIOLATIONS.—Any person or organization who violates this chapter, other than a willful violation, shall be subject to a civil penalty in an amount not to exceed $5,000.

"(c) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles which willfully violates this chapter shall be subject to a civil penalty in the amount of $10,000. Each day of continued noncompliance shall constitute a separate violation.

"§ 2724. Effect on State and local laws

"The provisions of this chapter shall supersede only those provisions of law of any State or local government which would require or permit the disclosure or use of personal information which is otherwise prohibited by this chapter.".

SEC. 3. The amendments made by this Act shall take effect upon the expiration of the 270-day period following the date of its enactment.

Mr. WARNER. Mr. President, I join with my distinguished colleague from California, Senator BOXER, as an original cosponsor of her excellent initiative, the Driver's Privacy Protection Act of 1993.

The legislation would protect a driver's privacy by preventing access to an individual's identity and address on the basis of that individual's license plates. Currently, 32 States permit such access for a nominal fee paid to the Department of Motor Vehicles.

In today's world, both personal privacy and personal safety are disappearing and this legislation would help to protect both. The bill incorporates the intentions of the 1974 Privacy Act, which addresses the collection of personal information by Federal agencies. The bill also includes the recommendations of the 1977 Privacy Protection Study Commission report.

Citizens who wish to operate a motor vehicle have no choice but to register with the Department of Motor Vehicles and they should do so with full confidence that the information they provide will not be disclosed indiscriminately.

The Commonwealth of Virginia currently makes vehicle owners' identities available only to inquiring individuals who demonstrate good reason for wanting to know. There is no reason good enough to invade the privacy or risk the safety of any citizen.

ADDITIONAL COSPONSORS

S. 732

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 784

At the request of Mr. HATCH, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 1087

At the request of Mr. KOHL, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1128

At the request of Mr. AKAKA, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1128, a bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased reservists.

S. 1208

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1354

At the request of Mrs. KASSEBAUM, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1354, a bill to amend the Fair Labor Standards Act of 1938 relating to the minimum wage and overtime exemption for employees subject to certain leave policies, and for other purposes.

S. 1356

At the request of Mr. HATCH, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1356, a bill to restore order, deter crime, and make our neighborhoods and communities safer and more secure places in which to live and work.

S. 1425

At the request of Mr. CONRAD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1425, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 1437

At the request of Mr. LAUTENBERG, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

At the request of Mr. DOLE, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1437, supra.

S. 1450

At the request of Mrs. FEINSTEIN, the names of the Senator from West Virginia [Mr. BYRD], the Senator from New Hampshire [Mr. GREGG], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from New Hampshire

[Mr. SMITH] were added as cosponsors of S. 1450, a bill respecting the relationship between the workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

S. 1478

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1478, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and for other purposes.

SENATE JOINT RESOLUTION 55

At the request of Mr. HATCH, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Texas [Mrs. HUTCHISON], the Senator from Alabama [Mr. SHELBY], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 55, a joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

SENATE JOINT RESOLUTION 75

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 75, a joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 122

At the request of Mr. LAUTENBERG, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Washington [Mrs. MURRAY], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 122, a joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

SENATE JOINT RESOLUTION 131

At the request of Mr. BRADLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 131, a joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week."

SENATE JOINT RESOLUTION 135

At the request of Mr. SIMON, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 135, a joint resolution designating the week beginning October 25, 1993, as "World Population Awareness Day."

SENATE JOINT RESOLUTION 140

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Joint Resolution 140, a joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day."

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. BRADLEY, the names of the Senator from Florida [Mr. MACK] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Concurrent Resolution 34, a concurrent resolution expressing the sense of the Senate regarding the accounting standards proposed by the Financial Accounting Standards Board.

AMENDMENTS SUBMITTED

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

KENNEDY (AND HATCH) AMENDMENT NO. 1082

Mr. KENNEDY (for himself and Mr. HATCH) proposed an amendment to the bill (S. 578) to protect the free exercise of religion; as follows:

On page 2, line 14, insert "substantially" before "burden".

On page 3, line 5, insert "substantially" before "burdened".

On page 3, line 7, insert "substantially" before "burdened".

On page 3, line 9, insert "substantially" before "burden".

On page 3, line 13, insert "substantially" before "burden".

REID (AND OTHERS) AMENDMENT NO. 1083

Mr. REID (for himself, Mr. SIMPSON, Mr. BRYAN, Mr. SASSER, Mr. MATHEWS, Mr. BURNS, and Mr. HELMS) proposed an amendment to the bill S. 578, supra; as follows:

At the end of the bill, add the following:

SEC. . CONSTRUCTION.

Notwithstanding any other provision of this Act, nothing in this Act or any amendment made by this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment regarding laws prohibiting the free exercise of religion, with respect to any individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility (including any correctional, detention, or penal facility that is operated by a private entity under a contract with a government).

NOTICES OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests on mining activities in units of the National Park System in Alaska.

The hearing will take place on Saturday, November 6, 1993, beginning at 9 a.m. and concluding at approximately 1 p.m. The hearing will be held in the auditorium of the Anchorage Museum of History and Art, 121 W. Seventh Avenue, in Anchorage, AK.

The subcommittee will invite witnesses representing a cross-section of views and organizations to testify at the hearing. Others wishing to testify may, as time permits, make a brief statement of no more than 2 minutes. Those wishing to testify should contact Senator MURKOWSKI's office in Anchorage at (907) 271-3735. The deadline for signing up to testify is Friday, October 29. Every attempt will be made to accommodate as many witnesses as possible, while ensuring that all views are represented.

Witnesses invited to testify are requested to bring 10 copies of their testimony with them to the hearing, and not to submit any testimony in advance. Statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact David Brooks of the subcommittee staff in Washington at (202) 224-8115 or Jim Deagen in Senator MURKOWSKI's Anchorage office at (907) 271-3735.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation will hold a hearing to explore how the U.S. Forest Service intends to define and implement ecosystem management and how it compares with efforts underway by the Bureau of Land Management to implement their version of ecosystem management. The hearing will be held on Tuesday, November 9, 1993, at 2 p.m. in SR-332. Senator TOM DASCHLE will preside.

For further information, please contact Eric Washburn at 224-2321.

NOTICE OF MEETING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, November 4, 1993, at 9:30 a.m., to hold a markup on pending executive, legislative, and administrative business.

The committee will consider the following executive and legislative business: the nomination of Michael F. DiMario, of Maryland, to be Public

Printer; H.R. 877, to authorize the establishment of the National African-American Museum within the Smithsonian Institution; H.R. 2677, to authorize the Board of Regents of the Smithsonian to plan, design, and construct the West Court of the National Museum of Natural History; Senate Joint Resolution 143 and 144, providing for the appointments of Frank Anderson Shrontz and Manuel Luis Ibanez, respectively, as citizen regents of the Board of Regents of the Smithsonian Institution; S. 716, to require that all Federal lithographic printing be performed using ink made from vegetable oil; and an original resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook.

The committee will also consider the following administrative business: Regulations for operation and use of the Senate subway system; regulations governing use of the Senate health and fitness facility; rule for use of display materials in the Senate Chamber; and other matters ready for consideration at time of markup.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. 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 Tuesday, October 26, 1993, at 10 a.m. to conduct a hearing on S. 1527, the Fair Trade in Financial Services Act of 1993.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works and the Subcommittee on Clean Air and Nuclear Regulation be authorized to meet during the session of the Senate on Tuesday, October 26 beginning at 10 a.m. to conduct a joint hearing on the Clinton administration's national action plan on global climate change.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony on the subject of "Medical Practice Patterns and the Appropriateness of Care."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 26, 1993, at 10 a.m. to hold a hearing on environmental and other treaties.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. REID. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on October 26, 1993, at 2:30 p.m. on S. 1517, the Technology Commercialization Act.

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

ADDITIONAL STATEMENTS

HARD TRUTHS AND SOUND ADVICE FROM PETE PETERSON

• Mr. HOLLINGS. Mr. President, in the run-up to election day next week, the air is filled with the kind of cheap political promises we have come to except from candidates in recent years. In New Jersey, a candidate for Governor promises a 30-percent tax cut. In Virginia, a candidate promises to end parole—with no plan whatsoever for financing the massive expansion of prisons that would be required. Meanwhile, here in Washington, we are still trying to digest the proposed enactment of a new entitlement to top all previous entitlements: Universal national health insurance guaranteed by the Federal Government. Who would guess that our National Government, and State governments including those in New Jersey and Virginia, are facing monumental fiscal shortfalls?

Mr. President, it is shocking and disturbing, at this late hour, to witness the pervasive attitude of denial with regard to our national deficit crisis. A timely antidote to this dreamworld denial is offered by Pete Peterson in the October issue of the Atlantic Monthly. His article, "Facing Up," is a condensed version of his book-length treatment of the deficit crisis titled, "Facing up: How To Rescue the Economy From Crushing Debt and Restore the American Dream." It offers an unflinching diagnosis of the true breadth and danger of the Federal deficit. And it advocates an equally hard-nosed remedy emphasizing major reductions in entitlements for middle- and upper-income earners. On that score, he notes that the average household with income above $100,000 collected $9,300 in entitlements in 1991.

Mr. President, both the article and the book offer a first-rate analysis of the causes and future trends of the deficit crisis, and they offer an admittedly painful solution—including new taxes and cuts in entitlements—that sooner or later we will have to face up to. I urge my colleagues not just to read this article, but to study it. To that end, I ask that it be reprinted in its entirety in the CONGRESSIONAL RECORD.

The article follows:

[From the Atlantic Monthly, October 1993]

FACING UP

(By Peter G. Peterson)

Early on in his presidential campaign Bill Clinton talked about the need for Americans to pull together and "sacrifice." Later, in a State of the Union address remarkable for its candor, he spoke to a raptly attentive nation about how our ballooning federal deficits cloud our economic future. That was a subject George Bush had found worthy of mention only once in his 5,000-word State of the Union address the year before. The budget plan that Bill Clinton then delivered to Congress not only used real numbers instead of rosy scenarios; it shattered some paralyzing dogmas. The nonsense that we could put our fiscal house in order without new taxes was laid to rest. Especially commendable was the President's opening the door to energy taxes, which not only raise revenues but also represents a means to curb a particularly toxic kind of consumption. Even Social Security, our ultimate sacred cow, was put on the budget-cutting table—if only at the table's edge. After years of empty "Morning in America" and "Don't Worry, Be Happy" rhetoric, all of this was welcome—even intoxicating—to us deficit hawks.

But in the end the actual sacrifice called for under the Clinton plan is so mild and selective that it can hardly be said to address our long-term economic challenges. The President's new taxes on the "rich" turned out to spare almost entirely a much enlarged but fiscally misnamed middle class, excluding all but the top one percent of U.S. tax filers. Despite all the talk of draconian sacrifice, the Clinton plan's proposed energy tax amounted to little more than a flea bite. As for entitlements, the thing that mattered most, the President barely managed to crimp their growth. From 1993 to 2004 federal benefit spending under the original Clinton plan, which, in its handling of entitlements and its overall budget savings, differs only in detail from what Congress approved, would have soared by some $730 billion—as compared with $790 billion under the Congressional Budget Office's business-as-usual baseline scenario.

Without much broader sacrifice—and a presidential vision that truly explains its purpose and inspires us to consume less today for a better tomorrow—we will never cure America's economic ills.

The Clinton plan doesn't come close to balancing the budget, even in the near term. According to the numbers developed by the White House itself, if the President's entire original budget package had been passed and implemented, by 1997 the federal deficit would have declined by only $140 billion from what it otherwise would have been. That would put it at $206 billion, or 2.7 percent of gross domestic product—just a smidgen under where it was (3.0 percent of GDP) in 1989 before the recession began. If 2.7 percent of GDP doesn't seem like a lot, consider that in 1992 a deficit that size would have soaked up about half of U.S. net private savings. And consider also that about three quarters of the spending cuts that the President has proposed for 1994 to 1998—modest as they are—are only to take place after the 1996 election, which, of course, raises the risk that they will not materialize at all.

After 1997 the federal deficit will once again begin to rise rapidly. Under the impact of continued growth in entitlement spending, by 2004 it will have climbed to about $465 billion, or 4.6 percent of GDP. As the Baby Boom generation begins to reach retirement age in the years that follow, a General Accounting Office study indicates, the deficit could then soar to an unthinkable 21 percent of GNP in the year 2020, when today's toddlers are starting to raise their own families.

Economists disagree on many things, but almost none would disagree that it is essential not to let our public debt grow faster than the economy. Yet under the Clinton plan public debt is on track to grow far faster than the economy. Today public debt is already at a higher level—55 percent of GDP—than it has been at any other time since the mid-1950s, when we were still paying off the costs of the Second World War. Because the Clinton budget plan leaves on the table a full two thirds of deficits previously projected for 1993-2004, public debt will grow to about 65 percent of GDP by the end of that period. And along with the debt, needless to say, federal interest costs will soar.

Considering how ravenously a large deficit consumes national savings—and Clinton has spoken eloquently about this—and how important the availability of savings is to making the future-oriented investments that Clinton says he wants (and that America surely needs), how can we possibly justify short-term tweaking of the deficit in lieu of radical surgery to balance the budget?

I have asked the Clinton people this question. One answer they offer is that the volcanic eruption of red ink projected for after 1997 will never occur, owing to steps they will take to control that most intractable force driving our deficits—exploding health-care costs.

The President is certainly right to go after health care. This is where much of deficit reduction must occur. But as to whether Bill Clinton will find his hoped-for health-care savings, I am more than a bit skeptical. As Charles Schultze, a former chairman of the Council of Economic Advisers, put it, "God couldn't design a program" that will achieve net savings in health care in the near term. The President, after all, is proposing that we spend more on health care—according to some, as much as $100 billion to $150 billion annually in new public and private benefits, much of it picked up by the federal government. In the longer term achieving real savings elsewhere in health care will require real sacrifices—including, ultimately, selective rationing of high-cost, low-benefit medical technologies and services. But the Administration isn't preparing the American people for such sacrifices. Until it does, it won't be able to come up with enough health-care savings to offset the cost of the benefit expansions we are now talking about, much less contribute to overall deficit reduction.

Bill Clinton warned of an economic Armageddon if we fail to change course—but then all he was able to give us to cure our economy's ills was a few teaspoons of syrupy medicine.

What happened? The President, according to senior aides, kept asking, "What is *politically* feasible? I do not want this to be another budget that is D.O.A." In the end his political advisers told him he couldn't ask for sacrifice where he had to—from the great American middle class. Let me now speak the unpopular truths that I am sure the President knows but believes are too politically dangerous to act upon. Let me turn to the problem of the great American middle class—and the absolutely essential role it must play in shared national sacrifice if we are to reclaim our future.

THE BRUTAL TRUTH

If you listen carefully to most economists and policy experts today, a consensus emerges about the magnitude of America's economic challenges and what sorts of reforms will be necessary to overcome them.

In particular, most would agree with the following: (1) To get American living standards rising again, we must increase productivity growth. (2) To boost productivity we must invest more—much, much more—not just in machines but in research and development, in infrastructure, and in people. Making the new investments we need if we are again to know the kind of rising living standards we remember from the 1950s and 1960s will require a lot of money. Many, myself included, think that at least $400 billion a year in new investments is needed in order to boost our rate of investment back toward our long-term historical average and put us in the ballpark of what other major industrial countries are now managing to invest. (3) This in turn means that we must save much, much more—at least $400 billion a year more. (4) The surest and fastest way to increase our savings is to reduce and eventually eliminate the federal deficit, which is really just a form of negative public savings. (5) To reduce the deficit and keep it down we must make major cuts in consumption spending, and in particular in entitlements. But this, alas, requires us to confront a brutal question: If we are to save more by consuming less, whose consumption growth do we propose to cut?

It's at this point that agreement on what needs to be done, while not exactly breaking down, comes face to face with a truth that remains politically inexpressible. That truth is that the problem is all of us. *Most Americans—emphatically including the middle class—will have to give something up, at least temporarily, to get back our American Dream.*

We all remember the slogan that came out of the Clinton campaign: "It's the economy, stupid." Well, when it comes to the budget, the watchword ought to be "It's entitlements, stupid." From Social Security and Medicare to the vast tax favors for home-mortgage interest and employer-paid health insurance (policy wonks call these benefitlike subsidies in our tax code "tax expenditures"), consumption-oriented spending dominates the budget today. And the explosive growth of these entitlements will continue to rob our future. The budget arithmetic is inescapable: we just can't get the spending cuts we need from anywhere but entitlements. As big as it is, even defense spending isn't big enough. We could shut down the Pentagon tomorrow and still not balance the budget. Nor can we count on saving much on our huge interest bill unless we first reduce other types of spending. Interest on the national debt is something that we must pay to avoid a devastating financial panic—and it keeps growing as our national debt grows, just as it would fall if we began to attack the deficit. The rest of what government does represents just pennies out of the overall budget dollar.

THE COST OF ENTITLEMENTS

Let's define some key terms and look at some key facts about entitlements. "Entitlements" are any public-sector payments, received by a person or a household, that do not represent contractual compensation for goods or services. This definition obviously excludes large portions of the federal budget, from defense procurement to interest on the national debt to purchases designed for America's collective benefit (such as highway construction). But it includes nearly everything else—most notably such dominating fixtures of the American political landscape as Social Security, Medicare, Medicaid, food stamps, unemployment compensation, veterans' benefits, and farm aid, to say nothing of our lavish federal pension systems.

The most striking single fact about entitlements is their vast cost. Over the course of fiscal year 1993 the U.S. Treasury will have mailed out benefit checks (directly to individuals or to state agencies and insurance companies that administer benefits) totaling some $800 billion, or about one eighth of our nation's GDP. That amounts to more than half (53.5 percent) of the entire federal budget—or about $6 million every minute of every working day, flowing to one out of two American households. These figures, moreover, include only direct outlays from the federal budget. The numbers would be even larger if we included tax expenditures. If we count them and add the cost of administering entitlement programs—as many economists argue we should in order to get the full picture—federal entitlements now amount to more than $1 trillion annually and flow to well over three quarters of all U.S. households.

TEN MYTHS ABOUT ENTITLEMENTS

Myths about entitlements are everywhere. They are used—and abused—in the political dialogue in ways that seem to make reasoned debate and reasonable reforms impossible. Let's look at ten of the most common myths.

1. Most federal social spending goes to the poor.

It is important to remember what entitlements have done to reduce poverty. Before the New Deal millions of Americans had no means of support in the event of unemployment, disability, unexpected retirement, or the death of a parent or spouse. Vast numbers of children grew up in destitute families. At great cost to society and the economy, millions of workers could fall into poverty and never recover. In 1937 President Franklin D. Roosevelt could say, "I see one third of a nation ill-housed, ill-clad, ill-nourished." Today entitlements prevent some 20 million Americans (half of them elderly) from falling into poverty.

This is clearly all to the good. However, keeping people out of poverty is not the purpose toward which most entitlement spending is directed. In reality, only about one out of eight federal dollars of social spending serves to lift poor families above the poverty line. Only about one out of four federal benefit dollars even flows through a program that uses financial need as a criterion for eligibility. Counting both direct benefits and the value of entitlements conveyed through the tax code, the aggregate amounts received by people above the national median income are simply staggering. In 1991 nearly half of all entitlements went to households with incomes over $30,000. One quarter went to households with incomes over $50,000.

2. Entitlement spending helps to equalize incomes by giving more to the poor than to the rich.

Few axioms of American political life find such uncritical acceptance as the belief that social-welfare programs effect a dramatic redistribution of wealth in favor of low-income households. It apparently makes little difference that most experts, liberal and conservative alike, have never subscribed to this

axiom—and that recent data repudiate it altogether.

Back in the sixties the Nobel laureate economist Milton Friedman used to shock audiences by asserting that Social Security was actually a regressive program—since the program's mildly progressive benefit formula compensated neither for its regressive payroll tax nor for the fact that the poor pay taxes over more years (since they tend to start working at a younger age) and receive benefits over fewer years (since they tend also to die at a younger age). Most economists found Friedman's analysis at least plausible; no one has yet disproved it. More recently the celebrated political scientist Mancur Olson looked over the panoply of American entitlement programs and concluded:

"Most of the redistribution of government is not from upper-income and middle-income people to low-income people. Most of the redistribution of income in fact is from middle-income people to other middle-income people, or from the whole of society to particular groups of rich people, or from one group to another where the groups are distinguished not by one being poor and the other being rich, but only by the fact that some groups are organized and some are not."

Income data from the Congressional Budget Office tend to bear out Olson's critique. Total federal benefits to the affluent are at least as substantial as those to the needy. Among Social Security beneficiaries, for instance, households with incomes of $100,000 or more receive, on average, checks that are twice as large as those of households with incomes of less than $10,000. Even when we add in the cash and in-kind benefits disbursed by all of the other federal sources for which we have income data—including "means-tested" welfare and food stamps—we find that households in the top bracket ($100,000 and up) received an average of about $5,700 in 1991, slightly more than the average of $5,600 received by households in the bottom bracket (under $10,000).

But direct federal payments are not the only way in which the federal government distributes benefits. We also have to take tax expenditures into account. These loopholes, designed to favor certain households and bearing no relationship to ability to pay, are the fiscal and economic equivalent of a government check. Most tax expenditures are unquestionably regressive: many poor households cannot qualify for them—and even when they do, what they receive is smaller, relative to their income, than what the affluent get. This year, for example, the Congress's Joint Committee on Taxation estimates that the average value of the home-mortgage interest deduction for taxpayers with incomes over $100,000 is $3,453 and that the same deduction is worth an average of only $478 for taxpayers in the $20,000 to $30,000 bracket. Even these figures include only those who qualified for the benefit. They exclude many low-income families, including renters and those who opted for the standard deduction, who do not qualify.

When we add together all the direct-benefit outlays and all the tax expenditures, an unambiguous picture emerges. On average, a household with an income under $10,000 collected roughly $5,700 in 1991. On average, a household with an income over $100,000 collected $9,300. This distribution of benefits by income became more—not less—skewed during the 1980s. Clearly, it has nothing to do with economic equality. Let's phrase the issue a bit more bluntly. If the federal government's purpose were to straighten out the national income distribution, it would do a better job if it dispensed with all the programmatic rules and simply scattered all the money by airplane over every population center, to be gathered at random by passers-by.

3. Social Security and Medicare are an earned right: beneficiaries are only getting back what they paid in.

Here the case is open and shut. Most currently retired Americans receive Social Security benefits that are two to five times greater than the actuarial value of prior contributions, by both employer and employee. The payback for the Medicare Hospital Insurance program is five to twenty times greater. A typical middle-income couple who retired in 1981 have already received back, with interest, not only the total actuarial value of their previous Social Security and Medicare taxes but also the total value of their lifetime federal income taxes.

And these calculations of actuarial value are conservative. They assume that employer contributions "belong" to the beneficiary and that the public must guarantee a "market" interest rate on all contributions, no matter what the condition of the economy or the wages of those who are taxed to make good on this claim. In fact, the Social Security Administration keeps no direct record of how much each person contributes. It just keeps records of each person's wage history, to which a politically determined formula is applied when that person retires.

The politically potent and disingenuous language adopted by the Social Security Administration has contributed to the earned-right myth. The system is described as an "insurance" program, although it is nothing of the sort. References are made to contributors' "accounts," when no such accounts exist.

My father, helped along by years of such misleading nomenclature, went to his grave thinking that he was simply getting back his money, by which he meant what he had put into his "account" over the years. Since by this logic the benefits belonged to him, any proposal to take any of them away was both unjust and immoral. In truth, it was as though the government had a moral obligation to provide a windfall forever. He could only wonder why his otherwise well-educated son thought differently. I could never persuade him. It would have depressed him to find out that in fact there was no Social Security savings account in Washington with George Peterson's name on it.

Nor would I have wanted to depress him further with other unpleasant facts about entitlements. My father was immensely supportive of my wife's work in behalf of poor children at the Children's Television Workshop. He would have been distressed to learn that is 1986, the last year of his life, the nation was told that it could not afford to fund fully the much-admired Head Start program. Yet merely the increases in Social Security's cost-of-living adjustments that year would have fully funded Head Start. Had he known the facts, I am confident he would have been happy to give up his silver of the huge entitlement pie for such a worthy cause.

4. The elderly, as a group, are poorer than young Americans.

In reality, the 1990 official poverty rate among the over-sixty-five population was 12 percent, as compared with 21 percent among children. When we include the value of all noncash benefits as income, the poverty rate for the elderly is six percent, as against 15 percent for children. On this later basis poor children outnumber the poor elderly in America by more than five to one. In no other major industrial nation is the poverty rate for children (using identical definitions) anywhere near what it is in the United States.

Children are the truly needy in our society, but they certainly don't get most of the public money. In 1990 of all direct federal benefits 63 percent went to the 13 percent of all Americans over age sixty-five, while nine percent went to the 26 percent of all Americans under age eighteen. On a per capita basis, and including all federal outlays that might be called "child benefits," from education to immunization, the ratio of average benefits received was eleven to one: $13,890 to each elderly person and $1,271 to each child. Even adding in everything spent by state and local governments (on schools, for instance), the ratio still favors the elderly by at least three to one.

Some argue that entitlements for the elderly merely substitute for transfers of wealth that the young would otherwise make to their parents. That might be true if these programs weren't so lavish. Before Social Security and Medicare, young families did sacrifice for older parents—if and when Mom and Pop were in need. Yet because today's retirees are, as a whole, wealthier than the young, adults aged twenty-five to thirty-four now report receiving from their parents twenty times more support than they give to them; even for adults thirty-five to forty-four, the ratio is five to one. Social Security and Medicare, far from embodying traditional family values, have turned them on their head.

5. Social Security is building up a huge surplus that will be available to pay for benefits promised to Baby Boomers.

It is true that Social Security receipts from payroll withholding taxes currently paid into the retirement part of the Social Security system (not the health-care or Medicare part) are higher than Social Security expenditures, and will probably remain so until the Baby Boomers start retiring in large numbers. But this surplus is temporary. What is more, the funds are not being saved or invested. Instead they are being used to help offset each year's overall federal budget deficit. Thus these surpluses are transformed into debts held by the Social Security trust funds. Future taxpayers will become liable for the principal and interest.

Let's peer into the future to see what the real financial status of our old-age benefit programs is. In assessing their solvency actuaries tally up what are known as unfunded liabilities—the amounts (in this year's discounted dollars) by which future benefits promised to today's adults exceed all their future payroll taxes plus the assets currently held in all the government's relevant "trust funds." The federal government's unfunded liabilities for just four programs—Social Security, Medicare, and federal civil-service and military retirement—come to about $14 trillion. That's a sum several times larger than the national debt, and one equivalent to roughly $140,000 for every household. This is a system in surplus?

6. Today's younger Americans will eventually receive the same health and pension benefits they are providing today's retirees.

Recently the Senate Finance Committee held a hearing on likely paybacks to various generations. No expert disagreed on the trend (an unusual fact in itself): the earliest beneficiaries got by far the best deal, and the deal has been getting worse for each successive generation. By some calculations some

upper-income single males retiring this year may get less out of Social Security than they put it.

Moreover, financing even the reduced returns that are promised to tomorrow's retirees is unlikely to be economically or politically sustainable as America ages. The Social Security Administration projects that, depending on demographic and economic trends, the cost of Social Security and Medicare will by 2040 rise to between 38 percent and 53 percent of payroll—unless we cut benefits. I believe the only real question is when, not whether, we will change course. We can make modest, fair-share sacrifices now. Or we can make wrenching changes later, amid economic crisis and, as Paul Tsongas would say, intergenerational war. The choice is not just economic but also moral. I can imagine few ethical principles more important than fairness toward our children.

7. Retirement benefits are an "inviolable contract" between the generations.

No, Virginia, there is no sacred contract, at least not according to the U.S. Supreme Court, which has repeatedly ruled that no covered worker retains any rights, contractual or otherwise, over taxes paid into the Social Security system. Perhaps I may be permitted a layman's less lofty legal opinion. As I recall (from a college course in commercial law), one fundamental requirement of a valid contract is a "meeting of the minds" of the parties to the contract: between those who pay and those who receive. But no such meeting of the minds exists. I am not aware that anyone has consulted my grandson, Peter Cary, now aged three, about the staggering tax rates that our current entitlement "contracts" will require him to pay when he enters the work force.

Simply repeating "inviolable contract," "mandatory," "nondiscretionary," "uncontrollable" payments, or some other disingenuous mantra does not change certain truths. What Congress mindlessly gives can be taken away. A fundamental reality is that the current system is not sustainable. If Social Security (or Medicare) is a contract, it is an unenforceable one.

8. Tax breaks for health insurance primarily benefit people who otherwise could not afford proper health care.

Maybe this one isn't really a myth, but the regressivity of our subsidies to privately paid health care is too shocking not to mention. In 1994 exempting employer-paid health insurance from taxes will cost the U.S. Treasury about $75 billion. Needless to say, of the 35 million or so Americans without health insurance, who receive zero benefits from this huge tax break, most are poor or low-income citizens. Among households that do have insurance, those with the highest incomes and the most generous insurance plans receive several times as much from this federal tax subsidy as those with low incomes and a cost-conscious HMO.

9. The federal government's major housing entitlement, the home-mortgage interest deduction, promotes homeownership and stimulates the economy.

In 1994 the cost of the home-mortgage interest deduction in lost revenues to the federal Treasury will be $46 billion, 80 percent of which will go directly to households with incomes over $50,000. The main economic effect of the home-mortgage deduction is to inflate the price (and size) of homes, while diverting investment away from more productive sectors of the economy.

Our global competitors, who hear us publicly rail about our investment-starved economy and the stagnation of our productivity, politely ask what conceivable connection this tax subsidy for the relatively well off has with enhancing productivity. Officials in Canada regularly chide me about the fact that Canada has the same rate of homeownership as the United States without the benefit of this tax subsidy.

Why, then, do we have it? The answer, of course, does not lie in any real economic imperative. The subsidy exists because we all think we deserve it. What's more, it props up one of our most powerful special interests: the real-estate lobby.

10. The only reason that Ronald Reagan could not keep his promise to shrink the size of government was the huge rise in defense spending.

Judging by the cheers of his supporters and the jeers of his critics, we might suppose that President Ronald Reagan cut everything but defense. And judging by the similar partisan bickering over the policies of his successor, George Bush, we might suppose that the "welfare state" was the victim of further slashing and hacking for another four years after Reagan stepped down.

But the reality is very different: the cost of all direct federal benefits today ($807 billion in fiscal year 1993) is considerably greater than the entire federal budget that existed when Reagan first took office ($696 billion in fiscal year 1981). In fact, adjusted for inflation, federal benefits soared by 54 percent from 1981 to 1993—while all other domestic spending showed zero real growth, and defense, the one area where everyone supposed the Reagan and Bush Administrations had gone hog-wild, showed real growth of only 15 percent.

Contrary to popular impressions, the advent of the Reagan-Bush era did not signal a decisive shift in entitlement policy. With the exception of the 1983 Social Security amendments (designed by a bipartisan commission), both Presidents left non-means-tested outlays and tax expenditures—that is, most entitlements—on autopilot. Thus the Reagan-Bush years only reaffirmed that these vast middle- and upper-class entitlements were politically "uncontrollable"—weasel word behind which Congress and the President can hide their unwillingness to act, since together they can control any spending they want.

THE MIDDLE CLASS: THE THIRD RAIL OF AMERICAN POLITICS

The middle class is at the heart of our budget problem—and must be at the heart of the solution. Taken together, the major benefit programs for which we have income data on recipients—spending roughly 80 percent of total federal benefit dollars, and including everything from Social Security and Medicare to AFDC and food stamps—deliver 99 percent of their benefits ($529 billion in 1991) to the 99 percent of American households with incomes under $200,000. This is the upper boundary of what President Clinton has for political convenience defined as the "middle class." (The income-tax increases proposed by the Clinton Administration begin at $140,000 of taxable income, the number most people have heard quoted. But that's really equivalent to about $200,000 of adjusted gross income from all sources.)

Yet 43 percent of such benefit dollars ($227 billion in 1991) go to households that cannot possibly be considered poor: those with incomes between $30,000 and $200,000. And note that the absolute dollar figure surely understates the total, since it reflects only 80 percent of all benefit dollars. What about the remaining 20 percent? We cannot be sure. Some of it flows through programs such as Medicaid, which mostly benefit lower-income households; some, too, flows through programs such as student loans, farm aid, and veterans' health care, which disproportionately benefit upper-income households. All told, it would be safe to assume that total federal benefit outlays reaching the $30,000-to-$200,000 income brackets amounted to at least $265 billion in 1991.

And what about our ocean of so-called tax expenditures—the subtle subsidies that help the wealthy borrow huge sums for home mortgages and take unlimited health-care deductions? More than two-thirds to tax filers with incomes between $30,000 and $200,000. Just seven percent go to the Americans whom the President calls "rich."

The top-earning one percent of Americans, it's true, receive 13 percent of all income in the United States. Going after the rich to help balance the budget is fine—as far as it goes. Unlike some of my Wall Street colleagues, I see absolutely nothing wrong with imposing higher tax burdens on the wealthiest in our society. But it does not require any arcane knowledge of fiscal arithmetic to see that even with the substantial tax increases proposed by the Clinton plan, trying to balance the budget is quite literally impossible on such a narrow stretch of income territory. In fact, to meet this goal by the year 2000 by taxing the "rich," we would need to tax away all the taxable income of everyone with more than $175,000 of adjusted gross income. Or, if we would prefer a less draconian approach, we could merely double the income taxes of "affluent" tax filers—but we would need to include everyone down to about $50,000 of income. Even this kinder and gentler approach would amount to something more like expropriation—hardly consistent with either free markets or democracy.

As for direct entitlement benefits, here too not much help is available from the rich. The maximum entitlement savings obtainable from the one percent of households enjoying incomes of more than $200,000 are unfortunately limited to the benefits that go to them—about $5 billion if we took away all their benefits (something that even Bill Clinton, with his laser beam on the rich, has never dreamed of suggesting.)

But if we are willing to ask for even modest sacrifices from all Americans with incomes above about $30,000, the picture changes entirely. Suddenly we're talking about a whopping 73 percent of national household income. We're also talking about a stunning 74 percent of all tax expenditures and 43 percent of major federal entitlement benefits, which, taken together—and including our estimate for all benefits—amounted to $372 billion in 1991. That's sum we simply cannot afford to ignore if we are at all serious about putting our fiscal house in order.

Twelve years ago, when Ronald Reagan ascended to the White House, I hoped that his politically candid talk about cutting the budget deficit would lead to politically courageous action. But instead we found a convenient scapegoat. The "poor," we learned, were bankrupting America. Just eliminate the "waste, fraud, and abuse" in our welfare system—all those mink-wearing welfare queens driving Cadillacs and buying vodka at taxpayers' expense—and a balanced budget would be in reach. The premise, of course, was wrong from the beginning. Despite cuts in programs for the poorest Americans during the Reagan years, the deficit kept exploding.

When Bill Clinton ascended to the White House, I was once again hopeful that the

President would seize the moment and make the tough choices needed to cut the deficit and boost savings and investment. But we seem to be caught up in another form of scapegoating. This time it's not the poor who are to blame; it's the rich who are not paying their way.

To be sure, President Clinton will get further with his scapegoat than President Reagan did with his. But both ways of dodging tough choices veer away from the heart of the problem. We are all implicated in our budget deficits, our entitlement ethos, and the overall consumption bias in our economy. And all of us, most particularly the broad middle class that is the backbone of America, must now be part of the solution.

Let's pause for a moment to ask ourselves, what in reality is the "middle class"? Ask any American if he or she is "middle class," and the answer will almost always be yes. The truly poor will admit to being "lower middle class," and the rich will go along with "upper middle class," but few will forthrightly call themselves "poor" or "rich." This is a characteristically American self-perception, and it reflects our desire to live in a basically egalitarian society. But in recent years it has allowed nonpoor Americans to believe that they deserve universal federal entitlements—much of them windfalls—such as Social Security and Medicare, which are often disingenuously called "insurance," and which people mistakenly think of as the payback on their contributions to "their accounts."

Next, ask any group of Americans to specify the annual income that defines "middle class" and you'll hear responses ranging from, say, $20,000 all the way up to $200,000—if we include the Clinton Administration's definition. But there are more precise and realistic definitions. If nontaxable entitlement benefits and other tax-exempt income are included with adjusted gross income reported to the IRS, the median family in the United States had a total adjusted gross income of $31,700 in 1993. If "middle class" is then narrowly defined as comprising half of all American families equally distributed around that $31,700 family, the statistical middle-class income turns out to range from $14,040 to $55,880.

This exposition regularly startles those who are new to it. A family with $60,000 of income invariably thinks of itself as "just getting by," but it actually stands in the top quarter of families. A two-earner family with an income of $120,000 may think of itself as just middle class. In fact that two-earner family stands in the top five percent of American families. By the time we reach those with incomes in excess of $200,000—the only households targeted for significant sacrifices by the Clinton Administration's proposals—we are left with a mere statistical sliver of the population: roughly one percent.

Middle-class Americans today, it seems, suffer from what might be called a "reverse Lake Wobegon" syndrome. As Garrison Keillor fans know, Lake Wobegon is a wonderful fictional place where all the children are above average. When it comes to incomes, however, most middle-class Americans, trying hard to make ends meet, assume they must be below average.

Middle-class Americans today feel hard pressed and beleaguered—and they are. Nobody could possibly argue that even a well-above-the-median $50,000 a year in household income will put one on easy street. It's hard to make it on a typical middle-class income today—when paychecks barely keep up with the cost of homes, of college educations, and even of necessities.

Working hard and trying to follow the rules, middle-class Americans have adopted a kind of siege mentality in the face of evaporating expectations about future income growth. The middle class is already making a de facto and unplanned sacrifice in terms of the loss of upward mobility. But an organized, planned, and temporary additional sacrifice can reverse that trend. Only if we all give up something to reinvest in our future will be able to rekindle the rise in U.S. living standards. If we all just hunker down to protect what we feel we're entitled to, we will condemn ourselves to a future that grows bleaker each year. Evaporating and diminished expectations are not what America is about. The willingness of middle-class citizens to sacrifice a little today for a better tomorrow is, however, exactly what America used to be about and ought to be about once again.

In spite of the recent stagnation of its living standards, the American middle class is still the world's richest middle class, consuming far more than any of its counterparts in Europe or Japan—and paying far lower taxes than most. Indeed, Americans may think themselves over-taxed, but we pay some 10 to 20 percent less of our national income in taxes than do the citizens of most other industrialized countries. The actual economic room for sacrifice exists; what we are missing is the public understanding and the political will to recognize such sacrifices as being in our long-term best interests.

We can't, of course, call on the middle class alone to sacrifice. The rich must pay their fuller and fairer share. Many of the same people who argue that the middle class is too beleaguered to contribute to solving our economic problems stand by silently as the $30,000-a-year middle-class worker pays ever-increasing payroll taxes (which in many cases come to more than his or her income taxes) to subsidize the entitlement benefits of retirees who are getting ten times their contributions in Medicare payments (tax-free) and who may be earning $100,000 or more a year in retirement. This is unconscionable.

RELEARNING OUR ENDOWNMENT ETHIC

These things are certain: we can't do it without the middle class. And we can't do it without going at entitlements head on.

Bill Clinton's decision to skirt entitlements and to spare the middle class from all but token sacrifice may have seemed a politically expedient course for the short term, just as it has to the past several Administrations. (According to the economist Benjamin Friedman, 74 percent of the burden of what deficit reduction the Clinton plan does achieve through higher taxes or benefit cuts will be borne by the small share of U.S. families earning more than $100,000.) But it has meant that his only feasible program is one that has no hope of balancing the budget—or even coming close.

Bad economics may end up being bad politics as well. It is a matter of debate whether the American public is actually ready for real change and tough choices. And avoiding excessively rapid spending cuts or large tax increases in the midst of a creeping recovery was an understandable concern—though for all too many years it has never been the right moment in the business cycle or the political-election cycle for decisive action on the long-term economic predicament that by now also harms our short-term economic prospects. Any responsible budget plan must be phased in gradually if we are to avoid too bumpy a ride. But I believe that a clear goal of budget balance—and a commitment to meeting it by the end of the decade—would ultimately go over better with both the markets and the public than the course Clinton has chosen. Indeed, if one accepts Richard Nixon's dictum that the economy that matters most is the one that prevails three months before the next election, the President's current approach is a dangerous one.

By not asking the public to swallow the bitter pills at the outset, Clinton risks being forced to ask the public—and especially the middle class—to swallow them later, closer to the 1996 election. At that point, having denied the middle class its promised tax cut—and having created the impression that Americans are already making the needed sacrifices when they're not—Clinton may find the public wondering at the need for further sacrifice. Moreover, the lift given to the bond market in 1993 by the early promise of deficit reduction may be 1996 have reversed itself. With health care and other entitlements still spiraling out of sight, and with private credit demands likely rising as we and the rest of the world fully emerge from recession, the United States could once again see soaring interest rates right around election time. As 1996 approaches, Bill Clinton not only inevitably faces a second major budget-cutting exercise but also runs the distinct risk of being tagged the Biggest Borrowing President in history—and he won't even have the excuse of having presided over a divided government. It's easy to imagine a 1996 Republican campaign advertisement along these lines: "Bill Clinton raised your taxes, still borrowed a billion dollars a day, built a bunch of bridges to nowhere—and this time you know who to blame."

My view is that everybody except the poor and near-poor must be part of the solution to America's economic problems. But as we move through the various strata of the middle middle class and upper-middle middle class, and on into the upper middle class, the sacrifices called for in the form of higher taxes or curtailed entitlement benefits should get much larger. By the time we reach the genuine upper class, we should have increased the tax bite significantly and cut deeply into tax subsidies and windfall entitlement benefits.

To help restore fiscal and moral responsibility to our entitlement system, the budget plan I propose in my book *Facing Up: How to Rescue the Economy From Crushing Debt and Restore the American Dream* therefore includes an "affluence test," or a graduated entitlement-benefit reduction. This affluence test (along the lines of the comprehensive means-testing idea discussed by Neil Howe and Phillip Longman in "The Next New Deal," in this magazine in April of 1992) would apply to all federal benefits, both cash and in-kind. No sacrifice would be required of households with incomes below the U.S. median (generously assumed to be $35,000 by 1995, when the test's phase-in would begin). For families with above-median incomes, a portion of total entitlement benefits would be withheld on a steeply progressive basis. Under the test, households would lose 7.5 percent of all benefits that cause their incomes to exceed $35,000, plus five percent at the margin for each additional $10,000 in income. For most types of entitlement benefits, the maximum benefit-reduction rate would be 85 percent, applicable to household incomes greater than $185,000.

If this proposal doesn't silence those who rail that entitlement reform is inevitably regressive and must ravage the poor, it should at least give them pause. For families who are earning between $30,000 and $40,000, are

receiving benefits, and are subject to the test, the sacrifice called for would average just $260 a year—or one percent of their benefits. Moreover, most who would have to sacrifice are retired and have lower expenses than working-age adults with similar incomes. For families earning between $50,000 and $75,000, the sacrifice would rise to an average of $2,310, or 12 percent of benefits; for families with incomes over $200,000 it would average $15,345, or 72 percent of benefits.

All told, the budget savings made possible by the affluence test are enormous: at least $93 billion in 2004, on the basis of a conservative calculation that takes into account only the 80 percent of entitlement benefits for which we currently have detailed data on recipient income. Affluence testing alone, however, does not add up to complete entitlement reform. Among other measures, we will also need to cap our open-ended tax subsidies for retirement, housing, and health care, accelerate the scheduled rise in Social Security retirement ages, and trim the largesse of our federal pension systems.

All of these reforms involve structural spending cuts that will save significant money in the 1990s and much more beyond. In a business-as-usual budget scenario, entitlement costs could be closing in on a quarter of GDP by 2024. Under my plan we would already be saving about 1.9 percent of GDP in entitlement spending by 2004; by 2040 we would be saving 5.3 percent of GDP, or some $690 billion in today's dollars—more than twice what we now spend on the Pentagon. That's what I mean by structural spending cuts.

We must invent a new entitlement system that will not just pay us affordable benefits when we need them but will also encourage us to save more for the future, care better for our own children and parents, and take more responsibility for our own health. As America itself grows old, perhaps the most vital changes in our entitlement system will be those that encourage a positive new vision of aging. Entitlements for the elderly must promote an active, economically self-sufficient lifestyle for elders who are able. We will no longer be able to afford a system that equates the last third or more of one's adult life with a publicly subsidized vacation.

Getting our entitlements system back on a sound footing is the key to both a balanced budget and a renewed rise in U.S. living standards in the next century. But of course, putting our fiscal house in order will require much, much more. There is still room for trimming in the small discretionary domestic corner of the federal budget. I also believe that in this post-Cold War world we can spend substantially less on defense, and I endorse the President's proposed cuts. To balance the budget by the year 2000, and at the same time spend more on worthy public goals, from more-generous targeted assistance to the poor to productivity-enhancing investments in human capital, research and development, and infrastructure, we will also need to raise new revenues above and beyond the tax increases President Clinton has already proposed. Along with a broad-based progressive consumption tax, I recommended higher "sin" taxes and a fifty-cent-a-gallon federal gasoline tax phased in over five years, in order to target a particularly profigate type of consumption. But in the end, unless we are willing to touch the third rail of American politics and rein in the growthd upper-class entitlements, our goal will elude us.

The worst aspect of our entitlement addiction is how it subtly fixes our attention on how much we are going to get—and how it obscures any thought of what we have received from others and what we wish to pass on in our turn. In this sense our entitlement ethos pervades not just our public benefit programs but our entire approach to deficit-financed consumption. It is time for America to begin unlearning its entitlement ethic and begin relearning its endowment ethic. At some point we must decide how much we are willing to give up today in order to save for and invest in a tomorrow of rising living standards for ourselves and, or course, our children. The alternative—a future without an American Dream—is no alternative at all.●

IN HONOR OF THE 125TH ANNIVERSARY OF THE UNIVERSITY OF WISCONSIN-WHITEWATER

● Mr. KOHL. Mr. President, I rise today to recognize the achievements of the University of Wisconsin-Whitewater which is celebrating its 125th anniversary.

UW-Whitewater provides precisely the kinds of initiatives which can best prepare our Nation's young people for secure and productive futures. Among the top priorities of the school are an emphasis on quality teaching and the integration of career oriented programs with a general studies program. The College of Businesss and Economics is Wisconsin's largest undergraduate business program, and Whitewater has the largest graduate studies program of all comprehensive universities in the UW system.

The importance of quality education cannot be overestimated. Educational excellence, particularly higher education such as that provided by UW-Whitewater, is perhaps the best way to deal with a host of domestic social problems ranging from substance abuse, to poverty, to homelessness. If education is going to be used effectively as a part of the solution to our Nation's problems, then a university education must be available for every American; Whitewater provides that quality education at a price affordable for average Americans.

At a time when our Nation is desperately looking for ways to improve the education system, we must look to institutions such as the University of Wisconsin-Whitewater to see what is working. As we take encouragement from its successes, I ask my colleagues to join me in congratulating the university—students, faculty, staff, and alumni—on 125 years of educational excellence in Wisconsin.●

THE INTERNATIONAL CRIMINAL COURT

● Mr. DODD. Mr. President, for some time now I have been a strong supporter of the concept of a permanent international criminal court as a way to bring international criminals to justice and to promote a greater respect for the rule of law among nations. Today those who support this concept gained an important and welcome ally, in the form of the Clinton administration.

I want to bring to the attention of my colleagues a statement made today by Conrad Harper, the State Department legal adviser, during consideration of this issue at the United Nations in New York. Mr. Harper appeared during the second day of a week-long debate in the United Nation's Sixth Committee, the committee that is charged with debating legal issues on behalf of the General Assembly. The Sixth Committee was meeting to discuss a 68-article draft statute for an international criminal court that was put forth this summer by the International Law Commission.

In his statement, Mr. Harper noted that the U.S. Government is firmly committed to the fight against international crime, and has actively pursued bilateral and multilateral efforts to combat such crime. In that context, he said, the time had come for the United States to revisit its long-standing reluctance to support the concept of the international criminal court.

Here is an excerpt of what he said:

> My government has decided to take a fresh look at the establishment of such a court. We recognize that in certain instances egregious violations of international law may go unpunished because of a lack of an effective national forum for prosecution. * * * In general, although the underlying issues must be appropriately resolved, the concept of an international criminal court is an important one, and one in which we have a significant and positive interest.

Mr. President, in all candor, I would have liked to see the Clinton administration go even further in this statement. I would prefer that this statement had made clear our explicit endorsement of the concept rather than our positive interest in it. And I do regret that the administration found it necessary to say, later in this statement, that it will need to consider whether drug crimes and crimes by terrorists are better handled by an international court as opposed to national courts. In my view, our experience in trying to combat these crimes over the past decade shows quite clearly that the current reliance on national courts is simply not sufficient.

Nonetheless, this statement is a dramatic improvement over the statements made by the previous administration on this matter. It was only a year ago this week that a State Department legal adviser appeared before the Sixth Committee to say only that the United States was "not necessarily opposed" to the concept, and to argue for a delay in the drafting of a statute. In that sense the statement delivered today by Conrad Harper represents a welcome and important change in both tone and substance, and I commend the administration for having the foresight

to lend its support to this very important effort.

Mr. President, I ask that the full statement of Conrad Harper be included in the RECORD at this point.

The statement follows:

STATEMENT BY HON. CONRAD K. HARPER

Madam Chairman, as this is my first time addressing the Committee, I wish to express my appreciation for the work of the Committee and its officers. I am very pleased to be here for the discussion of the work of the International Law Commission ("ILC"), which is one of the most important elements of the annual deliberations of the Committee.

My delegation commends the ILC for the valuable work it has done in many fields, including its expeditious work on the vital topic before us today. My delegation also wishes to note with appreciation the excellent work done by the ILC's working group. The working group's strong efforts have produced a thoughtful and serious work product that deserves attention by members states.

I am pleased to provide comments for my Government on the question of the establishment of a permanent international criminal court, and in particular the proposed statute contained in the report of the International Law Commission (A/48/10) and prepared by the ILC's working group over the past year.

My Government is firmly committed to the fight against transnational crime in all its forms. We have taken an active role in all fora where proposals for international cooperation in this area are debated and implemented. In addition, we actively pursue bilateral and multilateral relationships that underlie cooperation in the criminal justice field, and have entered into numerous extradition treaties as well as treaties on mutual legal assistance in criminal matters. We have placed considerable emphasis on international efforts to curtail drug trafficking, money laundering, organized crime, and terrorism.

Last May, the Security Council created an Ad Hoc Tribunal to address serious violations of international humanitarian law in the former Yugoslavia. My Government is a major proponent of this effort to ensure that those who have committed such crimes are held personally responsible. This Tribunal for Yugoslavia establishes a new and largely untested mechanism—one that has gained wide-ranging support in part because it was carefully tailored to meet the needs of a specific situation. The same level of care must be taken with other new mechanisms in the criminal justice field.

It is in this context of multilateral and bilateral cooperation that this Committee considers the question of an international criminal court. My Government has decided to take a fresh look at the establishment of such a court. We recognize that in certain instances egregious violations of international law may go unpunished because of a lack of an effective national forum for prosecution. We also recognize that, although there are certain advantages to the establishment of ad hoc tribunals, this process is time consuming and may thus diminish the ability to act promptly in investigating and prosecuting such offenses. In general, although the underlying issues must be appropriately resolved, the concept of an international criminal court is an important one, and one in which we have a significant and positive interest. This is a serious and important effort which should be continued, and we intend to be actively and constructively involved.

Madam Chairman, my Government continues to study the concept of an international criminal court and the ILC working group's proposal. While some of the issues are very difficult and the review is not complete, we do have a number of comments on aspects of the draft at this stage. Ultimately, no proposal can gain the support of governments if certain key issues are not satisfactorily resolved. I believe that many member states may share our concerns, and will agree that careful study is required.

Careful consideration needs to be given, for example, to whether the subject matter jurisdiction of the court has been framed appropriately. We are not yet convinced that the general category of "crime[s] under general international law" is sufficiently well-defined or accepted by the world community that it could, at this stage, form a basis for jurisdiction of the criminal court. We will also need to consider, for example, whether drug crimes and crimes by terrorists are better handled by an international court than by national courts. We will want to ensure that cases which can be properly and adequately handled in national courts are not removed unnecessarily to the international court. We also have a concern over how international jurisdiction would relate to existing status of forces agreements, the prosecution of war crimes, and other military matters.

We also note that, under the current proposal, many states which have a definite interest in a particular case have no role in deciding whether the international criminal court or national courts handle that case. Thus the state or states where the crime took place, where the victims reside and the state of nationality of the accused person might none of them consent to a given prosecution, yet it might proceed. At this point, we do not suggest that all states with any of these various interests in a case must give consent, or otherwise accept the jurisdiction of the court over the particular crime, before a prosecution will proceed. Nonetheless, and in view of the fact that there would always be the possibility of cases initiated by the Security Council, we believe that further review of this issue is warranted.

We also believe that there is a need to think through how the international criminal court will affect existing extradition relationships, whether according to treaty or other legal mechanisms. The United States has, as we have pointed out, put considerable energy into entering into bilateral extradition treaties with numerous governments. The arrangements for the proposed court should be in addition to, and not frustrate the purposes of, those treaty relationships. Thus, we should consider whether a request for surrender of an accused person to the international criminal court should really take precedence over a proper request for extradition under an extradition treaty, or whether the court should function more as a mechanism to be used when national courts are unable or unwilling to act.

In this connection, we note that the current draft's provision for immediate arrest and surrender of an offender may be inconsistent with requirements for a judicial hearing that are for the United States, and likely for other states as well, a matter of constitutional dimension.

We will also want to ensure that the treaty is consistent with international standards for due process and human rights. The ILC working group has certainly taken these concerns into account to a considerable extent. At the same time, others may have further contributions to make on this subject. We note, for example, that the current draft does not make provisions for a true "appeal" to a separate group of appellate judges. The War Crimes Tribunal for Yugoslavia, on the other hand, includes this very important feature. More generally, given the extent to which the court's rules will give definition to the principles of due process and human rights, consideration should be given to drafting those rules in conjunction with the statute.

Cognizant of the budgetary pressures on the United Nations and other organizations, we believe that an international criminal court will need to have an acceptable mechanism for budgetary and administrative oversight.

Madam Chairman, we believe that it is critical for the success of this endeavor that the court have the full support of the world community. Any other course would run the danger of undercutting cooperation in international criminal matters. For this reason, it is essential that the fundamental issues relating to such a court be satisfactorily resolved.

Our review is continuing, and this is not a complete list of our concerns. Nonetheless, we wanted member states to have the benefit of our views. I wish to emphasize that my Government is ready to work energetically with the members of this Committee to examine the issues related to establishing an international criminal court, and to work together to resolve the relevant issues and concerns.•

ILLINOIS FLOOD EFFORTS

• Mr. SIMON. Mr. President; I would like to recognize the efforts of the USDA Soil Conservation Service [SCS] and the Illinois Soil and Water Conservation [ISWC] Districts during the Great Flood of 1993. These dedicated individuals battled against the floodwaters that devastated Illinois and the Midwest this past summer.

Working through five emergency response centers, SCS and ISWC staff gathered information from local communities, and dispatched technical specialists to evaluate flood situations and offer assistance. Many of these workers were flood victims themselves, ravaged by the loss of their crops, homes, and property. Despite their personal deprivation, they gave freely of their time, energy and resources to those who were more in need.

SCS members helped repair levees at the height of the flooding and surveyed the affected areas for people who might need urgent assistance. They also assisted evacuation efforts in towns before the floods hit, and worked to provide necessary supplies. Even now, as the floodwaters recede, they continue to assist communities' repair and recovery operations. SCS has already completed 11 restoration projects and is working on 70 others at present.

Mr. President, each member of the Soil Conservation District staff—which includes Ron Hall, Joe Gates, Ivan Dozier, Jerry Kaiser, Marlyn Schafer, Rob Meats, and Glen Smiddy—deserves our highest praise and thanks. I commend everyone involved with the Soil

Conservation Service and the Illinois Soil and Water Conservation Districts for their selflessness and dedication.●

THE ESPERANZA PRIMARY CAMPUS

● Mr. DECONCINI. Mr. President, today I rise to recognize the Esperanza Primary Campus in Phoenix, AZ, which provides a unique academic setting for children of different ages who discover, question, and learn together.

The Esperanza Primary Campus began operating 2 years ago. Administration, faculty, and architects designed the school to produce a conducive and comfortable atmosphere for students. This school was the first in the State of Arizona to utilize the multi-age program, a distinctive program in which children of various ages and cultural backgrounds learn together. Further, this program fosters a family-like environment where children can excel through their interactions and experiences with one another. A multi-age classroom has many benefits for students as it builds social skills, increases self-esteem, and encourages higher-level thinking.

Bilingual and monolingual children benefit greatly from the multiage program at Esperanza Primary Campus where learning situations and interactions create a nurturing environment. Bilingual students receive basic scholastic instruction in their primary language, but other types of creative instruction are carried out in English thereby supporting second language acquisition.

Another feature of this school is the developmental center that includes a display and discussion area, a multisensory room, a kitchen/lab area, an enclosed animal housing area, an outdoor garden, sand and water exploration tables, and a woodworking center. Esperanza Primary Campus seeks to provide children with the opportunity for personal discovery and investigation which builds both knowledge and self-esteem and further develops a child's sense of purpose for attending school and participating actively in all areas of the educational program. This primary campus also houses a creative center which offers students experiences in the fine arts. The facility includes graphic design, drama, a publishing center, as well as a recording studio.

I commend Principal Maria Rosales and the faculty of the Esperanza Primary Campus for promoting a positive educational environment for students that provides a sense of continuity, the motivation to learn and builds self-esteem.●

NEIGHBORHOOD HOUSING SERVICES OF CHICAGO AND CONTINENTAL BANK

● Mr. SIMON. Mr. President, I am proud to acknowledge National Housing Services [NHS] and Continental Bank as one of Social Compact's 1993 Outstanding Community Investment Award partnership recipients. NHS and Continental Bank are being recognized for their efforts to strengthen neighborhoods by helping lower income families achieve home ownership.

Continental Bank was a founding partner of NHS of Chicago. Over nearly 20 years of operation, it has evolved to offer a highly sophisticated and comprehensive program of services which are helping to rebuild neighborhoods on Chicago's west and south sides. These are primarily minority communities with large elderly populations. One-third of NHS' clients are female heads of families.

In 1987 Continental initiated a home improvement loan fund with a $20 million loan to be administered by NHS of Chicago with loans up to $50,000. Over 1,000 loans have been made to restore 1,833 units to safe, affordable housing. In 1992 the commitment was renewed with longer terms and lower rates. In 1992 127 loans were made totaling $2.7 million leading to rehabilitation of 212 housing units for Chicago's lower income residents. This program has provided capital to over 1,800 Chicago families to improve and save their homes and has not experienced a single loss.

I am proud to recognize the members of NHS and Continental Bank for their dedication to providing secure housing for those who need it most. Partnerships such as NHS and Continental Bank play a critical role in rehabilitating disadvantaged neighborhoods, and I commend their commitment to community enhancement.●

WELCOMING DEMOCRATIC ELECTIONS IN PAKISTAN

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from and the Senate proceed to the immediate consideration of Senate Resolution 154, a resolution welcoming the holding of democratic elections in Pakistan; that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table, and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 154) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 154

Whereas the United States and Pakistan have maintained close and cooperative relations over many years;

Whereas the United States has a strong interest in strengthening democracy and human rights in Pakistan;

Whereas Pakistan held elections for the National and Provincial Assemblies on October 6 and 9, 1993, respectively;

Whereas the elections were observed by independent domestic monitors and by an international delegation organized by the National Democratic Institute for International Affairs (NDI);

Whereas the NDI delegation reported that "the balloting was generally open, orderly and well-administered," that "election officials generally carried out their tasks impartially and with diligence," and that the announcement of results "generally proceeded in accordance with the law;"

Whereas the people of the United States enjoy an abiding friendship with the people of Pakistan; and

Whereas the United States and Pakistan share a common interest in the promotion of stability in Pakistan and the easing of tensions in the South Asia region: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the holding of elections on October 6 and 9, 1993, in Pakistan as an important step toward reaffirming Pakistan's democratic course;

(2) congratulates Prime Minister Benazir Bhutto on the occasion of her swearing-in on October 19, 1993;

(3) reaffirms the existing ties of friendship between the peoples of Pakistan and the United States; and

(4) underscores the continuing interest of the United States in working with the government of Pakistan on issues of bilateral and regional concern.

ORDERS FOR TOMORROW

Mr. REID. On behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Wednesday, October 27; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business not to extend beyond the hour of 9:40 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the time from 8:30 until 9:30 equally divided and controlled between Senators MOSELEY-BRAUN and KEMPTHORNE, or their designees; that at 9:30 a.m., Senator KERRY of Nebraska be recognized for up to 10 minutes; that at 9:40 a.m. the Senate resume consideration of S. 578, the Religious Freedom Restoration Act, with 20 minutes total remaining for debate on the Reid amendment and that the bill, with the time equally divided and controlled between Senators KENNEDY and REID, or their designees; that at 10 a.m., without intervening action or debate, the Senate vote on or in relation to the Reid, et al. amendment No. 1083; that upon disposition of the Reid amendment, the remaining provisions of the previous order be executed,

with the above occurring without intervening action or debate; that upon conclusion of the vote on passage of H.R. 1308, the Senate then stand in recess until 1 p.m.

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

PROGRAM

Mr. REID. Mr. President, there will be two votes beginning at 10 a.m. The first vote is in relation to the Reid amendment, the second passage of the bill. At the conclusion of the second vote the Senate will then recess until 1 p.m.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate at 9:09 p.m., recessed until tomorrow, Wednesday, October 27, 1993, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 26, 1993:

DEPARTMENT OF TRANSPORTATION

FRANK EUGENE KRUESI, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

STEVEN O. PALMER, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

CRISIS IN KASHMIR

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BURTON of Indiana. Mr. Speaker, I want to call your attention to a crisis in Kashmir which deserves our administration's immediate attention. Over 100 Kashmiris seeking independence from India have taken refuge inside the Hazratbal Mosque in Srinagar and are currently surrounded by over 1,000 Indian troops.

While many of the facts surrounding the origins of this conflict are still unclear, I am concerned about reports that Indian security forces have beaten innocent civilians who have participated in peaceful marches and rallies in support of those Kashmiris barricaded in the mosque. I am particularly concerned about Mr. Abdul Lone who was badly beaten during a peaceful march to the Hazratbal Mosque. He is now being held in the Institute for Medical Sciences where his family has been refused permission to see him. It is my fear that the Indian Government does not want anyone to see Abdul Lone until his injuries heal.

I believe that our administration must urge the Government of India to avoid the use of military force against innocent civilians. I also call on the Indian Government to provide proper medical treatment to those injured as a result of this crisis. Mr. Speaker, to help shed light on this current crisis, I would like to insert some information about the Hazratbal crisis. I would also like to insert some additional information concerning the recent arrests of several top Sikh leaders in India. I encourage everyone to read this material.

The articles follow:

[From the New York Times, October 17, 1993]

INDIAN TROOPS SURROUND MOSQUE IN KASHMIR

(By Edward A. Gargan)

NEW DELHI, October 16.—Heavily armed Indian troops surrounded the main mosque in the capital of the state of Jammu and Kashmir today, saying the mosque was filled with weapons and separatist Muslim guerrillas.

About 100 guerrillas were taking refuge in the Hazratbal Mosque in Srinagar, an army spokesman said. About 1,000 soldiers were at the scene.

Occasional volleys of gunfire echoed through the narrow, twisting streets of the old city. A 20-year-old man was killed on Friday night during a shootout near the mosque compound, but it is unclear who fired the fatal shot.

The Kashmir Valley, a dramatically beautiful land of lakes, mustard fields and eucalyptus groves hemmed in by snow-dipped mountains, has been engulfed by a secessionist rebellion for more than three years. Jammu and Kashmir is the only state in India with a Muslim majority and the region has been in revolt against New Delhi's rule, which many Kashmiris resent as Hindu domination.

In the three years of war, hundreds of thousands of soldiers, paramilitary troops and police officers have tried to suppress the revolt, engaging in widespread terror and abuse of human rights, according to a steady stream of reports by human rights groups.

Sweeps against villages have left thousands of people dead. Hundreds of women have been raped by soldiers and thousands of young men have been arrested and tortured, human rights organizations have reported.

The Hazratbal Mosque contains what Muslims believe to be a hair of the prophet Mohammed and is the holiest shrine in the valley. For years, militant Muslim separatists have gathered at the mosque to vent their grievances against the Government in New Delhi. Muslim clerics have regularly called for independence from New Delhi in their Friday sermons.

Army troops in battle gear, armed with heavy weapons, surrounded the mosque overnight. With loudspeakers, they demanded that those inside surrender. During these demands, exchanges of gunfire are reported to have occurred. A building in the compound caught fire, but there were conflicting reports of how the blaze had begun.

A Government spokesman in New Delhi said the militants had set it, but in the last year Indian troops and paramilitary forces have repeatedly used arson as a weapon of retribution.

Last year, a library in the mosque compound was set on fire by Indian forces and thousands of books were destroyed. On Jan. 6, in the town of Sopore, about an hour north of Srinagar, Indian troops burned down a large section of the center of town and killed 43 people. And in April, Indian paramilitary troops set fire to the center of Srinagar, a densely packed area of wood-frame houses and storefronts, destroying blocks of houses and shops.

The Government denies that it engages in human rights abuses, but this month, in an acknowledged effort to counter criticism from international human rights groups, it set up an official human rights commission. But the commission has no power to investigate abuses by the military.

The rebellion in Kashmir is one of several insurgencies faced by India, but it is by far the most serious. Since India and Pakistan became independent in 1947, Kashmir has been a disputed territory between the two countries.

INDIAN SECURITY FORCES BREAK UP PEACEFUL RALLY

WASHINGTON, DC.—In a further incident involving the situation at the Hazratbal Mosque, Indian military personnel today brutally disbanded a peaceful rally organized to end the standoff at the mosque without bloodshed.

The All Party Freedom Conference, lead by executive members Abdul Gani Lone, Mohamad Naeem Khan, Shahid Islam and others, arranged the peaceful march from Magarbal Bagh to the Hazratbal to show their solidarity for the citizens detained inside the mosque.

Upon reaching Badshah Chowk, however, the marchers were met by heavily armed Indian Border Security Forces (BSF). Mr. Lone, of the Jammu and Kashmir People's Conference, was badly beaten and he, Mr. Khan, of the People's League, and Mr. Islam of the Muslim Conference were taken into custody by the BSF. Mr. Lone's son, Bilal Lone, reported the incident to the Kashmiri-American Council (KAC). The fate of those in custody is not known at this time.

Dr. Ghulam Nabi Fai, Executive Director of the KAC, reacted to the brutality by stating, "This is yet another demonstration of the Indian Government's ruthless reaction to peaceful attempts to resolve conflicts. This display of inhumanity is beyond condemnation."

Mr. Abdul Gani Lone made his intentions known by announcing the peaceful rally yesterday during a news conference. Approximately 3,000 Kashmiris responded to the call. Said Dr. Fai, "The Indian troops knew well in advance of the peaceful nature of the rally, yet the men, women and children were met with volleys of teargas and clubs. How can we possibly expect peace in the valley when peaceful demonstrations are countered with such savagery?"

KASHMIRIS PROTEST INDIAN MILITARY ACTION AT MOSQUE

WASHINGTON, DC.—The Kashmiri-American Council today condemned the contentious actions of the Indian military forces at the Hazratbal Mosque in Sringar.

Approximately 200–300 civilians had taken refuge inside the mosque prior to their return home from a religious pilgrimage to Kashmir's holiest shrine. Once inside, they were surrounded by more than 1,000 heavily armed Indian troops. One civilian has reportedly been killed.

"This is a clear indication of India's policy of using troops and aggression to intimidate civilians in the Kashmir Valley," said Dr. Ghulam Nabi Fai, Executive Director of the Kashmiri-American Council. "We are outraged at this deliberate action to induce greater fear into an already terrified community."

The Hazratbal Mosque is visited by thousands of Kashmiris each day. As a result, the mosque has periodically been assailed by Indian troops, including an incident of arson last year which destroyed the mosque's library.

Dr. Fai stated, "India has acquired expertise in direct assaults on religious shrines and in causing the deepest wounds to the peoples' psyche: first the attack on the Sikh shrine in Amritsar, then last years' rampage at the sixteenth century mosque, and now the assault on Hazratbal. How long can this persecution continue?"

Contrary to reports from the Indian Government, the civilians detained inside the mosque have attempted to diffuse the situation through negotiations. Thus far, the military has rejected any peaceful settlement and the standoff continues.

Indian authorities have also intentionally misrepresented the use of the holy mosque as a hideout for Kashmiri militants and weapons. This disinformation seriously undermines the attempt of the Kashmiri struggle for a peaceful resolution of the conflict.

"The military has chosen to use propaganda and terror over reason as a tactic of settlement," stated Dr. Fai. "This has been its principle policy in the larger question of the future of Kashmir. While the Kashmiris organize themselves to reach a peaceful solution, the military continues to use brutality and fear to suppress the will of the people. The international community cannot allow this to continue."

URGENCY OF PEACE IN KASHMIR

(By Dr. Ghulam Nabi Fai)

The end of the East-West (so called) bipolar confrontation has ushered in an era in which long-standing disputes are on the way of settlement. Nelson Mandela and President de Klerk stand together to proclaim a schedule for South Africa's first nonracial elections; Israel and Palestinians are openly and jointly charting the path of a compromise. For the world as a whole, this emerging global condition has brought about a real reduction in nuclear arsenal.

At the same time, the lid has been taken off the boiling cauldron of ethnic and religious hate. The resulting regional conflicts replace the superpower confrontation as the new threat to a decent or at least tolerable world order. Yet there seems to be no resolve on the part of the great powers to deal rationally and effectively with this threat.

The most visible of these conflicts is the horrendous brutality unleashed in Bosnia-Herzegovina. Even though it has outraged the human conscience, nothing has been done to prevent such crimes against humanity and punish the perpetrators.

Precisely the same phenomenon of unstopped and unpunished barbarities is being witnessed in Kashmir. The irony is that the impunity that is thus being granted to the violator of human rights is not in the context of a new dispute, or a civil war where the status, the positions and the actions of the parties remain obscure for sometime and international response lags behind turns in the situation. It is being done in a territory known to be disputed for 46 years. There is no alibi for the international communities' inaction except that India with its major power pretensions maintains violent occupation of the territory. Furthermore, the dispute is known to have the potential of large-scale international conflict with the possibility of nuclear confrontation. It has produced two wars and a third cannot be ruled out unless a peace process is set in motion.

The dispute over the status of Kashmir can be settled only in accordance with the will of the people which can be ascertained through the democratic method of a free and impartial plebiscite, internationally supervised. This was the common ground taken by all the three parties to the dispute—viz: the people of Kashmir, India and Pakistan. It was supported without any dissent by the United Nations Security Council—and prominently championed by the United States, Britain, France, the Scandinavian countries and other democratic States.

It became a matter of controversy only after India realized that she could not win the peoples' vote and, in conditions of the cold war procured the support of the Soviet Union for its obstructionist strategy. With the end of the cold war, it was right to expect that the original perspective would be recovered and the dispute would be subjected to procedures of peaceful settlement in accordance with humane and democratic principles.

This expectation has been frustrated so far. Only recently, however, some small indications of a more responsible—and more responsive—trend have emerged. President Clinton, in his speech before the United Nations on September 27, specifically made reference to Kashmir among enduring dangers which threaten "to take on murderous proportions." Secretary General Boutros Boutros-Ghali has offered his assistance in promoting a solution. In Kashmir itself, there has been established the All Parties Freedom Conference (APFC) which has unified the resistance against Indian occupation on a moderate and responsible platform.

The community of nations must seize this opportunity to promote an initiative towards bringing about conditions necessary for settlement of the Kashmir dispute. The first necessity is a mutually agreed ceasefire between the Indian occupation authority and the Kashmiri resistance. Once violence ceases, the community of nations can initiate an intra-Kashmiri dialogue without publicity at a place outside the subcontinent with the participation of the representatives of All Parties Freedom Conference (APFC), the Kashmiri Pandits, the Dogras, the Ladakhis and the prominent political parties of Azad Kashmir. Simultaneously, the community of Nations can proceed to engage all parties to the dispute—India, Pakistan and the accredited representatives of Kashmir—in a dialogue for a peaceful settlement.

Global initiatives in Kishmir will not only end the bloodshed and suffering in Kashmir, but also have a direct positive effect on international security by eliminating regional fighting, national tensions, and the risk of a nuclear war between India and Pakistan. It is in everyone's interest to settle the Kashmir conflict peacefully without further delay.

As this message is being prepared, the news has come through radio bulletins that Indian troops have attacked the holiest shrine of Kashmiris—the Hazratbal Shrine. India has acquired a formidable expertise in direct assaults on religious shrines and in causing the deepest wounds to a peoples' psyche. Some years ago, it attacked the sacred shrine of Sikhs in Amritsar and incurred their unceasing wrath. Late last year it allowed mobs to go on a vandalist frenzy and destroy a sixteenth century mosque, an architectural monument. Now, added to its barbarities, it is committing cultural genocide in Kashmir. Is there no element in decent international opinion to cry 'Halt'?

European Socialists have a long and proud tradition of upholding the causes of human freedom and dignity. Kashmir calls urgently for initiatives in accordance with that tradition.

INDIA SHAMELESSLY ARRESTS TOP SIKH LEADERS—INDIAN STATE TERRORISM CONTINUES UNABATED; WAR BETWEEN INDIA AND PAKISTAN LOOMS

WASHINGTON, DC, Oct. 21.—In an operation that has become all too familiar, the Indian government has simply arrested top Sikh leaders in anticipation of their upcoming November 1 peaceful march to New Delhi.

Yesterday, Sikh leaders including Gurcharan Singh Tohra, President Shiromani Gurdwara Prabhandak Committee; Prakash Singh Badal President Akali Dal (Badal); and Surjit Singh Barnala, President Akali Dal (Barnala) and many others were rounded up in the state of Punjab. They have been arrested indefinitely.

Sikh leaders had unanimously decided to launch a peaceful march to New Delhi from November 1 in order to protest the September 15 sacrilege of the Sikh holy scriptures by the Punjab police at the historic Gurusar Gurdwara (Sikh temple) in Gujjarwal, Punjab.

On September 15, police raided the Gurusar Gurdwara and interrupted an Akhand Path (continuous reading) of the Guru Granth Sahib (Sikh holy scripture). Police entered the gurdwara and indiscriminately beat people and stopped the reading of the Sikh holy scriptures. Gurbachan Singh, a 75 year old man, died as a result of a police beating inside the gurdwara.

Sikh leaders had attempted to submit a memorandum to Indian President Shankar Dayal Sharma immediately after the police sacrilege but were stopped ostensibly because they were carrying Sikh ceremonial swords. This is despite the fact that they had met previous Indian Presidents with their swords.

The arrest of the Sikh leaders planning to protest the gurdwara sacrilege bears an eerie connection to the current Indian siege of the Hazratbal Mosque in Srinagar, Kashmir. It seems religious shrines have become the foci of governmental oppression against religious minorities.

"The Indian government can only get away with its treachery for so long," said Dr. Gurmit Singh Aulakh, President Council of Khalistan. "On one hand the Congress government is aggressively demanding an apology from the BJP for the destruction of the Ayodhya mosque, on the other hand it refuses to apologize for its own sacrilege of Sikh gurdwaras and rationalizes the attacks on mosques in Kashmir. The arrest of Sikh leaders and the current siege of the mosque may very well be a prelude to war with Pakistan over Kashmir. India wants to arrest Sikh leaders whom it knows will side with Pakistan in case of war."

"The world is watching the events in Kashmir and Punjab, Khalistan very closely," said Dr. Aulakh. India cannot expect to groundlessly arrest peaceful Sikh leaders with impunity. There is one human rights standard and India is being exposed as one of the worst human rights violators in the world."

Indeed, today the Washington Times reported charges by Amnesty International that "India relied on 'coverups and blatant lies'" in order to hide human rights violations. In addition an October 14 Amnesty International "Urgent Action Appeal" states "Press reports indicate the Punjab police operates a 'license to kill policy.'"

Considering Asia Watch has reported "Virtually everyone detained in Punjab is tortured," the lives of the arrested Sikh leaders are certainly in danger.

Since 1984 over 110,000 Sikhs have been killed by Indian government police, paramilitary forces, death squads, and vigilante groups. Currently, over 70,000 Sikhs languish in Indian prisons without charge or trial under barbaric, draconian laws. The United Nations Human Rights Commission has condemned these laws as "disturbing" and "completely unacceptable." Even worse, Amnesty International has not been barred from conduct investigations in India since 1978.

In the face of such oppression the Sikh nation declared independence on October 7, 1987 forming the separate country of Khalistan. Indeed, international support for Sikh freedom grows everyday. On August 5, Congressman Pete Geren, along with 12 co-sponsors, introduced House Concurrent Resolution 134 recognizing the right to Sikh self-determination. The resolution calls for a U.N.-sponsored plebiscite in the Sikh homeland, Punjab, Khalistan so Sikhs may "determine for

themselves, under fair and peaceful conditions, their political future." It currently has sixteen co-sponsors.

"I fear for the lives of the arrested Sikh leaders," said Dr. Aulakh. "The Indian government is devoid of morals. I appeal especially to President Clinton, the administration and the Congress to intervene immediately for the release of the Sikh leadership."

"They will do anything to suppress the Sikh demand for freedom. How could they stoop so low as to arrest Sikh leaders who were only planning a peaceful march? It is time for India to face the world and answer to its misdeeds. It is time for India to realize that its tactics of government by oppression will no longer be accepted by the international community. It is time for India to respect the human rights of the Sikh, Christians and Muslim people. And it is time for the freedom of Khalistan, Nagaland and Kashmir. Khalistan, Nagaland and Kashmir will have their freedom. India has no other choice."

[From the Tribune, Oct. 8, 1993]

AKALI DAL MARCH TO DELHI

GUJJARWAL (LUDHIANA), October 7.—The Akali Dal factions today unanimously decided to launch a march to Delhi from November 1 to protest against the excesses against Sikhs and the sacrilege of the Akhand Path by the police in the Historic gurdwara Gurusar in this village on September 15 during a raid by the police.

The decision to launch the protest march was announced by the SGPC chief. Mr. Gurcharan Singh Tohra amidst slogans of "bole so nihal Sat Sri Akal". The gurdwara hall was packed to capacity and a large number of Sikh men and women had gathered outside the hall.

The SGPC president had formed an action committee comprising heads of the Akali factions with himself as the convener and the committee had decided to organise Akhand Paths in the state on October 3 and at Gujjarwal today to announce the next programme of action.

Mr. Tohra announced that the Akali Dal had been forced to take this decision as the government had failed to tender a public apology and punish the guilty police officials responsible for the September 15 incidents. Mr. Gurbachan Singh an old man of 75 years died later as a result of the alleged beating by the police. His bhog ceremony was held yesterday in the village. Mr. Tohra would lead the first jatha from Amritsar on November 1 on the Gurpurab of Guru Ram Das. The bhog of Akhand Path would be held at Akai Takht on that day.

The SGPC chief said that four more Akhand Paths would be held at Takht Damdama Sahib (Talwandi Sabo). Takht Sri Kesgarh Sahib Anandpur Sahib, Gurdwara Rakab Ganj and finally at Akal Takht. He explained that 'jathas' would start from other places also and all jathas would make a big march in Delhi. Asked if they would hold a march in front of Parliament or the Rashtrapati Bhawan, Mr. Tohra said that if Parliament was in session they would march to the Parliament house.

He said that the government had forced them to take this decision of launching the morcha as the same had failed to tender a public apology and dismiss the two police officials responsible for the sacrilege of the Akhand Path at Gujjarwal.

No Sikh could tolerate the sacrilege of the Guru Granth Sahib and appealed to all Sikhs of participation in the march.

Before Mr. Tohra made the announcement the Akali leaders namely Mr. Parkash Singh Badal, Mr. Jagdev Singh Talwandi, Mr. Kabul Singh, Mr. Simranjit Singh Mann and after Mr. Kartar Singh Narang had a closed door meeting and discussed the programme of action. After about two hours Mr. Tohra made the announcement in the hall of the gurdwara where the Sangat had gathered. Bhai Manjit Singh, president Akali Dal (Manjit) and Captain Harcharan Singh Rode also joined the congregation later.

Earlier an "ardas" of bhog of Akhand Path was performed by Prof Manjit Singh acting Jathedar of the Akal Takht while Bhai Mohan Singh head granthi of the Harmander Sahib was in the "Tabya" of Guru Granth Sahib.

Mr. Tohra lashed out at the Chief Minister Mr. Beant Singh, and the Central Government for unleashing a reign of terror in Punjab. He in particular, asked the sarpanches in the villages not to attend to the functions of Congress rulers.

Mr. Tohra said that all Akali leaders had agreed to unite on this issue despite their differences.

When asked if this would pave the way for unity of the Akali leaders Mr. Tohra said that foundations for the unity had been laid and roof would also be laid. He emphasised that the morcha would be peaceful and alleged that the government had been maligning the Sikhs.

Mr. Tohra also condemned the President of India for not meeting Akali leaders and refusing them permission to carry "kirpans" with them. He said that they had gone to the residence of the Rashtrapati and in the past too they had been taking kirpans along with them.

The SGPC president asserted that the morcha was only to preserve the sanctity of the Guru Granth Sahib and this could be averted even now if the government tendered an apology publicly and dismiss the two police officials responsible for the same.

Had the Chief Minister during his visit to the gurdwara announced the punishment and made a public apology, the matter would have been settled.

Mr. Beant Singh had visited Gujjarwal gurdwara on September 25 and expressed regrets for the sacrilege of the Akhand Path. He had announced that the guilty police officials would be punished. Mr. Tohra announced that a library would be set up in the gurdwara in memory of Mr. Gurbachan Singh who died due to police torture. Mr. Tohra said that all justice and peace loving people would support the Akali Dal decision.

Mr. Simranjit Singh Mann, president, Akali Dal (Mann) addressing the congregation said that history was witness to the fact that the Sikhs had never forgiven those who had committed sacrilege of the Guru Granth Sahib and the gurdwaras.

Mr. Mann said that the Sikhs had faced the onslaught of the government as fake encounters were taking place and innocent Sikhs had been killed by the police and no action had been taken. Even the Supreme Court had not moved into the matter.

Mr. Parkash Singh Badal, president, Akali Dal (Badal) in his address said the Sikhs were passing through a difficult period of their existence. He assailed the Chief Minister for not tendering a public apology and supporting the police excesses. Sikhs would not tolerate any insult to the Guru Granth Sahib and the Sikh shrines.

Mr. Jagdev Singh Talwandi in his address also lashed out at government for adopting anti-Sikh policies and launching the "Operation Blue Star".

Mr. Talwandi made a strong plea for the unity of the Sikh Panth and said that all leaders must unite at one plateform to face the onslaught of the government. Without unity they would not be able to put up a fight, he said.

Mr. Kabul Singh, president of the Akali Dal (Longowal) also supported the plea of Mr. Talwandi and called for lasting unity of the Sikh Panth. He criticised the police excesses in the state.

Mr. Manjit Singh, president, Akali Dal (Manjit), also recalled the sacrifices of Bhai Amrik Singh and other Sikh leaders for the Sikh Panth and said that no insult to the Guru Granth Sahib could be tolerated.

Besides, the chiefs of the different Akali factions, many other leaders and workers had come from different parts of the state.

Mr. Ajmen Singh Lakhowal, president, the Bharati Kisan Union, Mr. Jagjit Singh Lyallpuri, leader of the Marxist Communist Party of India (MCPI), Mr. Kirpal Singh Aujla, Samajwadt Janata Party and heads of the Sikh sampardas had also participated.

Mr. Tohra announced that three akhand paths had been started in memory of Harjinder Singh Jinda and Sukhdev Singh Sukha executed in the General Vaidya case at Akal Takht, Gurdwara Alamgir in Ludhiana district and the native village of the slain militants and appealed to the Sikhs to participate in the same.

CONGRATULATIONS TO EDWIN ARMITAGE

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MANN. Mr. Speaker, and Members of the House, please join with me in recognizing Mr. Edwin Armitage who will be retiring after 25 years as director of the Cincinnati Baptist Association's Baptist Family Services on December 31, 1993. The Baptist Family Services is the longest, continuing-inservice juvenile rehabilitation ministry in the Southern Baptist Convention. The Cincinnati community owes a debt of gratitude to Edwin Armitage for helping to make family values a priority and a reality.

As director, Edwin has been credited with making the Baptist Family Services a more effective program. During the last year of service, Edwin attended the World Missions Conference, lead the Family and Marriage Enrichment Conference at Memorial and attended the Home Mission Board task force in Birmingham, AL. He taught at 38 bible schools and visited 21 prisons in and around the area.

Edwin Armitage has dedicated his life to helping others. Many people around the country have been helped thanks to his hard work throughout the years. For example, he helped secure food, furniture, clothing, and shelter for those in need. He provided guidance and inspiration to youth organizations and helped to foster relations between prison inmates and their families.

Please join me in offering Mr. Edwin Armitage my whole-hearted congratulations on his retirement after 25 years as director of the Baptist Family Services.

HENRY WAXMAN: A GREAT LEGISLATOR

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, the Nation and the Congress are lucky at this critical time in the consideration of health reform legislation to have Congressman HENRY WAXMAN of California in such a key position.

Our colleague has left his mark in the improvement of every sector of the Nation's health—in NIH research, manpower improvements, public health and the quality of our air and water, extension of care to the poor, and the reform of the Medicaid Program. He is truly an example to all of us of what a legislator should be—and gives us all hope that this Congress will succeed in achieving a truly monumental reform of the Nation's health care system.

I urge Members to read the following article from the Los Angeles Times of October 10, 1993, entitled "Henry Waxman, In the Eye of the National Health-Insurance Reform."

[From the Los Angeles Times, October 10, 1993]

HENRY WAXMAN, IN THE EYE OF THE NATIONAL HEALTH-INSURANCE STORM

(By Robert Scheer)

Funny, he doesn't look powerful. Sitting in his small, cluttered congressional office in a decaying section of rundown storefronts just south of the flashy Beverly Center, it is hard to picture the diminutive and chipper figure of Henry A. Waxman as a mover and shaker in Congress. But he is.

"The Almanac of American Politics" refers to the West Los Angeles congressman as, "One of the most powerful and skillful legislators in recent American history." His friend and colleague, George Miller (D-Martinez) recalls, in a tribute to Waxman's legendary in-fighting skills, "When I first came on the Budget Committee, I thought Henry's first name was 'Sonofabitch.' Everybody who had to deal with the committee kept saying, 'Do you know what that sonofabitch Waxman wants now?'"

If President Bill Clinton is to get his health reform turned into law, it will require many hours of legislative rewriting and arm-twisting by the 54-year-old chairman of the health subcommittee of the House Energy and Commerce Committee. For 14 years as chair of this crucial subcommittee, Waxman has pushed a considerable body of health legislation on AIDS, nursing homes, breast cancer, nutrition, medical devices and pharmaceuticals into law.

Health is his issue and universal coverage his cause. "I've been in Congress 18 years," he says, "and before that I was chairman of the Health Committee in the Assembly in Sacramento, and all of my legislative career I've felt strongly that we need a national health-insurance system to cover everybody."

His other passion has been support for Israel, and Waxman, a conservative jew, now exhibits the dazed optimism of one whose long, often futile wars may suddenly be won. "National health insurance and peace for Israel are the two public-policy issues that have been of great concern to my entire professional career—and I started to think that both were intractable, that the Messiah might have to come to accomplish both goals. But now both seem possible."

If comprehensive health insurance passes, he enthuses, "It will be the most important domestic legislation of our generation. I feel proud to be somewhat part of it." But don't celebrate yet. "I always have to hold back until it is done, because nothing is accomplished until it is followed into law and working."

Waxman has a law degree from UCLA. He and his wife, the former Janet Kessler, have a daughter, a son and one grandson.

Question: What are your reservations about the President's health-care program? What are the pitfalls?

Answer: Before I go into my concerns, let me tell you what I think is positive. It is a bold proposal by the President to accomplish the goals of coverage for everybody in the country—comprehensive health-insurance benefits. It is the kind of thing that I wanted to do all the time I've been in public life. And I came to the conclusion quite a while ago that there was no chance to get reform of this magnitude passed without the President of the United States making it an issue, front and center, to make it a reality. I think that President and Mrs. Clinton deserve a great deal of credit for taking on this issue.

Question: And your reservations?

Answer: We need to look very carefully at the plan itself. We've got all the concepts and the basic framework of what the President is proposing, but we haven't seen the exact terms of the legislation.

Question: We know it preserves the role of insurance companies, rather than a single-payer plan, which would eliminate them. Would you prefer a single-payer plan?

Answer: I personally would prefer a single-payer plan. It is certainly less complicated than what the President is proposing. It would have guaranteed a clear way to a comprehensive, universal benefit and people would have understood it a lot better than they will this plan—which involves alliances to negotiate with health-care systems and states to have a lot of discretion as to how they are going to organize all of this. But the President made a political decision that the Congress was not ready to pass a single-payer system. And he's come forward with another way of providing the same goals of a single-payer system, which would be a universal, comprehensive benefit.

Question: Is this feasible?

Answer: Those goals can be achieved in the kind of system that he has proposed. I have concerns about the amount of money they hope to get out of spending that otherwise would take place in the Medicare program for the elderly and the MediCal/Medicaid for the poor.

Question: OK, but I hear a lot of grumbling. I talked to a doctor just an hour ago who told me how HMOs are awful—how people don't get the specialized care they need. Aren't we institutionalizing all this now?

Answer: HMOs are a fact of life, and many people find them an attractive way to get their health-care services. In Southern California, we've had Kaiser Permanente since World War II—and they have a reputation for providing good-quality care. Most people who belong to Kaiser and the other HMOs are quite satisfied. The notion of the health-care proposal is that there will be a score card on all the systems that are going to compete for the consumers' choice—so we can check the quality of those plans. But, ultimately, the consumer will be able to choose another plan or choose a physician in a different kind of setting if they want that choice.

Question: What would have been wrong if we had just expanded Medicare?

Answer: If we had expanded Medicare within a single-payer system, I think there would be a lot say for that. I, myself, have introduced legislation that would have provided national health care through a single-payer system. There are lots of different ways to accomplish the goals that I think everybody wants in a health-care-system reform, and the President has come up with a different idea.

Question: One hears that the administrative costs for Medicare run in the 2%-5% range as opposed to 20% for private insurance companies. Are those figures accurate?

Answer: I think it is accurate to say that the overhead costs for the public system of Medicare are a lot less than what we have in the private insurance systems today.

That is why insurance reform is going to be a necessary prerequisite to make this whole system work, in what the President is proposing. Insurance companies spend a lot of money excluding people from coverage who offer a high risk, the high overhead, the high marketing costs. A lot of insurance companies are going to go out of business under the Clinton proposal because they are not equipped to do what insurance should be doing, and that is to spread the risk for those who need the services to a broad population base.

Question: Are you going to have a big problem with insurance companies and other special-interest groups?

Answer: I think a lot of the special interests are going to try to pull this bill apart. But the good news is that the special-interest groups are divided. The AMA [American Medical Assn.] is strongly for requiring employers to cover their employees—so we will have universal coverage—but they will fight against cost control. Some in the business community are against the mandate on employers to cover employees—but they favor keeping costs down.

I know firsthand the power some of these special-interest groups have—the drug companies, the insurance industry, the AMA and many others. They command a lot of money and support around the country, which goes to candidates. The public has got to watch out for them.

Question: And the insurance companies?

Answer: I think the insurance companies are going to resist the system that will exclude most of them from being able to participate, because they have been able to make money not by covering everybody but by excluding people or trying to cherry-pick those whose are the best risks.

A lot of insurance companies—especially small insurance companies—have a lot to lose. I don't see how they can come in and argue that we should allow them to continue a system that will permit those kinds of insurance practices that exclude people from coverage. I think other insurance companies, some of the bigger ones, are going to try to adapt themselves into a system of managed competition.

Question: What should consumers be alerted to?

Answer: The consumer should be alert to the fact that there are going to be two areas, generally speaking, of controversy. One will be over whether we're going to have a universal health-insurance program. The President decided to make it universal, building on the employer-employee base and then having a subsidy for those not covered in that way. But there are going to be a lot of people who are going to come in and fight

that are argue that employees not be required to cover their employees or to participate in making sure that their employees have health coverage.

Another major battleground is going to be over some way to control the cost increases in the health-care system. We spend more for our health-care system than any system in the world, and businesses and individuals are finding that health care is unaffordable.

The major battles are going to be over universal coverage and whether we are going to have it or not, and whether we're going to have actual controls to limit the increases in health-care costs.

Question: Cardinal Roger M. Mahony has criticized the plan's failure to cover undocumented residents. Do you agree?

Answer: I'm sympathetic with what Cardinal Mahony called for in making illegal aliens eligible for benefits on humanitarian grounds.

But I don't think there is political support for it in the Congress—to entitle illegal aliens to full benefits that Americans have. Mrs. Clinton testified that the Administration could not support such coverage of illegal aliens.

Question: Are you saying if they are working in the garment district and are undocumented, that the employer doesn't have to provide health insurance?

Answer: If they are working for an employer, that employers is probably breaking the law by hiring them. But if they are employed, the employer would have to pay for their coverage just as the employer pays Social Security. But whether they will be able to get those benefits is very much in doubt.

Question: We're talking about a million people in this state who are not going to have coverage. Isn't this a major flaw?

Answer: The failure to cover undocumented aliens puts a tremendous strain on our health-care system and on the country's taxpayers. That's why we have to insist that the federal government, which has control over our borders, will reimburse the hospitals and local government for the health-care services that are given.

Question: Do you think the battle has already been won on some kind of basic reform?

Answer: I don't want to be overconfident. I think there is a serious fight and we still could lose it if the Republicans and conservative Democrats put together a coalition that drops universal coverage, or the medical professions and some of the conservatives get together and say they don't want [cost] controls except on Medicare and Medicaid.

Question: What is your sense of the current mood in Congress?

Answer: Members of Congress are looking to see what the public thinks and they are hearing from a lot of the special-interest groups.

I worry that some congressmen may think that, if they appease those special-interest groups, they can vote for a bill that they call health reform, but it may well mean that millions will continue to be uninsured and that the middle class will have to pay more for the coverage they now have.

Question: Are there circumstances where you would vote against the bill?

Answer: I think if we don't get a bill that provides for universal coverage, comprehensive health-care benefits, that's fair to the elderly and the poor, as some Republicans and conservative Democrats are proposing, I would have to reach the conclusion that we lost the fight and that it's not worth voting for.

PHILLIP CHRISTOPHER HONORED FOR GREAT ACHIEVEMENTS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MALONEY. Mr. Speaker, last Friday marked the 45th birthday of an important member of the community of Astoria, NY, which I am proud to represent—Mr. Phillip Christopher.

Mr. Christopher has been a vocal and effective leader for the cause of freedom for Cyprus for many years. He came to this country from his hometown in Kyrenia, Cyprus, in 1959, joining his father and older sister who had already been here for 7 years. Mr. Christopher quickly achieved academic excellence in his adopted country, graduating with honors from New York University [NYU] in 1970. Mr. Christopher also gained distinction as a superb soccer player, captaining NYU's varsity team and earning All-American honors.

After graduation, Mr. Christopher joined Audiovox Corp., a rapidly rising electronics corporation. His career with Audiovox has been highly successful; he is currently executive vice president of the corporation.

But I know Phil best as a tireless champion of freedom for the Cypriot people. He has dedicated his life to the advancement of justice and freedom on that troubled island. In 1975, he founded the Pancyprian Association of America, where he continues to serve as president. Under his capable direction, the Pancyprians have become the leading organization in the Greek Cypriot community in the United States. In two decades, the Pancyprian Association has seen enormous expansion, becoming a vocal lobbying force for the Cypriot people, building a beautiful community center, promoting Cypriot-American cultural exchanges, and providing hundreds of scholarships to young Cypriots for study in American universities.

Phil has served with great distinction as president of the Cyprus Federation and of CY–PAC, and as chairman of the Justice for Cyprus Committee. He is a member of the board of directors of the Cyprus Children's Fund, the American Hellenic Alliance, and the United Hellenic American Congress. I hope that my colleagues will join me in commending Mr. Christopher's dedication and leadership on behalf of the Cypriot people by wishing him a very happy 45th birthday.

IN TRIBUTE TO JOE WILLIAMS

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEHMAN. Mr. Speaker, I rise before my colleagues today to honor the achievements of Joe Williams, a person whom I am proud to call a friend and a true civil leader who is retiring as executive director of the Fresno County Economic Opportunities Commission.

Under Joe's guidance for more than two decades, the nonprofit Fresno EOC has grown to become the largest community action agency in California and one of the top five in the United States in terms of the services it provides, its innovative efforts and its longevity.

Joe's dreams as a young student were on sports and coaching. But his work with young people led not to coaching, but to his increased involvement in community activities.

From 1969 until 1971 Joe served as project director of the Head Start Program. Today this nationally recognized preschool education program serves more than 1,550 children living in Fresno County.

During his tenure as EOC director, Joe became the first African-American elected to the Fresno City Council, touching the lives of many people in our community. He was elected to two 4-year terms from 1977 to 1985 and also served as mayor pro tem.

A quiet, unassuming person, Joe has long been recognized as the man behind the scenes, a leader who offers his assistance whenever he has been asked. I know Joe to be a consensus-builder, a leader who has often brought together diverse groups who can be mutually beneficial to each other.

Joe's accomplishments are too numerous to mention. Perhaps the best description of what Joe Williams means to our community are Joe's own goals. He once said,

> I have tried to give this community my energy as it relates to caring about people who are less fortunate * * *. I hope my future is to figure out ways some of us in this community can help our young develop and assume leadership roles in the community.

Joe, you have succeeded. And I know that every Member of the House will join me in saying thank you for making our community that much better because of your efforts.

IN SUPPORT OF RENAMING OF THIRD COLLEGE AT THE UNIVERSITY OF CALIFORNIA SAN DIEGO TO THE "THURGOOD MARSHALL COLLEGE" IN HONOR OF JUSTICE THURGOOD MARSHALL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BLACKWELL. Mr. Speaker, I rise in strong support of the renaming of Third College to the Thurgood Marshall College in honor of Justice Thurgood Marshall. Charged with educating the citizens of the State of California, the University of California maintains eight campuses which offer baccalaureate, masters, and doctoral as well as professional degrees.

The San Diego campus of the University of California system was created in the early 1960's as the southernmost site for State-sponsored higher education. Third College, on the University of California's San Diego campus, was founded in 1970 to represent the higher academic achievement and the best aspirations of the civil rights movement in this country. It is a real pleasure for me to recognize this institution which has so successfully fulfilled its charter philosophy to challenge students both as scholars and citizens in a growing multicultural State and world.

I am pleased to note that the students of Third College take a set of general education requirements that include mathematics, a social science sequence called Dimensions of Culture, a course in the physical sciences, humanities, and the arts. These bright and able Third College students, who receive academic credit for training and placement as tutors and mentors in local inner-city elementary schools, have also been commended time and time again for their community contributions.

Supporters of Third College have continually sought to find a more meaningful name. Associate Justice Thurgood Marshall's passing in January 1993, led to enormous support for the University of California San Diego campus to rename the college. I could not agree more, and that's why I urge you, Mr. Speaker, and my colleagues to join me in supporting the name change to Thurgood Marshall College, a name that will forever be known for its important impact in the area of access to quality education. Indeed, Thurgood Marshall is an icon which the University of California wishes to have its students emulate.

TRIBUTE TO THE LOS ANGELES CENTER FOR ENRICHED STUDIES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to a school in my district which has been nationally recognized by the U.S. Department of Education with the Blue Ribbon School Award. In commemoration of this prestigious event, the Los Angeles Center for Enriched Studies [LACES] was honored by Vice President AL GORE in a White House ceremony on October 21.

The Blue Ribbon School Program, which is sponsored by the U.S. Department of Education, is a national competition which identifies those schools that surpass educational goals and work ardently toward continued improvement. As pointed out by the Department of Education, recipients of this award have "a can-do attitude toward problem-solving, preferring to view problems as opportunities." Using this approach, the Los Angeles Center for Enriched Studies has continued to employ every possible resource in responding to the needs of its students.

The Los Angeles Center for Enriched Studies is a culturally diverse school that was established as a part of the city's integration program in 1977. About 90 percent of the student body are bused from various parts of the city. This exceptional institution stresses college preparation as one of the goals of its academic curriculum, and was selected to be a California Distinguished School in 1992. The first magnet school of the Los Angeles Unified School District, its classes are based on a modular system similar to those used in colleges. Students are required to take seven classes a semester, and often graduate early. Although the school's standards for graduation are higher than that of the State, most of the students exceed the school's grade point average requirements in virtually every subject area.

The Los Angeles Center for Enriched Studies includes grades 4 through 12 and the average student attends the school for at least 6 years. The ability to remain at the school for an extended number of years helps to strengthen ties between the students and teachers as well as fostering the parent's commitment to the school. Parents actively volunteer, from working in the classrooms to holding fundraisers, in order to help the school reach its goals. These goals: student achievement, diversity, leadership, and community involvement are evidenced in the success of its students, 97 percent of whom continue their education by going to college after graduation.

Accepting this award on behalf of the Los Angeles Center for Enriched Studies was Ms. Marion Collins, principal of the Los Angeles Center for Enriched Studies; Mr. Jerry Hasson, president of the Parents of LACES Association; and Mr. Demetrius Brunson, student body president.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in commending the Los Angeles Center for Enriched Studies administrators and faculty, who, in a time when both hope and resources seem to be limited, have found the time and made a way to promote continued academic excellence among the Culver City High School student body of the Los Angeles Center for Enriched Studies.

SPENT NUCLEAR FUEL MANAGEMENT

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GRAMS. Mr. Speaker, I want to bring to my colleagues attention the plight of the Nation's Spent Nuclear Fuel Management Program and to remind this Congress that for the sake of the Nation's environment and energy security, it is our responsibility to ensure that this congressionally mandated program fulfills its mission of finding a suitable repository for the Nation's high-level radioactive waste.

However, I am disappointed to report that the Government is not fulfilling its responsibility to the American public, and in fact, the Department of Energy is falling years behind in characterizing and building a spent fuel repository, and has not yet provided any guarantee that it will fulfill its 1998 obligation to begin accepting spent fuel from civilian nuclear reactors used to generate electricity.

This failure has significant consequences to American electric ratepayers who have already paid in over $7.6 billion to the Nuclear Waste Fund. Compounding this problem is that nuclear electric generating plants constructed limited-capacity spent-fuel handling facilities on site because they were promised by the U.S. Government that a national waste repository would be available in the mid-1990's.

In my State of Minnesota, where ratepayers have already paid over $200 million to the Nuclear Waste Fund, we face the choice of either constructing additional temporary storage facilities, or as soon as next year having to shutdown an efficient, reliable, and nonpolluting powerplant that supplies a significant percentage of my State's electricity.

I ask my colleagues to join with me and insist that DOE fulfill what Energy Secretary Hazel O'Leary called the Department's "moral obligation" to begin removing spent nuclear fuel from the more than 70 de facto repositories scattered over 38 States, and moving this radioactive waste to a safe and controlled location. This is what the Congress in the Nuclear Waste Policy Act of 1982 and in the subsequent amendments in 1987 mandated, and what the American ratepayers have paid for.

However, while DOE has indicated that it is prepared to move forward with its program to determine the suitability of Yucca Mountain as a repository site, it is Congress' responsibility to make the funds available for this to happen. To be clear, not taxpayer funds, not Treasury funds, but the funds that were paid by American electric ratepayers expressly for the purpose of managing spent nuclear fuel.

Congress must address the fiscal accountability for funding the Spent-Fuel Management Program. The National Association of Regulatory Utility Commissioners [NARUC], which is an organization that represents the interests of American electric utility ratepayers, adopted a resolution—which I would like to request be inserted in the RECORD—calling for Congress to address the funding mechanism to ensure that adequate money is available to complete the high-level waste program.

Specifically, the resolution calls for a funding mechanism—an off-budget revolving fund—that makes the ratepayers' money available to the program as needed, and not subject to congressional budgetary constraints, which would divert these funds for deficit reduction.

The ratepayer resolution also finds that the waste fund has collected and continues to collect adequate funds for the program, and Congress under this resolution would continue to exercise strong oversight through reviewing DOE's annual budget.

Mr. Speaker, this is not only an urgent matter for Minnesotans, but for our environment, for our energy security, and for American ratepayers who are shouldering the expense, which to date is more than $7.6 billion. I ask Members to join with me in urging DOE to fulfill its responsibilities with the Spent-Fuel Management Program, and to ensure that sufficient funds are available when needed, adopt a revolving fund mechanism to jump start this vital energy program.

LEGISLATION TO ASSIST SMALL BUSINESS TO CREATE MORE JOBS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. RANGEL. Mr. Speaker, I am pleased to introduce a bill to provide greater flexibility in obtaining financing from tax-exempt entities for licensed Small Business Investment Company [SBIC] and Specialized Small Business Investment Company [SSBIC] Programs.

The Small Business Enhancement Act of 1992 corrected several significant structural

flaws in the Small Business Investment Company and Specialized Small Business Investment Company Programs. These changes, the first major changes in the programs since their inception in 1958, enhance the flow of capital to small business owners to expand their businesses. Unfortunately, for the small business owners the new law does not provide the appropriate flexibility in matching sources of capital to the specific capital structure needs of the entrepreneur. This bill rectifies this problem by providing an exemption to tax-exempt entities from the unrelated business income tax [UBIT] for debt financing for licensed SBIC's and SSBIC's.

Small businesses have traditionally been the engine of economic growth comprising over 95 percent of all businesses in the United States. SBIC's provide small businesses with capital, strategic advice, and management assistance in order for small businesses to grow and enhance their likelihood of long term success. SSBIC's play this role for minority owned businesses who we all know have a more difficult time raising capital to start up and continue operating.

Tax-exempt entities are the largest source of long term risk capital available today for small business owners. In 1991, pension funds and endowments made up over 63 percent of the total sources of private equity dollars invested in venture capital funds. Unfortunately, the leveraging of private capital through the SBA Guaranteed Funding Program creates acquisition indebtedness—under Internal Revenue Code section 514(c)—and therefore, UBIT to the tax exemption investor. Tax-exempt investors have traditionally chosen not to invest in SBIC's and SSBIC's principally because of the administrative complications that UBIT presents.

This legislation provides, in part, a SBA guaranteed leverage vehicle that would fund SBIC's and SSBIC's with a preferred stock rather than the traditional debentures or loans. This structure allows a tax exempt entity to invest in an SBIC or SSBIC without incurring UBIT. However, for providing this preferred stock leverage to an SBIC or SSBIC, the bill requires that the SBIC or SSBIC invest its portfolio in the form of straight equity in small businesses. This presents a dilemma for a large number of small business owners who seek to minimize their equity dilution by using debt together with equity in their financing packages from SBIC's or SSBIC's. The inflexibility of this capital structure is particularly harsh for small businesses with slower growth potential who may be required to sell a greater portion of their businesses in order to obtain growth financing. Thus, under the current law, the access to capital through a licensed SBIC or SSBIC is being driven by ambiguities in the tax law relevant to UBIT rather than the needs of the small business owner for whom these provisions were intended to benefit. The access to equity or debt by a small business should not be driven by tax provisions like UBIT, but rather by a financing package from SBIC's or SSBIC's that best matches the concern's particular needs.

Small business is the great generator of new jobs in the United States, creating over 60 percent of all new jobs in the economy. From 1987 to 1992, small businesses created 5.8 million net new jobs compared to a loss of over 2.3 million jobs during the same period of downsizing big business. This bill will help meet the objective of creating new jobs by providing small businesses with access to the greatest sources of private capital today, pension funds, in an appropriate capital structure that meets the needs of the small business owner.

VETERINARIAN IN SPACE

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. ALLARD. Mr. Speaker, rarely am I afforded the unique opportunity to recognize an outstanding representative of my profession: Veterinary medicine. It is with great pleasure that I come before you this morning in order to comment on Dr. Martin J. Fettman.

Dr. Fettman, who received the doctor of veterinary medicine degree from Cornell University and the doctor of philosophy degree from Colorado State University, is one of seven astronauts aboard Space Shuttle *Columbia* which is engaged in the mission designated as Spacelab Life Sciences 2. Dr. Fettman serves in the data gathering effort which will measure how blood and other fluids shift from the legs into the upper body during the transition to weightlessness. Dr. Fettman is on-board as a guest researcher due to his qualifications in veterinary medicine and its applicability to this particular mission.

As a veterinarian and Member of this House, I am pleased to honor Dr. Fettman and his colleagues as they continue their progress in this essential mission and exemplify the contributions of veterinary medicine to the well-being of our Nation.

HONORING THE SENIOR AND JUNIOR COMPANION PROGRAMS

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LAZIO. Mr. Speaker, the Federation of Organizations for the New York State Mentally Disabled is a statewide organization that works on behalf of the mentally disabled. The federation was founded in 1972 by concerned parents of the mentally ill and works to improve services for the mentally disabled and their families in Suffolk County.

I take this opportunity to recognize those participants of the federation's Senior and Junior Companion programs who on Friday, October 22, 1993, celebrated 12 years of outreach and advocacy for the mentally disabled community in Suffolk County, Long Island.

The Senior Companion Program places people with psychiatric disabilities in various community settings. The companions, all of whom are at least 60 years of age, work 4 hours a day, 5 days a week, for a small stipend. They act as role models, assisting disabled people to learn new skills in a peer support network. The program is based on the concept that through a one-on-one caring relationship, people can progress toward greater independence and self-confidence, no matter how severe the disability.

The Junior Companion Program was developed for psychiatrically disabled persons between the ages of 18 and 59. It provides activities which enable individuals to rebuild their skills and confidence in the community while exploring individual potential and possibilities for employment and training.

Mr. Speaker, it is a privilege and honor to recognize the many men and women who assist the over 400 mentally disabled Long Islanders every day at 57 separate community sites.

IN RECOGNITION OF INDUCTEES INTO FRESNO ATHLETIC HALL OF FAME

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEHMAN. Mr. Speaker, it gives me great pride to rise before my colleagues today to pay tribute to six standout sports figures whose contributions must not be forgotten.

I am pleased these six—Merritt Gilbert, Boyd Grant, Dean Philpott, John Toomasian, Harold Zinkin, and Jim Merlo—are having their deeds enshrined for posterity with their induction on November 3, 1993, into the Fresno Athletic Hall of Fame.

I think Hall of Fame President Peter G. Mehas summed it up best when he said of these inductees, "We're looking at people in the community who have invested their lives in the San Joaquin Valley. These individuals provide very positive role models for our youth. They have done much to make the valley a great place to live."

Dean Philpott was a teacher when I was a student at Sanger High and he was a neighbor of mine for many years. Dean was a two-way starter on the Fresno State University Battlin' Bulldogs football team from 1954 until 1957. To show the mark he left in the annals of FSU football, it was only this October that Dean's 36-year-old FSU career rushing record was broken. His all-purpose career touchdown record of 35 was also on the books for more than three decades.

Harold Zinkin was a three-sport athlete at Roosevelt High School in Fresno who developed a lifelong interest in weight lifting and bodybuilding. Harold was a successful competitive bodybuilder, but his best-known accomplishment was inventing the universal weight gym, a fixture in training rooms across the United States for many years. Harold and his wife, Betty, have been special friends of mine for many years. They are a credit to our community in ways too numerous to mention.

John Toomasian made his mark on the sidelines of a basketball court at my alma mater, Fresno City College, where he complied an enviable record as a coach. John's record was 407 wins against 201 losses in 30 years as a high school and junior college coach. He led the City College Rams to three

conference titles and 19 or more victories in 10 of his 14 seasons at FCC.

Boyd Grant is recognized as the most successful basketball coach in Fresno State history where he compiled a 194–74 record in nine seasons. He won three conference titles plus the National Invitation Tournament championship in 1983. Boyd's division 1 record was 275–120.

Merritt Gilbert has served as the California Interscholastic Federation's Central Section commissioner for the last 9 years where he continues to influence the direction of San Joaquin Valley sports. As a school coach, Merritt won 11 titles as a high school basketball coach, one at Riverdale High School and 10 at Sierra High. His 20-year record was 304–101.

Sanger, where I was raised, also produced another sports figure who is being honored with induction into the Athletic Hall of Fame. Football standout Jim Merlo played at Sanger High, Fresno City College, and Stanford University before starting a successful 7-year career with the New Orleans Saints of the National Football League. The Merlo family lived just down the road from the Lehman family and have been family friends for many years. I am very proud of Jim Merlo's accomplishments and I am honored by having the opportunity to pay tribute to him.

TRIBUTE TO ARTHUR A. COIA

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to a man who has constantly dedicated his time and boundless energy to the cause of representing others.

As one of the most respected and progressive labor leaders in the Nation, Mr. Arthur A. Coia has redefined the mission of labor unions throughout the United States, and has revitalized the concepts of union representation and workers rights for all of the hard-working men and women of this Nation. I would therefore like to take a moment to reflect on the remarkable achievements of this outstanding individual.

As general secretary-treasurer of the 650,000-member Laborers' International Union of America, AFL–CIO [LIUNA], Mr. Coia has developed a clear and concise agenda for LIUNA which will carry this internationally renowned organization through the 1990's and well into the next century. From issues of health and safety in the workplace, to the implementation of new and improved training methods, Mr. Coia indeed stands at the forefront of international union leadership.

Furthermore Mr. Speaker, in this demanding capacity, Mr. Coia is charged with the awesome responsibility of being a loud and clear voice for LIUNA's 650,000 members.

That position alone could certainly occupy all of the time and energy of an average person, but Mr. Speaker, Arthur Coia is no average person.

In addition to his unfailing efforts as general secretary-treasurer, Mr. Coia has gained the respect of our entire community on behalf of his many charitable endeavors. It is no secret that Arthur Coia's remarkable dedication has become a vital resource for a countless number of community and charitable organizations throughout the Delaware Valley.

Mr. Speaker, having had the good fortune to know Mr. Coia for a great many years, I can personally attest to his outstanding leadership abilities, and his warm and giving personality. He is a friend whom I have always been able to count on, and a confident whom I have always trusted. I would like to ask my colleagues to rise and join me in paying our greatest tributes to Mr. Arthur A. Coia.

On behalf of the entire U.S. Congress, I would like to thank you Arthur, for all of your unfailing years of dedicated service to the men and women of LIUNA, our community, and the United States of America.

TRIBUTE TO CULVER CITY HIGH SCHOOL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to a school in my district which has been nationally recognized by the U.S. Department of Education with the Blue Ribbon School Award. In commemoration of this prestigious event, the Culver City High School was honored by Vice President AL GORE in a White House ceremony on October 21.

The Blue Ribbon School Program, which is sponsored by the U.S. Department of Education, is a national competition which identifies those schools that surpass educational goals and work ardently toward continued improvement. As pointed out by the Department of Education, recipients of this award have "a can-do attitude toward problem-solving, preferring to view problems as opportunities." Using this approach, Culver City High School has continued to employ every possible resource in responding to the needs of its students.

Culver City High School is a unique institution with a multicultural student enrollment of about 1,400 students. Collectively, the students speak 34 languages and at least one-fifth are not fluent in English. Culver City High School students are high achievers who have excelled in their academic pursuits and civic endeavors. The students' Scholastic Aptitude Test [SAT] scores for college continue to place above State and national averages. In 1991, when California's deficit caused a $2 million cut in the school's funding, the student body performance still warranted receipt of the California Distinguished School Honor. In fact, the school motto "Together We Do Better," not only applies to the students and faculty, but to the community as well. Local universities, businesses, and community service organizations have formed partnerships with Culver High giving students access to a guidance information center, youth health center, art gallery, technology center, and a Sony resource center. There are also support groups and at-risk programs that help to counter some of the distractions to educational success that so many of our students are facing today.

Accepting the Blue Ribbon Award on behalf of Culver City High School was Ms. Julie Lugo Cerra, president of the Culver City Board of Education, Dr. Laura Plasse, the principal of Culver High, and Mr. Tim Reed, the school's restructuring coordinator.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in commending Culver City High School administrators and faculty, who, in a time when both hope and resources seem to be limited, have found the time and made a way to promote continued academic excellence among the Culver City High School student body of the Los Angeles Center for Enriched Studies.

RECOGNIZING THE CONGRESSIONAL YOUTH LEADERSHIP COUNCIL'S EFFORTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, on September 21, I introduced H.R. 3109 to require that organizations providing educational opportunities or honors to students must make certain information available to parents.

As an example of why this legislation was needed, I referred to press reports and a May 20 statement by Senator METZENBAUM about the Congressional Youth Leadership Council [CYLC]. Since making that statement, CYLC reports it has taken steps to clarify its marketing materials. After extensive consultations with Senators METZENBAUM and DOLE, they have made a substantial effort to conform with the standards set by H.R. 3109. CYLC clearly had problems in the past, but I would like to take a moment to recognize their efforts to respond to our concerns.

The CYLC says that it now explains to parents how their children were selected. They have improved the process which they use to confirm student's grades and instituted a scholarship program for low-income students. They have begun assisting physically challenged students. And most importantly, they now furnish parents a breakdown of how students' tuition money is spent and the CYLC's relationship with National Capital Resources [NCR]. Parents can now evaluate, based on the information they receive, the value of the program and whether the program's operational costs are reasonable.

In response to my concerns, CYLC has also promised to no longer invite students to be congressional scholars. I feel that this title implies an official affiliation with Congress, and am glad that they will discontinue the practice starting with the next round of invitations.

The CYLC fully supports H.R. 3109 and/of feels that it has strengthened their program. I hope that other programs which bring students to Washington will follow their lead in this area.

This example shows how H.R. 3109 would encourage more informational marketing practices benefiting both parents and the industry. I urge that my colleagues examine H.R. 3109

and support this bipartisan consumer protection effort.

RECOGNIZING RICHARD F. HUNTER

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MANN. Mr. Speaker, I rise today to recognize the contributions of Richard F. Hunter, the mayor of Silverton, OH. Mayor Hunter is completing his seventh and last term in office this year.

Richard Hunter has provided the citizens of Silverton with 20 years of distinguished public service. Prior to being elected mayor of Silverton, Mayor Hunter served 6 years on the city council as chairman of the Finance Committee. Mayor Hunter's experience and knowledge will surely be missed at the Silverton Municipal Building.

Though Mayor Hunter will no longer be a regular visitor to the municipal building, I am confident that he will continue to give his time and his talent to the community as he has done in the past. Mayor Hunter is currently a trustee of Allen Temple A.M.E. Church and is an area chairman of the American Heart Association. Mayor Hunter has also served as president of the Ken-Sil Athletic Association, the secretary/treasurer of the Ohio chapter of Black Mayors and has been a member of the National Conference of Black Mayors.

I extend my best wishes to Mayor Richard Hunter and his family as they celebrate his 20 years of service to the citizens of Silverton.

TRIBUTE TO FRANK ZABAWA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, I am honored today to pay tribute to Frank Zabawa who has been selected as the citizen of the year by the Polish-American Citizen's Club of Three Rivers, MA. I would like to share with my colleagues Mr. Zabawa's extensive background of community service which has led up to this distinguished award.

Born and raised in western Massachusetts, Frank Zabawa has contributed unlimited services to this region. Frank's commitment and dedication to his community is clearly evident in his 32-year career as a security guard at Monsanto Chemical Co. He has also served his country during World War II as a provost sergeant in the Army Air Force.

He has devoted much of his life to both his church and his community. He is an active member of Saints Peter and Paul Church, the Polish Citizens Club, the Three Rivers Chamber of Commerce, Club "55", and various other civic organizations.

One of his greatest contributions has been the endless hours of joy he has given children throughout Massachusetts as being Santa Claus during Christmas time. For over 45 years, Frank Zabawa has been Santa Claus for various community organizations. He has been recognized and rewarded for his tireless work on the behalf of these groups. Television station channel 22 awarded Frank Zabawa as an outstanding public servant in the Springfield and Palmer, MA, area.

Married for over 50 years, a father of two sons, and a grandfather of five, Frank Zabawa has unquestionably devoted himself to his family as well. He is the epitome of a model citizen to his family, friends, and all who have realized his accomplishments.

Mr. Speaker, I ask my colleagues to join me in congratulating Frank Zabawa for being the Polish-American Citizen's Club's citizen of the year and also thanking him for a lifetime dedicated to public service.

WILLIAM DOYLE'S MEMORY HONORED

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MALONEY. Mr. Speaker, I am deeply saddened to rise today to bring to the attention of my colleagues a deep loss to our community in New York and to the art world in general. On October 18, William Doyle, the founder and director of one of New York City's largest fine art and antiques auction houses, died of leukemia at his home in Manhattan. He was 53.

Mr. Doyle was a pillar of New York's arts community. His auction house, William Doyle Galleries at 175 East 87th Street in Manhattan, bought and sold countless numbers of antique furniture, art, and carpets during its 30 years under his direction. Mr. Doyle brought a warm personal touch to what is often perceived—perhaps wrongly—as a somewhat stuffy and pretentious business. He brightened the lives of all who came into contact with him.

Mr. Doyle was born into a large Irish family in Massachusetts. He arrived in New York City in 1961 intent on pursuing a career in banking. Within 2 years, he had decided to concentrate on his greater love for buying and selling beautiful objects. His business continued to grow over the decades, and developed quickly into one of the most respected auction houses in the country.

But I will always remember Bill as a friend whose advice and support were invaluable to me. He applied his energies to help so many in our community, and he will be deeply missed by all those whose lives he touched with his characteristic kindness and generosity. I hope my colleagues will join me in extending our deepest sympathies in particular to his wife, Kathleen, his three daughters, Elizabeth, Caroline, and Laura, and the countless others who knew and loved him.

TRIBUTE TO EARLINE PATRICE

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. FISH. Mr. Speaker, I rise today to speak of a great woman, Mrs. Earline Patrice, who died earlier this week. Earline was a friend and constituent who was totally dedicated and completely committed to the service of others.

A native of New Orleans, Earline was born and grew up in the final days of a segregated society. Earline learned at an early age the meaning of denial, rejection, injustice, and the destructive efforts of the dual evils of racism and bigotry. Committed to the elimination of these evils, the continuing struggle against racial and all forms of injustice were a lifelong effort for her.

The Poughkeepsie community knows Earline as a community leader. While she became known for her Thanksgiving dinners, Christmas parties, and Easter dinners for the less fortunate, she was also unrelenting in her efforts to eliminate every vestige of injustice in our community. To name just a few of her causes, Earline has been recognized for her efforts to provide housing for the needy, to register voters, and for working countless hours with the city clean street committee, the Lower Main Street Association, and the Poughkeepsie's Urban Renewal Program.

It is also appropriate to note that Earline participated in the original March on Washington for civil rights, and chaired the Mid-Hudson Valley delegation on its 20th anniversary. I am sure that for Earline, and many others, this event was both a celebration of past progress, and a rededication and commitment to work for a better future. While Earline Patrice has died, her memory continues to inspire us to carry on the struggle for justice.

Earline was a giant among her many peers and admirers. I wish to extend my deepest sympathy to her children, grandchildren, and all of those who join me in mourning her loss.

A 50TH ANNIVERSARY TRIBUTE TO THE OAK GROVE BAPTIST CHURCH

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to one of Philadelphia's most celebrated and respected religious institutions. As the Oak Grove Baptist Church prepares to commemorate its 50th anniversary, I would like to take a moment to reflect on this beautiful house of our Lord Jesus Christ.

Known throughout Philadelphia as the city's foremost teacher and practitioner of evangelism, the Oak Grove Baptist Church was founded 50 years ago under the blessed guidance of Rev. William Sullivan, Sr. Located at 21st and Cambria Streets in Philadelphia, the sanctuary of Oak Grove certainly embodies the spirit of our Saviour and King, now under the guidance of Rev. William Sullivan, Jr.

Mr. Speaker, throughout its 50 years of existence, the congregation of Oak Grove Baptist Church has always sought to make our world a better place. The exceptional ministry of the church has indeed left the halls of the sanctuary, and has become an effective voice for the betterment of our entire community.

On October 23, 1993, Oak Grove Baptist Church will celebrate its 50th anniversary at a

most special banquet. The self sufficiency and determination that has always marked the will of this reverent and powerful congregation clearly means that this special event will be one to remember.

Mr. Speaker, I would now like to ask my colleagues to rise and join me in paying our greatest tributes to Philadelphia's beloved Oak Grove Baptist Church. May this faithful and humble flock to Jesus Christ always shine as a symbol of His unfailing love and righteousness.

TRIBUTE TO ROSALIE ROSEN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DIXON. Mr. Speaker, I rise today to acknowledge the valuable contributions of the United Citizens' Committee of America [UCCA] and the years of dedicated service of its president and founder, Mrs. Rosalie Rosen. Mrs. Rosen, a constituent in my congressional district, has made a significant contribution to our community through her efforts to give inner-city youth positive alternatives to gangs and drugs.

The UCCA works to "Build a Better Drug Free America, beginning with our youth, you and me thru Dancing, Drama, Music, Arts, and Sports." By promoting dance, particularly swing dancing, the United Citizens' Committee encourages youth to participate in positive activities. Members of this group volunteer to teach dancing and drama through the park and recreation department. The UCCA has taught swing dancing in local schools and also worked to raise funds for these schools. Additionally, the committee was instrumental in installing a flagpole with a lighted flag on the breakwaters in the Marina del Rey Harbor.

Mrs. Rosen's enthusiasm is the driving force in this effort, and I commend her outstanding achievements in serving as a positive role model and community leader. Her organization has accomplished many important goals, and her optimism for the future of our country is refreshing. I hope that she will continue to inspire future volunteer efforts that assist our young people of Los Angeles who are facing the difficult challenges of growing up in today's society.

JAYCEES HONOR PHILADELPHIA'S DAVID COHEN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. FOGLIETTA. Mr. Speaker, the Philadelphia Jaycees recently honored David L. Cohen, the chief of staff to Philadelphia Mayor Edward G. Rendell, and I could not let that pass without offering my honors.

My city, Philadelphia, has celebrated a dizzying renaissance over the past 2 years. Our skyline has dramatically changed. Our new convention center has opened to rave reviews from tourism experts and architectural critics. The city's finances seem to be on the road to recovery. The basic management of municipal services and practices are seeing reinvention. The inferiority complex that has held our city back for decades has been replaced with vigor, excitement and hope.

Much of the credit goes to the city's former mayor, W. Wilson Goode, who began many of the development projects, including the thrilling Liberty Place towers that so radically transformed the skyline.

Much of the credit goes to the present mayor, Ed Rendell, whose energy and relentlessness has remade the city's image and attitude of its people.

When it comes to attitude, the success of our Phillies has been a grand slam.

But a great deal of the credit goes to the mayor's chief of staff, David Cohen. David's fingerprints are on all of the city's recent victories. David is a whirling dervish. He has unlimited energy; his depth and knowledge is incredible; no detail, issue or problem seems is too small. Throughout Philadelphia, in business board rooms or governmental offices, a problem arises and you can hear the refrain, "Call David."

Too often, the men and women behind elected officials are forgotten. I applaud the Jaycees for giving David Cohen this prestigious award and I applaud David Cohen for his great work.

LYNN E. JOHNSON RECEIVES OLIN E. TEAGUE AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MONTGOMERY. Mr. Speaker, in a ceremony on Thursday, October 28, 1993, in the House Veterans' Affairs Committee hearing room, Mr. Lynn E. Johnson will receive this year's Olin E. Teague Award for his efforts on behalf of disabled veterans.

The Teague Award is presented annually to a VA employee, or group of employees working as a team, whose achievements have been of extraordinary benefit to veterans with service-connected disabilities.

The Teague Award is the highest honor at VA in the field of rehabilitation.

Mr. Johnson is a vocational rehabilitation specialist at the Cleveland, OH, VA regional office. He is being cited for his outstanding work in the field of self-employment programs for disabled veterans. Self-employment has long been an option of VA's vocational rehabilitation program, but one that was not frequently used because of the detailed planning and research involved in launching a successful small business enterprise. Johnson developed with Small Business Administration executives and small business development centers in the greater Cleveland area, self-employment opportunities for disabled veterans, some severely disabled.

Mr. Speaker, the name Olin E. "Tiger" Teague is synonymous with exemplary service to the Nation's veterans. The late Congressman Teague served on the House Veterans' Affairs Committee for 32 years, 18 of those years as its distinguished chairman. No one who opposed him on veterans' issues ever had to ask why he was called Tiger. He set the standards by which we can best serve all veterans.

I know my colleagues join me in offering our deep appreciation to Mr. Johnson for his concern, dedication, and innovation in meeting the special rehabilitation needs of disabled veterans. We congratulate him for the excellence of his work and for the distinguished award he will receive.

H.R. 1709—DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STENHOLM. Mr. Speaker, in response to concerns raised by hundreds of my constituents, I am today asking that my name be added as a cosponsor of H.R. 1709, the Dietary Supplement Health and Education Act of 1993, introduced by Representative BILL RICHARDSON.

Clearly, this is an issue in which competing priorities and concerns must be balanced in a way that protects both consumers' rights and consumers' health and safety. Even though the Nutrition Education Labelling Act was passed with all good intentions, there has been some indication that it is time for Congress to take a second, closer look at both the substance of the statute and the way it will be implemented by the Food and Drug Administration [FDA]. The FDA generally receives high marks for its efforts to protect the public from hazards to health and well-being by any of the products it regulates, but there is also evidence of cases in which the FDA has used excessive and unreasonable force in fulfilling its duties. All of these concerns should be reexamined through the proper legislative process.

It is in this spirit of balancing competing demands and needs that I believe it is important for Congress to address the issue of the safety and efficacy of dietary supplements meeting health claims. I feel that H.R. 1709, while perhaps not the perfect solution, provides us with impetus for that discussion. I look forward to the completion of the committee process in the coming weeks and will be open to possible improvements that might be made to this legislation. My cosponsorship is intended to be part of the effort which encourages action on the issue by the part of the effort which encourages action on the issue by the House and Senate before December 31, 1993, when several controversial provisions of the Nutrition Labelling and Education Act are set to go into effect.

I am happy to be part of moving this process forward in a way which meets the concerns of my constituents, as well as thousands of consumers across America.

HAITIAN CHILDREN IN AMERICA

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MEEK of Florida. Mr. Speaker, today I am introducing legislation which would allow the Haitian children of legal U.S. residents and citizens to adjust their status here in the United States.

As a result of a backlog of cases, antiquated facilities, a shortage of officers, and the closure of the United States consulate office in Haiti for a year after the coup that deposed President Jean-Bertrand Aristide, numerous children of legal United States residents and United States citizens are being stranded in Haiti. Most of the children have lived in the United States for years and were summoned to the consulate for routine interviews, the final step in becoming a legal resident. In all of the cases the petitions for these children have been approved by the Immigration and Naturalization Service. Usually approval is automatic, as long as parents can prove they can support the children without public assistance.

But consular officers are denying these children the necessary visas to return to the only home they know, requiring more documentation. Even when the necessary proof has been received, children are forced to remain in Haiti for months separated from their families, friends, and schools—for a new appointment at an already overburdened consular office. As a result, many of the children are having to miss school and oftentimes live with strangers, costing their parents thousands of dollars to support them in Haiti. Too many of them are having to stay in poor neighborhoods which are subjected to constant gunfire by the military-backed thugs.

Mr. Speaker, it is negligent of us to send these children back to Haiti for what is usually a 1 day interview in other countries to determine if these children actually are the offspring of people who were granted amnesty by the 1986 Immigration and Nationality Act. There is something terribly wrong with immigration policies and procedures that disrupt lives and break up the families of legal residents. If Haiti is not safe enough for armed soldiers to land there, it certainly is not safe for children to be there.

Mr. Speaker, I would like to enter into the RECORD the statement by Yolna Lanoix, who recently returned to the United States after the laborious and painstakingly slow process of attaining her visa at the United States consulate office in Haiti. I believe Ms. Lanoix's statement conveys the heartache experienced much too often by these children.

STATEMENT OF YOLNA LANOIX

1. My name is Yolna Lanoix. I was born in Haiti. I live in the United States and went to school for 8 years, until I had to return to Haiti to meet with U.S. immigration people.

2. In 1986, my parents, who are legal residents of the U.S., filed a form with INS so that me and my brother and my sister could legalize my status. On June 15, 1991, we went back to Haiti. The Consulate sent us a letter saying we had to go back to Haiti to meet with them. Others had to do this too—from the Bahamas or Jamaica—they had to go back to their countries for the interviews with U.S. Consulate people. My appointment was on June the twenty-four, 1991, I think, but I went early because I had to do the medical exam. They want the test done over there, not here. The medical exam includes X-Rays and blood tests.

3. When me and my brother and my sister first went to the Consulate in June, 1991, they told us that we had been called by mistake and that our interviews would not take place for about a year. In the meantime, they said we could not return to the United States. A lawyer had to argue with the Consulate about that.

4. I had been in the last month of high school in Miami when I went to Haiti. My school was supposed to be done by the middle of July—the eighteenth, I think. So I missed the final exam, and I missed the graduation ceremony with my class.

5. While in Haiti, I stayed with a cousin outside of the capital, close to the airport. You would have to go inside to stay at 6 p.m. every night because of the violence. You would constantly hear gunfire, and bullets ricocheting.

6. Right after the coup in September of 1991, there as an announcement that the U.S. embassy was closed. I think it was on the radio. That meant that all of our cases were put on hold. Why did the embassy have to close? It took the longest to open in Haiti—why? There are many embassies in Haiti—French, British, etc. But the United States Embassy is the only one that was having the problems, closing for so long. I received my notice of approval, and went to Haiti. There were rumors that the embassy would open again, but they weren't open. I didn't believe it was open again til they wrote me; they were very unpredictable. The embassy closed for approximately one year and I couldn't do anything about my case.

7. It was such a problem getting through to the Embassy. You could call all day and not get anybody. Or you could get a busy signal. Sometimes you'd get such a smart answer you wouldn't want to call again. They'd say "We'll call you when it's convenient * * * click"—they'd hang up, without giving you a chance to answer. They don't give you time to ask questions. They were very rude, and they leave you in the dark. If you are without a document, they are no help. They talk like there is no hope for you. You could spend a whole day there getting nowhere. This happens so often, that you get to the point of just not want to call anymore.

8. Since people are so fed up with the embassy, there's con men out there trying to take advantage of you in your situation. All we want is to get our problem solved and return to the United States legally. While I was standing outside of the Embassy, I was approached by a man, who asked, "What's wrong?" "How long is it taking?" He acts as though he relates to your problem. Then he tells you that he can help you—in exchange for money. He says that he knows someone in the Embassy, and that he can make sure that they call you next, that you won't have to wait any longer to get an answer on your case. And it was more than this one person doing it. I saw this happen repeatedly while I was standing in line. This happens even though there are signs saying, "Do not get information from anyone outside of the Embassy." So many people get their money taken away by these people.

9. The embassy drives people to the streets. The less helpful the embassy is, the more people go look for help in the streets. The embassy provides so little help, that people seek assistance in the streets this way. If the embassy would do its job, fewer people would try to come here illegally. The people in the embassy have forgotten that they must obey U.S. laws, and that they are there for public service.

10. There was a woman who was there the same day I was. She had married an American, and the embassy really gave them a hard time. They get strict measures for people getting married now. The woman had to show the embassy the video from their wedding reception. If they did not have the money for the video, the embassy wouldn't have accepted the marriage as valid. And they did this for someone marrying an American—imagine how hard it is for someone who is not American.

11. The law is that you have to take a blood test for HIV or syphilis. If the embassy has not processed you within six months, you have to take another test. Each time you have to take an x-ray and complete physical exam too. So I had to have two complete physicals and everything else three times. And each time you have to pay a lot of money.

12. The embassy doesn't even tell you the results of the tests. The doctor doesn't tell you the results either. You take the results in a closed, sealed envelope to the embassy without opening it. When you find out the results is when they say that you can't come in to the U.S. because you have diseases.

13. There was a mistake on my sister's birth certificate. The mistake was repeated on the income tax. So my mother even had to take a test to prove she was the mother.

14. The embassy requested an income statement from my father. He flew back to the U.S. to get it. But embassy never tells you all at once what you need.

15. The embassy started getting better when they re-opened around the time that Clinton was elected, I think in November, 1992. The State Department wrote a letter to people saying they're sorry and that they're trying to do the best they could, but they had everthing—all the paperwork—bunched up together there in the embassy. They've come a long way now. The new people there are trying to correct the mistakes done there before; they were really backed up on paperwork. The embassy people would go back to the younger ones to help them, the embassy said. Everyone who had appointments scheduled before the coup had lost their appointments. Still, after the Consulate reopened they made us and all the others submit so much of the paperwork on our case over again that we had to spend even more time in Haiti. My dad had to submit new income tax papers, new bank statements, new affidavits of support, new statements from his work, etc. And we had to have a new medical exam too. Also, two days before I turned 21 years old, the Consulate approved the applications filed for my brother and my sister but not for me. My application was denied because they said I had turned 21, but I was under 21 when they approved my brother's and sister's visas and I was under 21 for most of the two years I had to wait for my visa.

16. The parents of the kids who have had to leave school in the United States to go to Haiti for their interviews are scared of sending their kids to school in Haiti. They are afraid of what could happen in Haiti. They are afraid of what could happen in the streets. There are kids who have not had a decent year in school. With the curfew there is a time limit on when you could not be out on the street.

17. People ask me how you do it, how did you stay away from your family, school and everything in Miami. I tell them I have God on my side. It was really hard to leave Haiti as a kid and then go back again many years later; I had no intention to spend all this time there. I did not even get to see my young son, Joshua, for the time I was there in Haiti. Joshua was born just two months before I had to go to Haiti and so I didn't see him practically for the first two years of his life. I was 19 when I had to go to Haiti and I was 21 when I was allowed back home.

18. I wasn't alone in my situation. Some kids have been waiting five years, maybe because of some document they couldn't bring up. They could be in danger if they were in politics. I wasn't involved in politics, and where I was, the people didn't discuss politics. You cannot state your political opinions in Haiti—unless it is for the man in power. One of my uncles was arrested because someone said he supported Aristide. A lot of people are still in hiding, because they fear what will happen to them.

19. There's so much for Aristide to do even if he goes back, for a country which was trying to make it. The people who control it are still in power. For you to help a country so much in poverty, you need a miracle. Haiti is a beautiful place, but it has some bad problems. It is like a diamond in the rough. Maybe someday things will be better there.

20. Now that I am here, I had to do three months of school to be over with it. If I had taken the test when I was supposed to, in June, 1991, I would be done. It's like losing two years and having to start over again. I could have been in junior college by now.

21. I intend to continue my education. I want to study first to be a paralegal, and then maybe later an attorney. Maybe in the future, I could run for public office. Even though I feel I've lost two years, I'm not going to let that stop me. I've got to get on with my life now.

Ms. Lanoix is currently attending Miami-Dade Junior College where she is studying criminal justice. She eventually wants to be a lawyer because she believes if law is on your side you can really make a difference.

SALUTE TO WILLIAM D. "ROD" FRANZ

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GALLEGLY. Mr. Speaker, some people seem to accomplish more in an hour than most of us accomplish in a year. William D. "Rod" Franz of Camarillo, CA, is one of those people.

Rod Franz is the quality management facilitator at the Port Hueneme Division, Naval Surface Warfare Center, a demanding position that would be enough for most people. But one job isn't enough for Rod Franz, who has so selflessly given of his time and talents on behalf of his community that he has earned the nickname of "Mr. Camarillo." For those efforts, he was recently named Camarillo's Man of the Year.

As the Ventura County Board of Supervisors put it, "Rod is the essence of community volunteerism. He has touched and enriched many lives and has made Camarillo a better community in which to live." A look at just some of the community projects he has been involved with over the years tells why.

Rod is currently president of the Camarillo Pageant Association. He has been a member of Camarillo Beautiful, founding member of Camarillo Coalition Against Crime, co-founder of the Ventura County Boys Club football league, a director and past president of the Boys and Girls Club, and past chair of the Venture County Boys and Girls Club area council.

He also is a member and past president of the Pleasant Valley Lions Club, founding board member and chairman of the Southern California Ear Foundation, a member of the Channel Coast Football Officials Association, an Explorer adviser to Ventura County Boy Scouts, a member of the Rio Meas High School boosters club, a member of the Camarillo Veterans Memorial Committee and a member of the Cancer Society Board of Directors.

In addition, he has served on the Mayor's Select Advisory Committee, served as master of ceremonies for Camarillo's Salute to Desert Storm, was a member of the Camarillo Bicentennial Committee, tutored for the Camarillo Library Adult Literacy Program and Channel Islands High School—the list goes on and on.

Mr. Speaker, as my colleagues know, I have long believed that it was the pioneer ethic of pitching in and helping out that helped make America great. I also believe if we had more people even one-tenth as involved in their communities and Rod Franz that many of our Nation's problems could be easily solved.

I ask my colleagues to join me in honoring an outstanding American, Rod Franz.

KINDERHOOK ELKS LODGE 2530 DESIGNATED ALL-AMERICAN LODGE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SOLOMON. Mr. Speaker, as a Brother Elk I take great pride in bringing to the attention of this House the honor being bestowed on the Elks Lodge of Kinderhook, NY.

On November 7, 1993, Kinderhook Elks Lodge 2530 will be designated an "All-American Lodge," of which there are only six in the entire United States.

The award recognizes the outstanding work of lodge 2530 during last year under past Exalted Ruler Bill Herwerth.

I'd like to commend present Exalted Ruler Mark Brennan, Grand Exalted Ruler Vincent R. Collura, and every other lodge officer and member, friend and family member who contributed to this outstanding record.

As many of you, Elks have played a leading role in promoting pride and patriotism in the United States. Throughout their history, Elks have exhibited the kind of spirit that has made this the greatest and freest Nation on Earth.

That being the case, Mr. Speaker, I ask all Members to join me in congratulating Elks Lodge 2530 of Kinderhook, NY, for this rare and deserved honor.

IN HONOR OF THE 15TH ANNIVERSARY OF THE MINISTRY OF REV. FATHER GEORGE G. PASSIAS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. ACKERMAN. Mr. Speaker, I rise today to ask my colleagues to join with me in celebrating Rev. Father George G. Passias' 15th anniversary at the Greek Orthodox shrine Church of St. Nicholas. The Rev. Father George G. Passias is a truly wonderful, giving and compassionate man. A party will be held for him on November 14, 1993, at Leonard's in Great Neck, NY.

Born in Chicago, IL in 1947, Father George was supported by a dedicated and caring family as he earned a bachelor of science degree in structural and mechanical engineering and a master of science degree in mechanical engineering. While working on his doctoral degree, he was most active in his parish of St. John the Baptist in Des Plaines, IL, where he taught in the church school, was a parish council member as well as a member of the church's executive board.

It was in 1976, that Father George left his doctoral studies and embarked upon a path that would reveal his most conspicuous talents of serving others through faith and compassion. Attending the Holy Cross School of Theology, he earned his degree and accumulated wide honors. He was elected to "Who's Who Among American Colleges and Universities" and was awarded the Massachusetts Bible Society Award.

In 1979, Father George and his family came to St. Nicholas, in Queens, NYC, and began serving as an assistant pastor. He began a ninth-grade class and high school religious classes, and brought many improvements to the programs of the church's William Spyropoulos School. Recognizing his ability to inspire and lead, His Eminence Archbishop Lakovos appointed him pastor of St. Nicholas in 1982. Under the pastorship the church's membership has doubled and a variety of programs have been undertaken to enhance the program of the church for all ages.

Mr. Speaker, as Father George now takes time to accept the warm and enthusiastic appreciation of his congregation, I ask all of my colleagues to join me in congratulating Father Passias on his 15th anniversary at the Orthodox Shrine Church of St. Nicholas.

TRIBUTE TO DR. RUFUS YOUNG, JR.: AN OUTSTANDING EDUCATOR

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. CLAY. Mr. Speaker, Dr. Rufus Young, Jr., has retired from the St. Louis public schools after 48 years of committed service to the educational achievement of children in the Metropolitan St. Louis area. On October 30, 1993, he is being honored by his colleagues who will pay tribute to his outstanding professional career. Dr. Young has served the district in a variety of important roles and has

been a guiding force in urban education in Missouri and across the Nation.

Dr. Young earned his bachelor of arts degree in history and education from Lincoln University and his master of science degree in school administration from the University of Illinois. As a recipient of a national competitive fellowship from the Ford Foundation, he completed doctoral studies at Atlanta University with his doctoral dissertation focusing on "An Investigation of the Perceptions Held by Urban Elementary School Teachers and Principals Relative to Administrative Leadership Traits."

Dr. Young began his impressive career as a teacher in the Kirkwood public schools. In 1950 he was employed by the St. Louis public schools and served the district as a teacher, principal, Project Stay director, executive director of personnel, area superintendent, assistant superintendent of effective schools, and director of School Partnerships Volunteer Services and External Resources. As director of the Title VIII Prevention of Dropouts Program, Project Stay, which was identified as a national model program. Dr. Young developed and conducted six work-study programs, retrained staff and expanded the counseling, afterschool, curriculum and instructional programs. Under his leadership as executive director of personnel, numerous innovations in personnel procedures were made. Dr. Young's tenure in the personnel division is most remembered because of the humanness, patience and care for others he expressed as he carried out his responsibilities for the district.

As area I superintendent and assistant superintendent for effective schools, Dr. Young focused on increasing student achievement. School staff were trained in the philosophy, theory, tenets and practices of the effective schools research. Believing in the slogan, "All Children Can Learn," staff persons focused on the idea that all children, regardless of race or socioeconomic status, can and will achieve when their teachers and principals totally commit to their educational achievement. Dr. Young directed the expansion and implementation of the effective schools concept into 114 schools making it a nationally recognized program.

Dr. Young's educational expertise continues to be sought after by colleges, universities and school districts across the nation. He has made presentations to teachers, principals, district administrators, superintendents and school boards in Sweden, The Netherlands, Israel, Wales, and Canada.

Dr. Young has contributed significantly to the community. He is a member of St. Phillip's Lutheran Church, the Royal Vagabonds, Inc., the YMCA, the 100-year old Anniversary Club, the Veiled Prophet Organization, Sigma Pi Phi and Phi Delta Kappa Fraternities. He is a life member of Kappa Alpha Psi. Dr. Young also serves on the Rockefeller Foundation Board of Directors, the Duchesne Scholarship House Board of Directors and the Advisory Board of the United Nations, St. Louis chapter.

Dr. Young is a superior educator who has given fully and creatively to guide our most precious resource, our children and our youth. I am pleased to call attention to a truly fine educator who contributed greatly to a more humane and richer society through quality education.

I invite my colleagues in the U.S. Congress to join with me in wishing Dr. Rufus Young, Jr. Godspeed and much success in a retirement filled with tranquility, challenge and personal fulfillment.

RECOGNIZING NORMA BRAWNER FOR HER YEARS OF SERVICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, I ask my colleagues to join me in honoring Ms. Norma Brawner, who retired last December after more than 25 years of dedicated service to my constituents and neighbors in Alameda County.

Norma worked as a cafeteria aide in the San Leandro Unified School District for many years until becoming an instructional aide with the juvenile court and community schools, part of the central Alameda County school administration. For 14 years, she helped the students caught up in the juvenile justice system to continue their education. The work was tough and the environment was challenging, but the students were among the most troubled in the school system.

On October 28, Norma Brawner's friends and colleagues will gather to honor her for her many years of service to our community. I am pleased to join them and offer a sincere thank you and my best wishes for a well-deserved retirement.

TRIBUTE TO CAROL COE

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. KREIDLER. Mr. Speaker, I rise today to recognize the outstanding work of Carol Coe, a teacher at Puyallup High School in my district in Washington State.

Mrs. Coe was recently named "Teacher of the Year for 1994" in the State of Washington. Being a teacher today takes a special kind of person. Teachers work long hours for little pay and less reward in sometimes dangerous situations. Yet we often fail to acknowledge the increasing difficulties they face and the enormous dedication they bring to their profession.

Carol Coe is making quite an impression on her students. They are the center of the classroom and she creates an environment that encourages them to speak out and think for themselves. Mrs. Coe's style of teaching emphasizes her special gift of not only dispensing knowledge, but instilling the confidence and motivation that allow her students to succeed.

Mrs. Coe also understands that education is not limited to the classroom. Her students learn by participating in their community, serving in local programs at day care centers, nursing homes, and shelters for the homeless. It is inspiring to see that kind of imagination and commitment to education.

I would like to congratulate Carol Coe for her efforts as a teacher and as a member of the community, and I would like to share a recent editorial about her. Mrs. Coe has been teaching for 23 years, and the people of Puyallup and I hope that she will continue for many years to come. I know my colleagues join me in saying thank you for a job well done.

The editorial follows:

[From the Tacoma (WA) News Tribune, Oct. 22, 1993]

TEACHER OF THE YEAR

Carol Coe has never tried to be a competent teacher. She's strived to be a great one, averaging an 85-hour work week.

Being named Washington's teacher of the year is official recognition that the Puyallup High School social studies teacher has achieved greatness. But her students didn't need anyone to tell them that.

Coe knows what it takes to be a great teacher: "An undying interest in the ability of kids to learn . . . a commitment to find the keys that open up the world of learning for kids . . . subject-matter expertise."

Public schools and teachers take a lot of heat these days. But teachers like Coe are not aberrations; many people are equally committed to their profession. It's important for the community to appreciate and recognize these devoted educators.

SALUTE TO KAREN FEDERING, STAGE MANAGER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MINETA. Mr. Speaker, 30 years ago today, President John F. Kennedy received an honorary degree from Amherst College in Massachusetts. During the ceremony, he said, "I look forward to an America which will steadily raise the standards of artistic accomplishment and which will steadily enlarge cultural opportunities for all of our citizens."

This past Saturday—October 23, 1993—one such artistic accomplishment was achieved by Karen Federing in her debut as stage manager for New York City Opera's new production of Mozart's Nozze di Figaro (Marriage of Figaro) in Lincoln Center.

Of that production, Bernard Holland of the New York Times said it to be a "model of limited resources turned to artistic advantage" and "every gesture and arrangement of players onstage are thought through and make perfect sense." High praise indeed.

Stage management in live theater is an art form in and of itself, and a special challenge in opera in which stage timing must marry the music perfectly. So whether the cue is for a performer or for a special effect such as lighting, precision and natural flow are essential to keep the rhythms of the story and score seemingly effortless—and to the delight of the audience.

Mr. Speaker, for her outstanding work, Karen Federing is to be commended for helping to realize the dream President Kennedy held for the arts in America. And to all of her colleagues at city opera, bravo!

WORKING TOWARD DEMOCRACY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SAXTON. Mr. Speaker, there are many organizations in the Commonwealth of Independent States that are supporting the nonviolent transformation of their country into a democracy. One of these organizations is the General Confederation of Trade Unions [GCTU].

The GCTU and the Russian Union of Industrialists and Entrepreneurs have jointly established the Social Partnership Foundation [SPF] for the purpose of coordinating and working out privatization. They also concentrate on training and retraining of defense workers being laid off because of the cut back in the defense industry.

One of the main objectives of SPF is to coordinate the activity of the unions, business and industrial communities, and the Government in promotion of economic reforms to all spheres of life and improvement of social stability.

The following is a statement by the General Confederation of Trade Unions of the Commonwealth of Independent States of the former Soviet Union:

The General Confederation of Trade Unions on behalf of millions of its members in the Commonwealth of Independent States expresses deepest condolences to the families of those who died as a result of the bloody events in Moscow.

Trade unions of the Commonwealth wrathfully condemn violence against Moscow City Hall, Ostankino TV Center, and peaceful civilians. That criminal act brutally tramples that democratic process in Russia.

We urge the unions, the workers' collectives to stay calm, and we call them to common sense and peace.

TRIBUTE TO MAYOR COLEMAN YOUNG

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Miss COLLINS of Michigan. Mr. Speaker, today I pay tribute to one of the most important and history-making public servants of our time, Mayor Coleman A. Young of Detroit. When others forecast Detroit's demise, Coleman Young engineered its revival. Mayor Young's decision to not seek reelection marks the end of one of the greatest eras in Detroit's history. Coleman Young dismantled the walls of exclusion to become this city's first African-American mayor, and conquered impossible odds to do it.

Coleman Young then made city hall accessible to people who had not been welcome there before: African-Americans, the working class, and women. Not only did he grant access to these disenfranchised groups, Coleman Young elevated them to high positions in his administration. For the first time, ability determined how far their careers would lead them, not race or gender.

Certainly, no mayor had a brighter vision for Detroit or worked harder to recapture the city's pride than Coleman Young. Detroit was truly privileged to have the skillful and courageous leadership of Coleman Young for nearly 20 years. His marks will be engraved in history and his shoes impossible to fill. Mayor Coleman A. Young's exemplary service to Detroit has truly made him a legend in his own time.

FIRST REFORMED CHURCH OF WYNANTSKILL CELEBRATES 200TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SOLOMON. Mr. Speaker, those of us who live in the 22d Congressional District of New York can boast of living in one of the historically richest areas of the country.

Our churches, especially, are virtual depositories of historical information, and the stories of these great old churches is the history of their respective communities.

One such church is First Reformed Church in Wynantskill, which is celebrating its 200th anniversary on November 6.

This church has truly been a beacon of hope and inspiration to those who have worshipped in the sanctuary. The church has also served as the focal point for numerous other community activities, such as Boy Scouts, Girl Scouts, bloodmobiles, Home Bureaus, and services for toddlers and older Americans.

Mr. Speaker, as Alexis de Tocqueville said more than 160 years ago, America would be great as long as she is good, and the goodness of America has always been centered in churches like the First Reformed Church of Wynantskill, NY.

Please join me in congratulating the good people of this great old church on the event of their 200th anniversary.

SOCIETY OF ST. MARY OF THE SNOW TURNS 105

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the extraordinary achievements of the Society of St. Mary of the Snow as it marks its 105th anniversary this year. This organization, located in the Greenpoint/Williamsburg section of my district, is one of the oldest mutual aid societies in the United States, having been founded in 1888 just 2 years after the Statue of Liberty was dedicated.

The Society of St. Mary of the Snow became a place of family, friendship, and mutual assistance to the Italian-American immigrants who founded it. It was a place where they could find a sense of pride in their achievements in their new country. The members of St. Mary of the Snow also could find familiar faces from their hometown of Sanza, Italy.

Throughout the history of the society, the members of St. Mary of the Snow have shown their love for their adopted country by fighting in the Armed Forces in every war that the United States has entered. Their patriotism is also evident in their extended drives on behalf of the American Red Cross and war bonds.

Today, the Society of St. Mary of the Snow remains a vital part of the Greenpoint/Williamsburg community. The society supports a variety of programs aimed at promoting the well-being of all community residents. In particular, the society continues to give mutual assistance to its members in times of sickness and death. But the society also never forgets its origins, providing assistance to the members' hometown of Sanza and other cities and towns in Italy during times of disaster and need. The society also has remained a haven of support for newly arriving immigrants from Italy, and Sanza in particular.

Because of its tremendous contributions to the entire northern Brooklyn community, and for instilling a sense of citizenship, patriotism and pride in the United States of America, I would like my colleagues to join with me in saluting the Society of St. Mary of the Snow on its 105th anniversary.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT CONTROL AND LAW ENFORCEMENT ACT OF 1993

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BROOKS. Mr. Speaker, today I am introducing with Congressman CHARLES E. SCHUMER, six separate bills that are drawn from titles of my larger, omnibus crime bill, H.R. 3131, the Violent Crime Control and Law Enforcement Act of 1993.

I take this step because time is running out in the 1st session of the 103d Congress; and, unfortunately, the forces of gridlock and hesitation appear to be reemerging precisely at a time when the American people are desperate about crime as never before. I, for one, cannot stand aside and permit further delay in moving pieces of crime legislation that have consensus now.

It is time for this body to fight crime with action, not slogans; with innovative and well-targeted policy initiatives, not posturing or tough-sounding rhetoric. It is time finally to let go of what this group or that group deems a wonderful defining issue and opt to pass statutes instead. The reason is as simple as it is terrifying: Blood is flowing in the streets; crime is on the rise; recidivism is a depressing but terribly real fact of American life and, all the while, Congress continues its interminable debate over crime. At some point, the purists must step aside, become result-oriented and act where they can.

At the same time, however, we should be fair in acknowledging that there are indeed a number of sensitive and highly complex substantive issues on which Members of both parties continue to disagree. In these areas, I will respect their wish for further deliberations on

differing approaches before fashioning a final product. But there are other initiatives that should not be deferred, that in good conscience cannot wait for another recess, another session, even another month, to be resolved.

The six bills that I am introducing today will put more cops on the beat in urban and rural communities alike across the Nation; will help States and local governments fight juvenile drug and gang-related activities; will provide grants to help State and local governments develop alternative methods of punishment—such as boot camps—for certain young offenders to prevent them from falling into the all too predictable mode of becoming repeat, hardened career criminals; will require drug treatment of prisoners at both the Federal and State levels to prevent putting drug-dependent individuals back on the streets; and will help local educational entities provide assistance to schools most directly affected by crime, violence and illegal drugs.

Very shortly, I intend to bring these bills to full committee for markup and then proceed posthaste to the floor. As other crime initiatives are developed and reach a working consensus within the relevant subcommittees, we can then move those proposals forward. With adjournment looming, it is imperative to push ahead with the worthwhile programs embodied in these six proposals, and I urge all Members to lend their support to this important effort.

IN HONOR OF DOROTHY DAHL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, I would ask my colleagues to join me in recognizing Ms. Dorothy Dahl, who retired in June after more than 20 years as a teacher in the Alameda County public schools.

From 1969 to 1984, Dorothy taught in the Castro Valley and San Leandro Unified School Districts. Between 1984 and her retirement, she has been a teacher for the juvenile court schools of the Alameda County Office of Education, working with children in a difficult and challenging environment.

Whether the subject was math, social or physical sciences, career education or home economics, Dorothy spent each day investing in the lives of children. Thousands of students are better prepared adults as a result of her efforts.

On October 28, Dorothy Dahl's friends and colleagues will gather to celebrate and remember her service to our community. I am glad to join them in thanking her and wishing her a well-deserved rest.

PROTECT CITIZENS WITH HIGHER STANDARDS FOR SECURITY OFFICERS

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MARTINEZ. Mr. Speaker, in January, 1994, the State of New York will become the only State in the Nation which has a comprehensive law for the regulation of private security officers and their employers. After that date, New York will require that any person who is employed as a security officer, whether they are a contract guard or an in-house guard, will be screened for any prior criminal activity and will be given training necessary to perform their duties.

The fact that New York is the only State to have such regulations comes, I'm sure, as a surprise to most people.

And while most security guard companies do a good job of checking the background of prospective employees and have good training programs, the citizens of the other 49 States have no assurance that the security officers in their States have been screened or properly trained. These are the very same security officers who patrol our shopping malls, who provide protection at apartment complexes and who guard our children at school and at athletic events.

During my investigation of this issue, I did learn that many States other than New York do have some regulations regarding security officers. However, not one other State covered all guards, and in fact, 18 States allow guards to carry a lethal weapon without requiring any training.

It is because of this void that I have been joined by 21 of our colleagues in sponsoring H.R. 1534, the Security Officers Quality Assurance Act. This legislation, which was reported out of the Human Resources Subcommittee of the House Education and Labor Committee on September 30, would set forth federally mandated rules for States to follow in establishing stringent requirements for background screening and training standards.

Mr. Speaker, it is important to note that this legislation will not impose financial burdens on the States. The bill permits recovery of program costs through fees on the licenses which the States will issue. In this manner, the security industry itself will be paying for the administration and enforcement of this program.

In addition to setting forth minimum screening and training standards, which a State may exceed if it chooses, H.R. 1534 allows employers of security officers timely access to criminal records so that they can adequately screen job applicants.

At hearings held before the Human Resources Subcommittee, which I chair, there was near universal support for this legislation among the witnesses who represented both large and small contract security guard companies, consultants who advise shopping centers and major companies on security issues, and from victims who have been injured because of poor selection of guards or improper training.

In bringing this legislation to the attention of my colleagues today, it is my hope that you will join in cosponsorship of H.R. 1534. The bill has the following Members as cosponsors: Major Owens, Ronald V. Dellums, Benjamin A. Gilman, Marge Roukema, Nancy Pelosi, Marcy Kaptur, Thomas M. Foglietta, Andrew Jacobs, Jr., Howard L. Berman, James L. Oberstar, Edolphus Towns, Jolene Unsoeld, Peter Hoagland, Robert E. Wise, Jr., Ron de Lugo, Austin J. Murphy, Douglas Applegate, Bob Filner, James H. Bilbray, Robert E. Andrews, and Leslie L. Byrne.

THE KNIGHTS OF PYTHIAS 125TH ANNIVERSARY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SCHUMER. Mr. Speaker, I rise today to call to the attention of my colleagues a wonderful commemoration occurring across the country. The Knights of Pythias, a benevolent fraternity, will gather this week to celebrate their 125th year of service to many communities in our Nation. The knights number more than 175,000 in lodges throughout the United States and Canada, with the largest proportion found in my home State of New York.

The Knights of Pythias is the only fraternity chartered by the U.S. Congress, and the organization has served its principles of friendship, charity and benevolence well by focusing on the needs of our youngest and more vulnerable citizens. I want to share with my colleagues some of the work Pythians are doing in our Nation's communities.

To introduce the experience of summer in the mountains to inner-city youths, the Knights of Pythias ran Pythian summer camps for disadvantaged young boys. The camps were open for 50 years, and today Pythian lodges sponsor both boys' and girls' attendance at camps operated by other groups.

The knights lodges serve as a way station for information about missing and runaway children printing missing child case histories in its publications and publicizing a toll-free number that runaway children can use to call home. They also sponsor free voluntary fingerprinting of children, a practice which is growing more common in many communities, in order to assist local law enforcement with criminal investigations.

Continuing its good work with young people, the Knights of Pythias affiliated with Samaritan Village, a nonprofit drug rehabilitation program, to educate its members about drug use and the warning signs of drug abuse. In this program, Pythians learn how to find help in coping with substance abuse for themselves, their families and neighbors.

Finally, the Knights of Pythias are reliable volunteers, running events at the annual games for the physically challenged, providing medical equipment to the needy, and raising funds to support these worthy efforts year-round.

Mr. Speaker, I am pleased to be able to recognize the fine work that the members of the Knights of Pythias perform every day in many of our communities. I ask my colleagues to join me in congratulating them on their 125th

anniversary and in wishing the group many more years of distinguished service and fellowship.

THE MANAGED COMPETITION ACT OF 1993

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. CLINGER. Mr. Speaker, I recently joined 48 of my colleagues in sponsoring the only bipartisan bicameral comprehensive health care reform legislation yet to be introduced in the 103d Congress. The Managed Competition Act of 1993, authored by Congressmen JIM COOPER and FRED GRANDY, is largely based on the "managed competition" model originated by the Jackson Hole Group, and it represents a true bipartisan, market-based effort to overhaul our ailing health care system. Senators BREAUX and DURENBERGER introduced companion legislation in the Senate last Thursday.

As those whom I represent back home know, over the past several months, I have repeatedly aired my concerns about the managed competition theory in newspaper editorials, correspondence with constituents, and meetings with health care providers. In particular, I was worried about managed competition's feasibility in rural areas. As one who represents a rural district spanning 17 counties, I am acutely aware of the unique health care problems confronting rural doctors, nurses, and patients, and long before health care reform was thrust to the top of the national agenda, I have insisted that these problems be addressed by any reform plan adopted by Congress.

In addition to controlling health care costs, improving access for the uninsured, and maintaining high quality medical care, rural residents must overcome other barriers to quality health care that most of our urban counterparts do not have to deal with. Vast distances between medical facilities, a shortage of medical resources and personnel, and the revitalization of our deteriorating health care delivery system and infrastructure are problems unique to rural areas that health care providers and patients in my congressional district must contend with each day.

When I read that some of the architects of managed competition admitted that the model may not be workable in rural areas, I became wary of those advancing managed competition as a panacea to all of America's health care woes. I feared that policymakers would become so enamored with the theory that rural health care would be swept under the rug. And I must admit that I still harbor doubts about managed competition's applicability in sparsely populated, rural areas.

Considering my reservations, one might ask, "why would a congressman who has prided himself as an advocate of rural America enlist himself as an original cosponsor of legislation which he acknowledges may not solve all of the health care difficulties in rural areas?" That is a fair question for which I have a simple answer: It is good public policy.

Everyone agrees that our health care system is broken and needs to be fixed. In my opinion, our health care system's problems stem from perverted economic incentives in the health care market place. For instance, under normal market conditions consumers decide what they will purchase from producers based on the price and quality of the goods. If the consumer feels the quality of the goods is not worth the price charged by the producer, the consumer can search for less expensive goods produced by a competitor. These are the basic, undisputed principles of free market economies.

However, in our present health care system, the producer—health care provider—tells the consumer—patient—what goods—medical procedures, tests, or drugs—that he or she will purchase. The patient must rely on the expertise and training of the doctor, and trust that the doctor is providing the best quality and most effective care. To make the situation worse, an independent, third party—insurance company—pays the bills so that the consumer is isolated from the cost of health care. As a result, there is very little price or quality competition in the health care market place, and as free marketers know, competition is themost effective way to keep inflation in check.

The Managed Competition Act of 1993, also known as the Cooper-Grandy bill, is a market-based approach to health care reform which seeks to readjust these imperfect, distorted incentives. By modifying the tax code, it is my belief all Americans can be assured access to high quality, affordable health care.

The essence of the Cooper-Grandy bill is to restructure the health care market so that providers are forced to compete for consumers on the basis of cost and quality of care. Tax incentives would encourage consumers to select the most cost-effective plan and prompt providers to arrange themselves in the most efficient manner. Also, health plans would have to cut rates by controlling prices, eliminating administrative waste and preventing unnecessary procedures in order to keep premiums at a competitive price and attract subscribers.

Another cornerstone of the Cooper-Grandy bill is the facilitation of health insurance purchasing pools which give individuals and small businesses the opportunity to negotiate lower prices for health coverage. Right now, larger businesses enjoy lower costs due to their size which allows them to spread their risk among employees and bargain with insurance companies for lower rates. The collective purchasing pool would allow small businesses and individuals to benefit from those same low rates.

Under the Cooper-Grandy legislation, employers with 100 or fewer workers and individuals seeking health care coverage would purchase their insurance through these pools, also known as health plan purchasing cooperatives [HPPC]. The HPPC's would offer a wide array of health plans, and since health plans would be required to report on medical outcomes, consumers—not employers—would choose their health plan based on price and quality. It is expected that the HPPC's would cut administrative costs by 40 percent, improve the availability of consumers information regarding the various health plans, and foster better competition among plans.

Another important component of the Cooper-Grandy proposal would make individuals more cost-conscious health care consumers. Currently, employers are permitted to deduct the cost of providing health care coverage to their employees, and employees are allowed to exclude these benefits from their taxable income. To discourage inflationary "Rolls-Royce" health plans which fail to contain costs, the Cooper-Grandy bill would limit the tax deductibility of health care costs at the cost of the area's lowest priced plan which meets the minimum Federal standards. The funds raised by this tax cap would be used to provide subsidies to low income individuals and to adjust inequities in the tax code which allow the self-employed to deduct only 25 percent of their premiums from their taxable income.

Many political pundits and journalists are drawing strong similarities among the President's proposal, the Senate Republican plan, and the Cooper-Grandy bill. While they are all largely based on the managed competition model, there are some major, critical differences. In fact, the Senate Republican plan and the Cooper-Grady bill, which are very close in substance, differ dramatically from the Clinton plan in many key areas.

First, the Cooper-Grandy bill does not force employers to pay for the health insurance premiums of their employees. The Clinton plan would require all employers to pay at least 80 percent of health care costs of their employees. Although there would be subsidies for small businesses, this employer mandate would still have a drastic impact on job growth nationwide and hamper our international competitiveness.

The Cooper-Grandy bill recognizes the pivotal role small businesses play in the creation of jobs. At least 3 out of every 4 new jobs are created by small businesses. An employer mandate would put many small businesses out of business and force others to lay off employees. No matter how you look at it, the Clinton plan will kill jobs and threaten our tenuous economic recovery.

I believe that almost all employers would contribute to their employees' health care coverage if it were affordable. In fact, although we currently don't have an employer mandate, approximately 80 percent of Americans have some or all of their health care coverage paid for by their employers. Therefore, the Government should not waste its time dreaming up new, creative ways to compel employers to pay for their workers' health coverage, but instead focus on controlling the costs of health care so that employers can afford it.

A second critical difference is that the Cooper-Grandy bill does not include artificial price controls or global budgets. The Managed Competition Act relies on market forces to control medical inflation. History has proven that price controls do not work and would only freeze in place inefficiencies in the existing system. Global budgets do not address what is fundamentally wrong with our health care system and would result in nothing short of rationing. All in all, I fear that the high quality health care that Americans have come to expect would be compromised by price controls and global budgets.

Third, the Cooper-Grandy plan accomplishes health care reform without a massive

expansion of governmental bureaucracies and regulatory control. Although both proposals establish a National Health Board, the Cooper-Grandy health board would merely define the minimum standards for health plans, while the Clinton health board would be granted sweeping regulatory powers. Also, unlike President Clinton's health alliances, the Cooper-Grandy purchasing pools would be actual cooperatives governed by the members, not regulatory State agencies administered by political appointees of the Governor.

Then, of course, there is the issue of cost. While the Clinton plan would cost $100 billion per year, the Cooper-Grandy bill would cost $25 billion. Sliding scale subsidies for low income individuals would be financed by eliminating tax subsidies for the most expensive health care plans and by phasing out the Medicare Part B premium subsidy for upper income beneficiaries. The Medicaid Program would be eliminated and the funds used to provide health care coverage to those individuals with incomes below the poverty line.

The introduction of the Managed Competition Act is an important step forward in the health care debate. Twenty-seven Democrats and twenty-two Republicans chose to cast partisanship aside and craft a truly centrist bill. As both President and Mrs. Clinton have acknowledged, the passage of health care reform legislation will have to be a bipartisan effort, and the Cooper-Grandy legislation is the first proposal to take a step in that direction.

As I close my remarks, I must make one last point. Although I agree with the principles of the Managed Competition Act and realize that the Republican sponsors and the House Rural Health Care Coalition have worked closely with Congressman COOPER to improve his bill, I recognize that it is not perfect legislation. I feel there is still more room for improvement of the provisions addressing rural areas, and I believe the malpractice reforms can be further strengthened. So I pledge to my constituents that as the health care debate progresses and final legislation is crafted, I will work to further improve and reinforce these important provisions.

ELECTIONS IN RUSSIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SOLOMON. Mr. Speaker, as you know, parliamentary elections are scheduled in Russia for December. These elections, if they are free and fair, will result in the first truly representative parliament in Russian history and are thus of immense importance.

Further, such a parliament would almost certainly be more democratic and friendly to the West than the previous parliament. Thus, these elections have a direct bearing on our national security and should be treated as a top foreign policy priority by the administration.

Dr. Constantine Menges, a former NSC official and one of the intellectual authors of the hugely successful Reagan doctrine, has reflected extensively on this subject and feels that the United States can and should take an active role in trying to facilitate a smooth and open electoral process in Russia.

I fully agree and have recently, along with my colleagues TOM DELAY and JAN MEYERS, sent a letter to the President urging him to prioritize these elections and to divert existing foreign aid moneys to this process. We have just appropriated $2.6 billion for Russia, Mr. Speaker, so there should be no excuses about a lack of funds. Fielding a monitoring team and giving technical support to democratic parties and candidates in Russia won't cost more than a few million dollars.

Considering that the administration plans to pour several hundred million dollars into the black hole that is the state-owned, monopolized, price-controlled Russian energy sector, I submit that a few million dollars diverted to ensuring free and fair elections in Russia is a much wiser investment.

Dr. Menges has written an op-ed piece on this topic and I would like to submit it, along with our letter to the President, for the RECORD.

THE RUSSIAN CRISIS AND THE CLINTON ADMINISTRATION[1]

Russian President Yeltsin succeeded in his decision to abolish the communist dominated Parliament that had been systematically blocking his efforts at reform. The elections for a new legislature scheduled for December 11-12, 1993, can provide the opportunity for democracy and reform to move forward, or if hard-liners were to win a majority, the election could well be a decisive set back for President Yeltsin and the interests of the U.S. and all the democracies which know that a democratic Russia will be peaceful. Although time is short, the Clinton Administration needs to understand that its actions could make a positive and perhaps decisive contribution to helping the pro-democratic political parties in the coming electoral competition.

In the April 1993 referendum, Yeltsin received support from 58% of the Russians who voted. But fewer than half of the population voted, and the hard-line communists and ultranationalists have shown determination and cunning during the last two years as they have maneuvered to recover from the setbacks of the failed coup in August 1991, the formal dissolution of the U.S.S.R. in December 1991, and the results of the April 1993 referendum. Now though losing another round, they will see the coming parliamentary election as an opportunity to obtain a working majority and thereby relegate Yeltsin and the reformers to mere figureheads. The Communist Party of the Russian Federation has retained about 500,000 members, and whether or not it is allowed to participate officially in the elections, its members will work for their objectives through other parties. In contrast, though many pro-democratic parties exist, in a country of 160 million, none have a membership approaching that of the Communist Party and most have only a few thousand members. The largest pro-democratic movement, Democratic Russia, split into three movements in 1991, each of which has only the beginnings of a Russia-wide organization.

Besides the self-identified communist parties which demand a full return to the old system, the hard-liners have also formed political parties and groups that profess a much more moderate course—calling themselves the "center" between the old-fashioned communists of the past and the heartless and ineffectual "capitalism" they say Yeltsin represents. The hard-liners assume that they are beginning with a core support of about 30 percent of the voters who supported their position in the April 1993 referendum. In addition they know that they are supported by most of the communist managerial class in the government ministries (including the KGB), the state factories, the military-industrial-complex, as well as by most of those in authority in state, regional and local governments. Virtually all of these governing institutions consist of people who were also chosen in 1989 and 1990 when the communist party still determined the outcome of Soviet elections. For the hard-liners, the combination of decades of personal networks and running virtually all institutions in Russia at the national and regional levels will be a significant advantage that could bring them a majority of seats in the new legislature.

The hard-liners will profess to be moderates and will tell the Russian people that Yeltsin has had two years of power and has failed to bring them a better life. They will follow the example of the Communists in Poland and other Eastern European countries who say they reject the old form of dictatorship and want only a "middle way" that can work better. In addition the hard-liners will probably concert their efforts in several political parties and will extract support for these by using all of their organizational resources e.g. jobs, money, printing presses, transportation, communications and the like. They are also likely to use systematic propaganda and "dirty tricks" in an attempt to fragment, penetrate and weaken the still fledgling pro-democratic parties.

Further, the hard-liners are likely to use their connections with regional and local governments throughout Russia to make it difficult in many places for pro-democratic groups to function at all. Legalisms, cunning tactics and perhaps clandestine coercion might well prevent the pro-democratic parties from reaching voters directly in much of Russia outside of the major cities. And it is quite possible that the hard-liners will be planning secretly to rig the counting of the votes in the thousands of polling places where their political allies have control, thereby hoping to guarantee the success of their candidates.

On the other side, there are numbers of pro-democratic leaders and parties who have gained their first electoral experience in the June 1991 Yeltsin campaign for the Russian presidency and during the April 1993 referendum. But in both those cases, the pro-reform groups were united together against the hard-liners of the left and right. In the December 1993 parliamentary election they will—for the first time—be competing against each other as well as against the anti-reform groups. Further, since the pro-democratic political parties came into existence after the election of the now dissolved Russian parliament, they have remained relatively weak as organizations and have comparatively small memberships. As Yeltsin recently said, his "greatest mistake" was in having failed to have established a Russia-wide reformist political party with a grass-roots membership base.

Yeltsin should and most likely will give all major political parties—including hard-line communists—reasonably equal access to the

[1] Professor Constantine Menges is Director of the Program on Transitions to Democracy at The George Washington University. He has edited and contributed to the forthcoming book, Transitions from Communism in Russia and Eastern Europe (1993).

national radio and television that he controls. That would be fair and that would give the Russian public a chance to assess the various parties and their leaders. But, if numerous pro-democratic political parties take to the field and spend much of their time criticizing each other and Yeltsin as well as the hard-liners, and if the hard-liners are represented by a few moderate sounding parties, this could also work in their favor and against the reformers.

There are feasible, open and relatively inexpensive actions that the Clinton Administration can and should take immediately to encourage and assist the pro-democracy movements within Russia. First, it is important to identify the five or so leading pro-democratic parties and come to understand their programs and leadership. Second, pro-democratic political parties which request it should be given practical assistanee so that they can become more effective in conducting a political campaign throughout Russia. Such assistance might include training, communications equipment, funding, assistance with modern campaign and fund raising techniques, and help in preparing themselves to play a significant role in monitoring the election process and vote counting.

Every election can be unfairly rigged at any one of three stages—during the campaign, during the actual voting process, or during the vote counting and tallying. The Clinton Administration should respond to the invitation of the Russian government and immediately establish a credible monitoring group from the United States and other democracies that would have enough people, expertise, resources and mobility to support and monitor all three phases of the coming election for a new Russian legislature. The U.S. has a great deal of experience in conducting activities of this kind and this is the time for President Clinton to match his support for democracy with a rapid and competent response to the need and opportunity presented by the next phase of the dramatic competition for the future of Russia.

In December 1992 there were elections for the national legislature in Serbia. The communist dictator, Milosevic, fully intended to use the entrenched powers of his party and regime to control the outcome, but he did permit pro-democratic parties to compete. The West should have given those pro-democratic parties encouragement and practical assistance in sufficient quantity and time to have helped them campaign effectively. If that had been done, the democratic parties might well have won the election and brought about an end to the tragedy of the conflict in the former Yugoslavia. There is still time for a rapid response between now and the December 1993 Russian election is very short but with leadership by President Clinton, there could be a program of practical political assistance that could help the democratic parties in Russia turn the tide.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1993.

Hon. BILL CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to request your immediate attention to the issue of the parliamentary elections scheduled for December in Russia.

We believe that the election of a truly representative parliament through free, fair and competitive elections is absolutely critical to the future of Russian democracy. Further, we believe that such a vote would produce a Russian parliament that is far more democratic and friendly to the West than the just-disbanded Supreme Soviet. Hence, these elections have a direct bearing on our national security.

The problem, however, is that the democratic forces in Russia are poorly organized and have extremely limited means. The anti-democratic forces, on the other hand, retain much of the organizational ability of the former Communist Party and are in control of most of the local and regional legislatures in the country. There is a very real danger that they will be able to stifle competition and even rig the vote to produce another reactionary parliament. The democrats are in desperate need of outside assistance. We believe it is imperative for the West to provide as much assistance as possible to democratic candidates in Russia and to facilitate a smooth, fair electoral process through monitoring, etc.

There are of course, many organizations, such as NED, IRI, NDI and the newly-created Committee to Support Russian Democracy, that are already involved in these types of activities in Russia and which have fielded monitoring teams in the past. Also, there are several indigenous groups in Russia which are working along the same lines. We believe that immediate, direct assistance to these various groups would greatly enhance the chances of the December elections being free and fair.

We strongly urge you to make the December elections a top foreign policy priority and to divert from existing programs whatever resources necessary to achieve the objective of ensuring a free, fair and competitive process. Other foreign aid programs, both for other countries and within Russia, may indeed have merit. But ensuring democracy in Russia through truly democratic parliamentary elections is surely of the utmost urgency and should be treated as such.

We stand ready to lend our support to this process and thank you for your time and attention.

Sincerely,

GERALD B. SOLOMON,
Member of Congress.
TOM DELAY,
Member of Congress.
JAN MEYERS,
Member of Congress.

OPPOSITION TO NAFTA

HON. JACK QUINN

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 26, 1993

Mr. QUINN. Mr. Speaker, I rise today to state my serious concerns and opposition to the North American Free-Trade Agreement [NAFTA].

President Clinton has reaffirmed his administration's support for ratifying the treaty which was signed last December. Along with many of my colleagues in the House I am concerned that provisions in the agreement would encourage the migration of American manufacturing jobs to Mexico.

The Mexican labor system is vastly different from the United States system. Government control of organized labor forces wage controls and exerts pressure on the market to keep wages low, while state-of-the-art infrastructure fosters first rate productivity.

The arguments made by NAFTA proponents are predicated upon an open market economy where Adam Smith's invisible hand guides wages. There is no invisible hand in Mexico, rather a very visible hand of governmental control over the economy, a hand that represses wages, independent labor unions, and standards of living.

Our country exports large amounts of capital goods—materials to build infrastructure to export goods back to the United States. In addition, the United States exports materials which are assembled into final products in Mexico and exported back to the United States. Large portions of these United States exports are actually materials sent to Mexico to complete finished products using cheap labor—and shipped back into our country for our consumption.

The economy of Mexico is 4 percent of the size of the United States economy—but labor costs represent only one-seventh of labor costs in the United States. How can NAFTA expect to expand United States exports to Mexico when there is such a low-paid work force, in a small economy, that is pressured by the hand of governmental control to attract international investment?

Examine the investment criteria developed by AmeriMex investors. You will find that 5.9 million U.S. manufacturing jobs are vulnerable under NAFTA. New York would be the fifth hardest hit State in the Nation in terms of job losses.

In my district in western New York you only need look at the TRICO plant in Buffalo, or IBM in Rochester or Smith-Corona in Cortland, NY. NAFTA will open the floodgates for American businesses with labor intensive aspects to expand or move to Mexico.

Furthermore, the labor side agreements do not address these concerns. These agreements exclude industrial relations issues such as the right to strike or organize independent labor unions from the possibility of fines or sanctions. The side agreements simply ensure the enforcement of domestic labor laws.

Mr. Speaker, I support free trade—but only when it's fair and on a level playing field—I call that smart trade. The United States-Canadian Free-Trade Agreement is an excellent example of how free trade can and should work on a fair and level playing field.

I support the idea that expanded trade offers considerable investment and economic opportunities for the United States—however, a trade agreement that ignores, jobs, income levels, and the environment is not the answer. To achieve true economic expansion and integration among the NAFTA countries, we need effective, independent mechanisms that address inadequate labor and environmental standards and force upward harmonization—to U.S. standards.

INTRODUCING THE FEDERAL COGENERATION ACT OF 1993

HON. DICK SWETT

OF NEW HAMPSHIRE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 26, 1993

Mr. SWETT. Mr. Speaker, today I am introducing the Federal Cogeneration Act of 1993,

legislation to provide Federal agencies with the authority to sell energy from cogeneration. Under current law, only the Defense Department has this authority—to the exclusion of all other Federal sites where cogeneration makes good economic and environmental sense.

The Federal Cogeneration Act will help reduce the Government's energy costs, allow the Government to make efficient use of Federal facilities and resources, foster greater cooperation between the Government and private industry, and help the Government to set an example in energy efficiency.

I urge my colleagues to join me in supporting the Federal Cogeneration Act of 1993.

IN HONOR OF THE YWCA OF GREATER NEW HAVEN

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Ms. DELAURO. Mr. Speaker, tomorrow the YWCA of Greater New Haven will celebrate its 114th year of service. This occasion will also mark the 63d year of service at its current location at 48 Howe Street, New Haven. The YWCA has contributed so much to improving the lives of women across the country. I am pleased to pay tribute to this cherished local institution and invaluable national organization.

This year the YWCA of the United States of America is celebrating 135 years of service to American women, girls, and their families. Founded in 1858 by 35 women, the YWCA was established to assist women and girls adjusting to an increasingly urbanized and industrialized world. The YWCA supported and empowered these women through health, recreation, and community service programs.

In New Haven, the local YWCA has enjoyed over a century of service to area women. I am pleased to honor four extraordinary women who contributed to the planning and creation of the current Howe Street, building: Edith Suttie, age 102, Marjory Lundvall Zang, 94, Margaret Bozyan, 92, and Elizabeth Watson, 90. As members of the local YWCA board in 1929, these dedicated women were instrumental in the expansion of the struggle for women's rights in our area and promoted services for women such as skills training, child care, shelter and health and fitness information. The Howe Street YMCA stands today as a legacy of their hard work and commitment on behalf of area women. Though the times have changed, the mission has not. The Howe Street YWCA continues to offer a variety of services for women, from day care to a residential program for homeless women.

Thanks to the work of these four founders and the dedication and commitment of members through the years, the Greater New Haven YWCA continues to play a significant role in our community. I am honored to recognize Edith Suttie, Marjory Lundvall, Margaret Bozyan and Elizabeth Watson for their lasting contributions. On this special anniversary, I congratulate the YWCA of Greater New Haven for 114 years of exceptional service to women.

MEDISAVE EMPOWERS PATIENTS

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. HOKE. Mr. Speaker, for the 182 million Americans presently covered by private health insurance, health care reform need not involve a reduction of services, more bureaucracy, higher taxes, or diminished freedom of choice. In fact, there is a simple, easy to implement proposal that gives individual Americans more power over their personal health care than they have had in 30 years.

The fundamental problem with health care in America is that it costs too much. Next year, we will spend 15 percent of our gross domestic product—$900 billion—on health care, up from only 5 percent—$23 billion—in 1960. Individually, we spent an average of $2,518 per person for health care in 1991, 25 times the $126 spent in 1960.

A major unrecognized cause of these skyrocketing numbers is the lack of consumer incentives to control health care costs. Specifically, two historic events have combined to insulate most Americans from the cure cost of health care.

First, following World War II, employers began offering their workers paid health insurance coverage as a way of increasing compensation without violating the wage and price controls then in effect. Congress encouraged this both by allowing employers to deduct the premiums they paid, and by not taxing workers on the value of their new fringe benefits.

The second event occurred with the enactment of Medicare, when the Federal Government got into the health insurance business for everyone 65 and older. Millions of Americans became eligible for a health plan which, like most private insurance, limits their payments to a fraction of the true cost of the medical services they receive.

There is absolutely no doubt that both Medicare and employer-paid health insurance have done much to improve health care for Americans. There is also no doubt that both have kept consumers out of the health care price equation, allowing unchecked prices to spiral out of control. The simple fact is—when someone else pays, we as consumers just do not care what it costs.

Downward pressure on health care prices—just as on prices for food, clothing, or anything else—can only come from consumers. For decades that has not existed, and the result has been runaway costs rising at nearly triple the rate of inflation.

So what's the solution? The solution is Medisave, a commonsense idea that protects families from catastrophic medical expenses, provides them with a powerful new incentive to manage their own health needs responsibly, keeps doctors working for patients—not bureaucrats, and restores badly-needed competition to the health care market.

Here's how Medisave works. Currently, the national average for an employer-paid family health care plan is about $4,500 annually. Under Medisave, $1,500 of that $4,500 amount would be used to purchase a catastrophic health insurance policy with a $3,000 deductible, covering 100 percent of all health care costs above that amount. The remaining $3,000 currently being used to buy insurance would be deposited into the individual's Medisave account. These funds could be withdrawn tax-free as needed to purchase medical services. Money left over in the Medisave account plus interest would accumulate annually. Upon retirement, these funds could be withdrawn under rules identical to those covering individual retirement accounts [IRA's].

With Medisave, employers would not pay any more than they are currently paying for the same health care coverage, but consumers would have a powerful personal incentive to be cost-conscious when buying medical services. Medisave encourages and rewards healthy lifestyles and health-conscious personal decisions by awarding savings not to an insurance company or health maintenance organization, but directly to the consumer. Medisave puts patients back in the driver's seat where they belong and lets them choose their own doctors.

Not only will Medisave empower consumers, but it will also increase savings, spur economic growth by creating a vast new source of investment funds, and reduce administrative costs by substantially reducing the number of health insurance claims. And if you lose your job or find a new one, Medisave still works, because Medisave account belongs to the worker, not the employer. It can also be used to purchase insurance coverage while looking for a new job.

Medisave could even be used to address the health care needs of the 37 million uninsured Americans by applying its provisions to a voucher program. Most importantly, Medisave could be enacted today without hiring one new bureaucrat, and its positive benefits would become evident immediately.

Let's face it. Ultimately the question each of us must decide is how much power over our individual lives we want to assign to big government. Personally, my confidence is in the individual, the family, and private institutions, and I frankly find it ironic that a President who recognizes that the Government is broken and needs to be reinvented, would trust that same broken Government to fix the Nation's health care industry—fully one-seventh of our entire economy.

The positive impact on health care reform of having 182 million people suddenly asking tough questions about the cost of their medical services cannot be overestimated. Because I believe there is no more powerful instrument of reform than an educated consumer with a stake in the outcome, I have introduced H.R. 3333, the Medisave Patient Empowerment Act of 1993. I urge everyone who would like to return economic power over our health care system to the people who use it, to ask the President, their Representatives and Senators to support this legislation .

WILL BIOTECHNOLOGY SURVIVE THE CLINTON HEALTH CARE REFORMS?

HON. ELTON GALLEGLY

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GALLEGLY. Mr. Speaker, I think most of my colleagues would agree with me that one of the most exciting developments of the past decade or so has been the growth in the biotechnology sphere. Biotechnology has already produced many impressive breakthroughs that are enabling millions of Americans to live fuller, more productive lives, and even more breathtaking developments are on the horizon.

For that reason, I urge my colleagues to read the speech given earlier this month by Gordon M. Binder, Chairman and CEO of Amgen, Inc., the pioneering biotech firm headquartered in Thousand Oaks, CA. The future of untold Americans' lives is truly at stake as Congress debates revolutionary changes in our health care delivery system, and like Dr. Binder, I believe it is crucial that we take the time to really see what effect any changes will have before we impose them on the American people.

WILL BIOTECHNOLOGY SURVIVE THE CLINTON HEALTH CARE REFORMS?

(By Gordon M. Binder)

The question of the day: "Will Biotechnology survive the Clinton Health Care Reforms?"

The answer to that question depends, of course, on what kind of reforms evolve out of the tortuous and tumultuous year-long legislative and political process that has only just begun.

And let me say early on—like most biotechnology companies—and the pharmaceutical industry—we at Amgen are in full agreement with the overall goals of the Administration and the Congress that universal coverage, insurance reforms, and the inclusion of comprehensive coverage for prescription drugs are not only laudable—but necessary elements for a health care plan.

But, as this debate commences, it is crucial that in the process of reforming one-seventh of the nation's economy, we do not allow the weakening or destruction of an industry whose products hold the promise of improved lives and reduced costs to the overall health care system.

I am cautiously optimistic that the end result of this process will preserve that promise.

Why am I optimistic . . . why do I harbor hope?

Because biotechnology works.

And because it works, biotechnology's future is simply too important and too full of potential to be sidetracked by the only policy that could deal it a fatal blow—a policy that includes price controls on breakthrough drugs.

The Administration has justified this price control system by stating that U.S. drug prices are markedly higher here than abroad.

Let me say here and now—as far as biotech medicines—that assertion is flat wrong. Most biotech medicines sold in Japan are two and a half to three times the U.S. price . . . and European prices are appreciably higher than U.S. prices.

The sad fact is, the Administration and many journalists use statistics cited by critics of the industry that are false and misleading.

A recent column in the Wall Street Journal revealed basic flaws in the way the government has been tracking percentage increases in drug prices. By excluding older drugs and generic equivalents from the data, the government shows an increase in drug prices much higher than is really the case.

And, as the Washington Post recently pointed out in an editorial, "Drug costs have not gone up much faster over the past decade than other costs of health care . . . but drug prices are particularly sensitive because some insurance plans . . . notably Medicare—do not cover prescriptions . . ."

And let me add on behalf of the biotechnology industry—our drug have rarely had price increases at all. Those that have occurred have been less than the rate of inflation.

And yet critics of the medicine-producing industries, including biotech, continue to condemn us with faulty numbers based on faulty premises.

There is another reason why I am optimistic that biotech will survive these reforms . . . and that is because I think that proponents of price controls will lose this fight.

Does anyone really think price controls will work? Have they ever worked in the past?

Does anyone really think this Congress will defy logic—and the voting public—to install something that has never worked?

And I am optimistic because there are other signs of hope . . . House Majority Leader Richard Gephardt, for example, recently said that the proposed National Health Board—a proposed panel of political appointees with omnipresent power to pass judgment on prices and other mischie—isn't a sure thing for the final version of the health care legislation.

Let us hope he's right.

The products biotechnology has successfully brought to the market, though relatively few in number, have helped hundreds of thousands, if not millions of Americans live better, more productive lives.

And, although our biotech industry has been described as the "incubator for most of the progress that will be made in human health care in coming decades," the newness of this highly technical industry and the complexity of its products has sheltered it from the kind of exposure given to other technological industries such as computers and software manufacturing.

Our science gained new acclaim this week, however, with the Nobel Prizes for Medicine and Chemistry going to four researchers whose discoveries were instrumental in the development of biotechnology.

What is this thing biotechnology and how is it defined?

We at Amgen say that biotechnology is the art and science of using biological technology as a tool to unlock the body's natural secrets.

We see that art and that science as a part of the vision we have at Amgen and the vision held by the industry itself.

That vision begins through the eyes of the thousands of scientists working in hundreds of small biotechnology companies across the country.

Each day these dedicated researchers are making solid progress towards solving the mysteries of the human system.

As they work at their lab benches, they diligently and systematically search for the ever elusive solutions to such complex human ailments as cancer, AIDS, Parkinson's disease and Alzheimer's disease—diseases which have devastating effects on millions of Americans, both young and old—diseases which contribute significantly to the national health care bill—diseases for which there are no adequate treatments or cures.

Our vision is to find the solutions and cure these diseases. We believe we have the ability to do it.

It is estimated that the cost of these uncured diseases is some $419 billion annually—nearly half of our national health care cost. The most costly are Alzheimer's, cancer, cardiovascular diseases and even arthritis.

Our vision is an American vision shared by nearly 100,000 biotechnology industry employees across the United States who go to work each day knowing they are part of the solution.

They are part of a healthy and vital and growing industry . . . an American industry that leads medical science in such a dramatic way that the competition from the rest of the world is far, far behind.

They share the pride that comes with delivering hope and the reality of a healthier future to those who need it the most—the patients.

The miracles of biotechnology have brought the future to the present.

Just ask the breast cancer patient who can now receive her chemotherapy on schedule because she is at less risk of getting a life-threatening infection due to a breakthrough biotech product.

Or ask the elderly patient with chronic kidney failure who no longer suffers from severely debilitating anemia and who now has the energy to take his or her grandchildren to the zoo thanks to the relief provided by another breakthrough product.

Or ask the child who was destined for a short life because of repeated infections who can, for the first time, run and play with the neighborhood kids and attend school without fear of catching an infection that could threaten his or her life.

There are other equally compelling examples of patients suffering from multiple sclerosis and Gaucher's disease who have already benefited from the miracles of biotechnology.

To date, 22 new human medicines have been introduced as a result of biotechnology research and development.

Every one of these products was brought to the market by an American company.

There are another 130 therapeutics in the pipeline—which are already being tested in humans. Many of these medicines will directly find cures or relief for millions who suffer from the ravages of dread—and even exotic—diseases. Hundreds of other possible drugs and diagnostics are being researched in biotech labs in 47 of the 50 states.

This exciting and vibrant biotechnology industry showed a seventeen percent increase in sales between 1991 and 1992; its research and development budget increased 14 percent to nearly $6 billion; and it now employs nearly 100,000 Americans, an increase of better than 23 percent in one year's time.

In biotechnology, the U.S. is number one . . . and no one else is number two. But that is not to say the Europeans and Japanese are not hard at work—they are and with great energy and with strong governmental support.

As the biotechnology industry continues to grow, we are confident it will emerge as a major engine driving the U.S. economy.

The United States Department of Commerce has estimated that biotechnology will

have sales of over $50 billion by the end of this decade.

We in the industry feel that biotechnology is on the cutting edge of the American economic reformation of the 1990's—unless unintended consequences of reform derail our steady progress.

Despite the spectacular breakthroughs and economic growth over the past decade, concern and uncertainty have descended over our industry during the past eight months.

If some of the more dire threats prove out—principally controls over what companies can expect in return for expensive research and development investments, we have to ask: what will be the impact on the American biotechnology industry?

Let me cite Amgen's experience as an example of what an unfettered, innovative and competitive environment can mean in new products and new jobs.

Amgen's truly remarkable record of achievement and success is the result of a combination of courage, entrepreneurship and talent that combined in the early 1980's with little more than a few good ideas and expertise in gathering together top rank scientists into an environment that allowed them to be productive.

We then built an enviable record of capital formation. In fact, Amgen gained $19 million in its initial private offering, at that time a record for a biotechnology company. In total, Amgen raised more than $400 million before selling a single vial of product. We could not have raised this money in any other country.

The success of Amgen has been the direct result of a studied effort to invest in the future.

From a few dedicated scientists in 1981, we now have some 3,000 employees. Just this year we moved up more than 100 places on the Fortune 500 list of companies on the basis of sales of more than $1 billion. We are now the largest American-owned biotechnology company, and the largest biotech company in the world.

In 1994 we will spend nearly a quarter of a billion dollars in research and development—our new 200,000 square foot research and development center is a commitment to the people of our nation who face illness and the threat of illness. This building demonstrates our further commitment to the continued American dominance in this exciting industry, and is a symbol of the innovation, energy and skill of American science and the American worker.

This is a risk-heavy business.

There are 1,300 biotech companies in the U.S. Most are small and entrepreneurial. They are research-dominated, with more than 50 percent of their costs going into research and development. As many as 75 percent of these companies have less than 50 employees.

All but a handful of biotech companies do not have any product sales. They must fund their research through equity financing and are almost entirely reliant on private financing and public stock offerings on Wall Street.

And despite some flattering news accounts and political rhetoric, the truth is that our industry as a whole has yet to show a profit. In 1992, our industry lost $3.6 billion.

Because of the staggering promise of the industry, at least 90 percent of the nearly $6 billion spent on research and development this past year has come from private investors.

Even with all the risk and dangers, biotechnology has dramatically demonstrated its potential to become a major element of growth in our nation's strategic effort to meet foreign competition by maintaining American dominance in the world economy.

The writer and futurist John Naisbitt believes biotechnology will be to the 21st century what physics and chemistry have been to the 21th century.

And the future will be an American future. We have the products, the patents, the science, the markets.

In the competitive marketplace, the U.S. is really the only player.

At this point we should rephrase the question of the day: From "Will Biotechnology Survive the Clinton Health Care Reforms?" To "How Will Biotechnology Survive the Clinton Health Care Reforms?"

The Clinton Administration's proposed system of so called "stand by" or "indirect" price controls not only would seem to be unduly cumbersome with its new layer of bureaucracy, but is, in fact, simply unnecessary.

Most biotechnology medicines reach the United States market with prices that are determined by the research and development costs and market forces that include patient population and competing products.

Biotechnological products are an infinitesimal part of the total health care picture.

Total drug costs are only seven percent of the total health cost figure. And of that seven percent, breakthrough biotechnology drugs are between three and four percent of all drug costs, or about 1/500th of the nation's total health care costs.

We have seen in the initial draft version of the Clinton health care reform package price controls, mandatory rebates and arbitrary mechanisms that could remove a drug from Medicare. Any or all of these measures can only result in further uncertainty for biotechnology and put further pressure on this young industry's ability to secure the money and to engage in research and development of new products.

We are also troubled by the concept of "global budgets" for health care. How can we face up to the costly cures for AIDS and other unanticipated phenomenon that might arise in the coming years without an unencumbered research and development capability?

The simple fact is, the Clinton reforms as they stand today, will not dramatically change the largest producers of patent protected biotechnology products such as Amgen, or the big, fully-integrated pharmaceutical giants. But those controls will surely kill many smaller research-oriented companies.

The ultimate penalty for a complicated system of controls and rebates and mandates will be the further erosion of competitiveness and entrepreneurship in this vital and creative industry.

Why is this? Wall Street understands that government price controls would mean that investors' returns on their biopharmaceutical investments will be determined by the unpredictable actions of a few government officials rather than the marketplace, no matter what the drug's actual value to society.

The most effective, cost-control measures that the Administration can initiate is to encourage investment and risk-taking in medicines that can cure or knockout Alzheimer's, AIDS, Parkinson's and other debilitating diseases—cures that could save hundreds of billions on long-term care costs.

But, if there is no return commensurate to the investor's risk due to a government-set price, there will be no drug.

An exciting example of this kind of risk taking and its possible benefits was announced yesterday by Genzyme in that it has conducted the first successful clinical trial of cystic fibrosis gene therapy.

The 30,000 Americans now suffering from the effects of CF will be eagerly awaiting the outcome of further trials and research yet to be completed. The company has invested $40 million thus far and anticipates spending another $400 million even before the product enters the market. That's about $13,000 per patient for pre-market research and development alone—and there are no absolute guarantees of success.

This is a high risk industry—and now that we have the threat of price controls on breakthrough drugs—it is even riskier.

Common sense would tell us that the public will not stand for policies that impede the development of new medicines and new cures.

Let us hope common sense prevails.

Why? Because biotechnology is the incubator of new products for cures and diagnostics that will surely be the early detection pillar of cost-effective health care that all of us—not just the White House—want to evolve from this debate.

And so I say to those of you about to embark on this great challenge.

DO NOT impose punishing and unnecessary restraints upon biotechnology and medical innovation;

DO NOT cast away the great competitive advantage now held by our country;

BUT . . . DO allow biotechnology to compete freely in the marketplace, develop new cures and new miracles of diagnostics and outcomes to our people—now and in the future.

Biotechnology will, of course, survive—and that survival will be especially bountiful if we in the industry, and those making policy, work cooperatively to put together health care reforms that benefit the whole—without destroying that which has made our industry the wonder of the medical world.

Yes, we need universal coverage for all Americans.

Yes, we need health insurance that is portable, that can be obtained regardless of preexisting conditions.

Despite all the rhetoric, the best medical care in the world is right here in the United States. Many complain that the amount of GNP spent on health care in the U.S. is higher than anywhere else. But too many conveniently ignore the reason: we provide more care to each person, at a higher quality, than any other country.

Surely, we need to control costs. We need prescription drug coverage for senior citizens and other health care changes that most Americans support.

But we cannot destroy what works in our overriding desire to achieve reform.

Let us not change just for the sake of change.

This nation will be ever grateful if we can put more order and more efficiency into a system that may not be perfect—but is still better than any other.

So, let us get on with the process . . . and let us do it fairly, wisely and with compassion for those who need health care today—and for those who will need it tomorrow.

CONTINUED HUMAN RIGHTS ABUSES IN CHINA—A QUARTERLY REPORT ON CONDITIONS FOR MFN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SMITH of New Jersey. Mr. Speaker, 3 months ago today the House of Representatives failed to end most-favored-nation trading status for the People's Republic of China.

The Clinton administration argued that Beijing needed more time and promulgated an Executive order outlining conditions that would have to be met for renewal next year.

During the debate some Members of Congress who voted to end MFN during the Bush Presidency urged us to change this year and embrace the conditions. Like the President, they argued that China needed more time.

Well China got their reprieve. So this quarter we're asking, how are they doing after 3 months? Has the extension of MFN encouraged reform? Does China show any indication that it is willing to accept the conditions spelled out in the Executive order?

Today we are issuing the first quarter report card evaluating the progress—I should say lack of progress—that China has made since the conditions were spelled out.

By any reasonable barometer, it is tragically clear that China has failed miserably. If Mr. Clinton sought to renew MFN today, MFN would be a goner.

In not one area has China improved. In most cases conditions have deteriorated. And what is most disturbing, the Government of China not only does not care, it remains as defiant and arrogant as ever.

The report card would instill fear in the heart of any student who received it. Ten conditions. Eight failures. Two incompletes.

Freedom of emigration—failed.

Prison labor—failed.

Adherence to nuclear and other nonproliferation commitments—failed.

Releasing and accounting for political and religious prisoners—failed.

Ensuring human treatment of prisoners—failed.

Stopping forced abortion—failed.

Adherence to the Universal Declaration of Human Rights—failed.

Protecting Tibet's heritage—failed.

Permitting international radio and television broadcasts—incomplete.

Fair, nondiscriminating trade practices—incomplete.

The report card could not be made large enough to include all the comments that could—and probably should—be made. Each category, except permitting international radio and television broadcasts, contains one or two examples of China's continued violation of the conditions.

Along with my colleagues Mr. LANTOS, who led the effort to have the House go on record as opposed to China's Olympic bid; Mr. MARKEY, who led the drive to disapprove MFN in July; and Mr. WOLF, who has led the effort to stop the exploitation inherent in gulag labor and who will be issuing his own regular reports on China, I would like to point out some of the most egregious offenses which China continues to perpetuate.

In July we argued that China has one of the most deplorable human rights records in the world. The Government of China has given us no reason to think they've improved. In fact their actions serve as evidence that since MFN, China's record has gotten worse.

For instance—the Executive order requires that China comply with the 1992 bilateral agreement concerning prison labor.

Yet at recent hearings Assistant Secretary Winston Lord testified that there is—and I quote—"reason for concern." Lord went on to say that "overall implementation of the prison labor agreement has generally been characterized by poor communications, slow and cursory responses to investigation questions, and stonewalling or rejections of requests for visits."

The United States had asked the Chinese to investigate 31 cases of suspected prison labor violations. Up until the day of the hearing only 16 responses had been received. According to Commissioner George Weise these responses have been "very brief and lacked sufficient detail for customs to resolve the issue."

Of five requests to visit facilities, only one site has been visited. This one paltry visit proved inconclusive because the investigating team was denied access to several areas of the prison. In response to the United States criticism that prisoners are forced into labor, the Chinese maintain that in some factories attached to prisons, family members of prison employees, not prisoners, form the work force. Mr. Weise summed up well the frustration of this situation when he said, "We regrettably find ourselves at an impasse with the Chinese."

And testimony of a former labor camp prisoner further illustrates the horrors of the Chinese system. Xu Yiruo testified that

> Everyday, Sundays included, all prisoners were made to work for an average of 17 to 18 hours assembling electric Christmas tree lights. All work was performed on the cell floor and we were allowed out of the cell for only 15 minutes each day for a short period of fresh air. * * * Cell discipline was maintained by a cell boss—a prisoner who had gained favor with the guards and was entrusted with the job of reporting on the other inmates and forcing them to work harder. * * * On numerous occasions, the jail governor and other officials informed us that the goods we were making were for export, and they stressed that this was a 'glorious production task' which generated foreign currency for the state.

Given the evidence that forced prison labor continues, that many of the goods produced in these prisons are for export, and that the United States officials experience difficulty investigating the violations, China deserves an F for this condition.

When we visited China in 1991, FRANK WOLF and I presented a list of Christians who were then being held in Chinese prisons because of their religious activities.

Human rights organizations continue to document the detention and persecution of so called "non-registered Christians"—any Christian not registered with a state-approved church. Just last month I met with a high-ranking delegation of religious officials from China. Once again I had the opportunity to present a list of Christians who are imprisoned or persecuted for their religious activities.

Members of this delegation asserted that all religious prisoners were released before the delegation left China. In a despicable use of semantics, they claimed that many of the people still in prison have violated Chinese law, not because of their religious activities. Some on the list they said were not being detained in prisons but were living in old age homes, another semantic trick which attempts to deny the reality. Men and women, some advanced in age, are being detained, are denied basic human rights, or are victims of persecution simply because they are Christians.

Assistant Secretary of State John Shattuck, who recently returned from China, also presented a list of political and religious prisoners to Chinese officials. I look forward to hearing his report later this afternoon and hearing his impressions on China's response to the conditions.

Many pro-democracy activists continue to be detained in Chinese prisons. These young people are being punished for exercising rights that people the world over take for granted. The Chinese Government refuses to release them or provide for an accounting of their situation.

For China's continued abuse of political and religious prisoners, for their denial that there are people detained for their religious beliefs, for their refusal to account for religious and political prisoners, they deserve an F.

Prior to his return to China, Han Dongfang, hailed as the "Lech Walesa of China" for his efforts to organize independent trade unions, visited my office. At that time he told me of his desire to return to China and continue to work for labor and trade union reform. Unions in China are instruments of the government. They only benefits that workers receive from the unions are tickets to sporting events. Mr. Han's desire is to form a labor movement which works for the good of the laborer, improving conditions, and protecting their rights. As much as I admired him for that, when he told me about the suffering he and his wife endured when they reported to their local officials that she was pregnant without government permission, my admiration increased greatly. Denied any type of assistance or benefits, they chose to have the child. Although pressure to abort the child was great, they held to their convictions.

Han returned to China only to be stopped at the border, refused entry, and deported to Hong Kong. It has also been reported that he had been physically abused. China's refusal to allow Han to return to China clearly violates the Universal Declaration of Human Rights which allows for citizens to return to their homeland.

China also detains more journalists in prisons than any other nation. Since July several have been arrested and imprisoned, charged with leaking state secrets. Since the state controls all media it can control all information. Any journalists who work independently from the state, especially those who have contact with foreign journalists, are subject to imprisonment. Their trials are held in secret. Not even the families are allowed to attend. Chinese authorities justify this by saying that the

trials deal with state secrets. The imprisoned journalists are then subject to the same prison conditions as those that I talked about earlier.

For its many violations of the Universal Declaration of Human Rights, China deserves an F.

On the very day MFN was extended, an article in the New York Times reported that China's population control policy has so affected the balance of male-female births to the point that there are reports of bachelor villages. There have also been warnings that in 20 years young men may have difficulty finding wives. China's policy of one child per couple, combined with technology which enables the couple to determine the sex of the child, has resulted in millions of baby girls being aborted. Female infanticide continues unabated as a direct result of China's odious one-child-per-couple policy.

A previous exposé by the New York Times sheds further light on the nightmare of China's "Brave New World" of coercive population control. In that page one article entitled, "China's Crackdown on Births: A Stunning, and Harsh, Success," New York Times reporter Nicholas Kristof writes:

She should be taking her two-month old baby out around the village now, proudly nursing him and teaching him about life. Instead, her baby is buried under a mound of dirt, and Li Quilang spends her time lying in bed, emotionally crushed and physically crippled.

The baby died because under China's complex quota system for births, local family planning officials wanted Ms. Li to give birth in 1992 rather than 1993. So on Dec. 30, when she was seven months pregnant, they took her to an unsanitary first-aid station and ordered the doctor to induce early labor.

Ms. Li's family pleaded. The doctor protested. But the family planning workers insisted. The result: The baby died after nine hours, and 23-year-old Ms. Li is incapacitated.

Secretary of State Warren Christopher told the Foreign Affairs Committee that he was "appalled" by what he read in the Times and that he found it "really very abhorrent."

In an article in the July 1993 edition of Ladies' Home Journal, Steven Mosher details another woman's personal experience in China's brutal policy. "In China, she was a nurse who had no choice but to enforce her country's rigid population control policy. But when she became pregnant herself with a forbidden second child, she fought back against the government."

It was also reported that a Chinese bureaucrat wrote to a woman the author calls Chi An. She was temporarily living in the United States with her husband and son. The letter said, "Your news that you had accidentally become pregnant caught me by surprise. * * * If you come back at the end of this year pregnant, you will absolutely not be allowed to have your baby. * * * If you cannot have an abortion done abroad, then the factory director orders you to return to China immediately. Any further delays, and you will be punished according to the law. There is nothing ambiguous about our order!"

Perhaps we should all ask ourselves how we would feel, if our lived ones, including family and friends, were forced to live in a land where brothers and sisters were officially declared illegal; where only one child per couple is permitted; where children, if not explicitly authorized by a birth quota system engineered by the government, are literally stolen from their moms and killed with poison by population control fanatics.

How would you like to be ordered to be sterilized—"but I desperately want to have a family," you might say. "Tough," says the dictatorship, "get back in line for your sterilization or you'll be punished. This isn't a democracy; it's a dictatorship. You have no rights of appeal or due process rights of any kind."

Some brave souls in China somehow manage to evade the population gestapo, but they too are usually discovered for the punishable offense of having and loving children. Once discovered, they are often beaten, demoted, and discriminated against at work, severely fined, or their homes are demolished.

All of this cruelty against women, children—the family—is day-to-day reality on an unbelievably massive scale in the People's Republic of China.

My wife and I are proud parents of four wonderful children. If Beijing's policy applied to us, three of our kids would be dead. China's one child per couple policy, with its pervasive use of forced abortion and forced sterilization to achieve its goals, is a scandal. It is inhumane and constitutes crimes against humanity. All this cruelty from a dictatorship in Beijing, answerable to no one.

On two occasions Congress has condemned China's egregious human rights practices as crimes against humanity.

For its continued crimes against humanity China deserves an F.

I could go on about other categories, and I am sure that my colleagues will discuss some of them. What adds to the offensiveness of these crimes is China's response to the conditions.

Chinese authorities say they welcome the dialogue, but they continue to let us know quite clearly, and with one voice, what they think of the conditions. They hope that the human rights dialog will enable the United States to make an objective and fair assessment of China's human rights situation. But they want it their way.

A foreign ministry spokesman said, "The human rights issue in essence falls within the scope of a country's sovereignty. To attach conditions * * * is unacceptable to the Chinese."

Whether the Chinese like it or not, the conditions are there, and for me, they are not negotiable. For 3 months the Chinese have been the recipients of most-favored-nation trade status. In that time they have stuck the conditions in our face each time they had an opportunity. Assistant Secretary of State John Shattuck, after his recent trip to China, said, "There has been little or no human rights progress in China."

Not only has there been no progress, for thousands, if not millions, conditions have gotten worse. While the conditions attached to MFN may be unacceptable to the Chinese, the condition of human rights in China is not acceptable to the American people. And their response is unacceptable as well. The wanton disregard for human rights and the blatant defiance of the conditions must be corrected.

After one quarter China is failing—and failing badly.

1ST QUARTER, CHINA MFN REPORT CARD, JULY 21 TO OCTOBER 21

Condition	Grade	Comments
Freedom of emigration	F	Gao Yu was arrested on October 13, two days prior to her leaving China to accept a visiting scholar position at Columbia University Graduate School of Journalism. She has been charged with "leaking state secrets abroad."
Prison labor	F	Asia Watch reported on September 9 "that China's policy on prison labor remains essentially unchanged. Forced labor continues, political and religious prisoners and others are used to produce goods for export, and human rights abuses in the Chinese gulag are rampant and unchecked by Chinese authorities."
Adherence to the nuclear and other nonproliferation commitments	F	China transferred M–11 missile technology to Pakistan, violating the Missile Technology Control Regime.
Releasing and accounting for political and religious prisoners	F	A list of over 100 Christian prisoners was presented to a high-ranking delegation of religious officials in September. They claimed that all religious prisoners were released and that the names on the list were not detained because of their religious activities but because they have broken Chinese laws.
Ensuring humane treatment of prisoners	F	A pregnant Tibetan woman suspected of pro-Tibetan activities, was arrested in May. She lost her child during this detention due to harsh treatment, which included standing for over twelve hours.
Forced abortion	F	Millions of women are forcibly aborted. Female infanticide continues unabated as a direct result of China's odious one child per couple policy.
Permitting international radio and television broadcasts	I	No reports indicate any significant positive change.
Fair, nondiscriminatory trade practices in dealing with U.S. businesses	I	No reports indicate any significant positive change. Although the Communist Party has continually promised to relax its policies on private enterprise, they have not made any moves to enact any laws to enforce fair and just treatment.
Adherence to the Universal Declaration of Human Rights	F	Some sources indicate that China hold more journalists in prison than any other nation and the Communist party continues to censor information. Some journalists arrested since July include Xi Yang, Tian Ye, Bai Weiji, Zhao Lei, Wang Jun, Tang Yi, Wu Shishen and Ma Tao.
Protecting Tibet's distinctive religious and cultural heritage	F	The Chinese government continues to authorize the destruction of traditional Tibetan homes and buildings and replacing them with Chinese structures. A U.S. delegation noted the large military and Chinese presence occupying Tibet.

THE TRUTH ABOUT NAFTA

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. ANDREWS of Texas. Mr. Speaker, too much of what we have heard about the NAFTA has been based on unjustified fear, rather than on rigorous economics analysis. Last month the Congressional Budget Office reconfirmed the previous work by the International Trade Commission demonstrating that NAFTA will benefit U.S. workers and consumers.

A superb example is what NAFTA will do for the U.S. petroleum service industry, which is probably one of the most competitive industries in the world.

The Houston petroleum service and supply industry has been a world leader in technology and high-wage, skill-intensive jobs. As the decline in U.S. exploration and production has caused a dramatic decline in domestic demand for their goods and services, U.S. energy service and supply companies have turned increasingly to exporting their services and equipment to foreign markets.

U.S. jobs in the petroleum service and supply sector have declined by 400,000 over the last 12 years, more than in any other industrial sector with exports now accounting for over 70 percent of sales of U.S. oilfield equipment.

Mexico represents a great opportunity for the Houston petroleum service, supply companies, and their employees. Mexico is in the very early stages of a multiyear program of modernization that is estimated to require over $20 billion in investments for exploration and development activities, pipeline and refinery expansion and replacement, and pollution control equipment.

Mexico agreed in the NAFTA to open procurement to foreign participation and to reduce tariffs on oilfield equipment—a dramatic change from the current practice of protecting Mexican suppliers.

United States companies supply about 65 percent of the foreign materials bought by Mexico's national oil company; if that share continues as Mexico increases foreign procurement, United States firms will gain more business, creating a much improved jobs situation in the United States.

U.S. petroleum service and supply jobs are high paying and skill intensive. Petroleum exploration has been a driving force in advances in high capacity computers and computing software. Advances applied to petroleum exploration and production include advanced telecommunications, satellite navigation and positioning, metallurgy, mechanical engineering, rock mechanics, fluid dynamics, materials engineering, pollution control engineering, interactive computing, logic systems, artificial intelligence, mathematics, chemistry, and physics.

Manufacturing and field jobs require highly-automated equipment engineered for safety, cost efficiency, and flexibility to respond to requirements of a particular project or various operating conditions. Training and education expenditures in the petroleum service and supply industries probably exceed the average for all U.S. manufacturing because of the skills demanded and the continual advances in technology.

If the NAFTA is not implemented, our gains on Mexico's procurement practice—made after very tough negotiations that put Mexico's negotiators under stiff pressure from its suppliers—will be lost. The Mexican market probably will be left to foreign competitors who have been gaining rapidly on United States technology leadership in recent years. The result will be U.S. job losses and the de-Americanization of a leading U.S. industry.

The NAFTA comes at a critical time for Texas and all U.S. energy service and supply companies. It represents a great opportunity for United States jobs in support of exports to Mexico, especially since we are neighbors. To fail to "lock in" the gains made in the NAFTA would be a major blow to U.S. energy service and supply firms and their employees.

SUPPORTING UNITED STATES-CARIBBEAN COMMERCIAL LINKS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. TOWNS. Mr. Speaker, I wish to draw my colleagues' attention to an issue of major importance for the overall health of the U.S. international trade position—the U.S.-Caribbean Basin commercial relationship.

U.S.-Caribbean Basin trading links have grown stronger in the past decade largely because of trade and investment programs such as those that offer duty-free access under the Caribbean Basin Initiative and financing by the section 936 tax credit. By directing some of our limited resources to encourage trade-related growth in the Caribbean, we have stimulated economic development throughout the region while providing U.S. exporters with a growing market.

In the last 10 years, U.S. exports to the Caribbean have expanded by 100 percent, making the Caribbean Basin the 10th largest market for U.S. exporters. The bilateral trade relationship now stands at over $21 billion, providing employment for over 220,000 American workers and generating many thousands more jobs throughout the Caribbean Basin. In 1992, the United States posted a trade surplus with the Caribbean for the 7th year in a row.

More than ever, Caribbean Basin countries are highly dependent upon trade with the United States to sustain their economic growth. For some countries, such as Jamaica, we are the market for over half their exports and the source for as much as 90 percent of their purchases. To become more competitive, these countries have taken brave steps to reform their economies, lower trade barriers, and open up their markets for U.S. competition. Just 2 weeks ago, for example, Jamaica removed the import duty on rice, further liberalizing its agricultural import market while eliminating the cause of a potential trade dispute with the United States.

But these trade gains have been accompanied by an unusual affect that is indicative of the success of these programs as well as the need for constant engagement in U.S.-Caribbean trade relations. As the Caribbean economies have grown, Caribbean exporters have begun to diversify out of the traditional commodities—such as sugar and aluminum—into manufactured goods not covered by the Caribbean Basin Initiative [CBI]. As a result, the average U.S. tariff faced by Caribbean exporters to the United States has increased from about 1 percent in 1983 to nearly 10 percent in 1992.

Although the Caribbean exporting community has been able to remain competitive despite this gradual increase in tariffs, we are beginning to debate legislation that will virtually wipe out any hopes that they will remain competitive in the years to come.

As it is currently drafted, the North American Free-Trade Agreement [NAFTA] will provide tariff free treatment for Mexico in many goods that the Caribbean countries now export to the United States. By giving Mexico preferential access to the United States market, NAFTA will undermine the economic diversification in the Caribbean, deflating any hopes for sustained economic growth in that region. Without access to export revenues from sales in the United States, the Caribbean Basin countries will be unable to purchase American-made goods and services. This, in turn, will threaten the job base of many businesses and communities that depend on strong U.S.-Caribbean links to thrive.

Mr. Speaker, in mid-October, I had the opportunity to meet with Dr. Paul Robertson, the Jamaican Foreign Minister, who was in town meeting with representatives of the Clinton administration to discuss ways to enhance U.S.-Caribbean economic relations. In that meeting, I told the Foreign Minister that I strongly support efforts to include within NAFTA the necessary provisions to protect the Caribbean from such a scenario. Earlier this year, I cosponsored legislation H.R. 1403—introduced by Chairman GIBBONS—that would ensure that the Caribbean countries not be trampled by Mexico under NAFTA. I believe that H.R. 1403 is good model for the kind of policy we should be developing to support U.S.-Caribbean trade links, and I again urge the administration to include it as part of its NAFTA package.

NATIONAL PASTORAL CARE WEEK

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEWIS of Georgia. Mr. Speaker, across our Nation, thousands of dedicated, well-trained and gifted pastoral care givers of all faiths labor intensively in congregations, hospitals, correctional facilities, mental health systems, the military, and counseling centers. They draw on spirituality to care for so many in need of their guidance and their faith.

These clergy and lay-persons will be honored this week, October 25–31, 1993, during "National Pastoral Care Week."

The Congress on Ministry in Specialized Settings [COMISS], a national organization comprised of pastoral care providers, pastoral care professionals and faith group endorsers,

has established several objectives for the observance of National Pastoral Care Week.

These objective include: Celebration of the growing professional development of pastoral care and affirmation of its mission and purpose within specialized settings; recognition of professional chaplains, volunteer care givers and persons in local congregations who provide pastoral care; appreciation for appropriate institutions and their staff for their support for pastoral care ministries; promotion of the work and certification procedures of pastoral care organizations affiliated with COMISS; and, a continuation of education for clergy, laity and institutional employees.

National Pastoral Care Week and the theme of this week, "Pastoral Care: Stories in Partnership," provides a time for celebrating partnership in pastoral care. Some pastoral care givers may use this time to share stories of their ministries. Some may use this time to heighten awareness in their communities of their work. Above all, this week provides a time for reflection on the values embodied by pastoral care givers. Pastoral care givers encourage appreciation for individuality, respect for human dignity, a sense of justice and mercy, a balance of acceptance and accountability, and an incarnation of love and hope.

Too often the work of pastoral care givers goes unappreciated or unacknowledged. We must remember, especially during this seek, to take the time to express appreciation for our spiritual healers. I ask my colleagues to join me in recognizing the great necessity and value of pastoral care givers in this country. Please join me in celebrating "National Pastoral Care Week."

EMPLOYER SANCTIONS MUST BE STRENGTHENED

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MAZZOLI. Mr. Speaker, last week the Subcommittee on International Law, Immigration, and Refugees, which I am honored to chair, approved legislation to reform our asylum system. Moving that bill was a giant step forward in our efforts to deal with illegal immigration, but much more needs to be done.

The flow of undocumented aliens into the United States must be stemmed, and to that end the promise of employment must be eliminated as an incentive for aliens to enter the United States illegally. Jobs continue to be the prime magnet. Until we eliminate the lure of jobs, we will never come to grips with the problem of illegal immigration.

Employer sanctions was a critical part of the 1986 Immigration and Reform and Control Act, and I continue to believe that employer sanctions provide an important tool in our efforts today against illegal immigration.

However, it is clear that the employer sanctions program has not lived up to its potential. Some of the weaknesses of the current employer sanctions program that hinder its effectiveness in preventing illegal immigration are a lack of enforcement, a vast array of documents that can be proffered by job applicants, and low penalties for violations of the law.

As the Commission on Agricultural Workers states:

With employer sanctions failing to curtail the employment of large numbers of these unauthorized immigrants, unauthorized entrants have continued to supplant the pool of available workers in the United States. * * * Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. government should also develop a better employment eligibility and identification system * * * so that employer sanctions can more effectively deter the employment of unauthorized workers.

Testimony at the subcommittee's June 16, 1993, oversight hearing on employer sanctions also emphasized that the current employer sanctions program could be made much more effective in preventing illegal immigration.

Preventing illegal immigration is necessary in order to preserve legal immigration. The American public has seen how our immigration laws are being abused and many people are demanding a drastic reduction in all immigration, legal as well as illegal. This would be unfortunate. While we must take firm measures to prevent our immigration laws from being abused, legal immigration adds immeasurably to the strength and vitality of our country and needs to be preserved. What is needed is legislation to strengthen our employer sanctions law. Accordingly, I am today introducing the Employer Sanctions Improvement Act of 1993. This bill strengthens the current employer sanctions law by promoting enforcement, by making the law more understandable to employers by reducing the number of documents that can be proffered to show work eligibility, and by raising the penalties for violations of the law.

A complete description of the bill follows:

Section 1—Short title; table of contents; references to Immigration and Nationality Act.

The short title of the bill is the "Employer Sanctions Improvement Act of 1993."

TITLE I—PROMOTING ENFORCEMENT

Section 101—Removal of Federal preemption from employer sanctions.

Under current law, states are expressly preempted from establishing programs of their own that impose sanctions on employers who knowingly employ unauthorized aliens or fail to comply with an employment verification system. Section 101 would remove the federal preemption and allow states to establish state employer sanctions programs.

Section 102—Creation of private right of action.

Section 102 creates a private right of action against employers who violate federal employer sanctions law. Under the private right of action established by this section, persons and other entities—including states—aggrieved by an employer's violation of the employer sanctions law may bring suit against the employer in a proceeding before an administrative law judge (ALJ) and recover damages.

Certain conditions must be met before a suit can be filed. A complainant who alleges that an employer is violating the employer sanctions provisions must first file a charge with the Attorney General, who will serve a notice of the charge on the alleged violator. If the Attorney General does not institute a proceeding, or impose an order against the alleged violator, within 120 days, the private person or entity making the allegations can file a complaint before an ALJ within 90 days after receiving notice from the Attorney General. States are exempt from these conditions and can file suit directly before an ALJ.

If the ALJ finds that a violation has been committed, the ALJ may order the violator to pay the complainant liquidated damages of up to the maximum fine that could be imposed by an ALJ in a proceeding brought by the Attorney General and to cease and desist from the violations. The ALJ may also grant the prevailing party attorney's fees if the judge determines the opposing party's argument was without reasonable foundation in law and fact. Judicial review for private employer sanctions suits will be the same as those that currently exist for employer sanctions suits that are filed by the Attorney General.

Section 103—States immigration assistance and enforcement grants.

This section creates a $300 million grant program ($100 million per year for each of fiscal years 1995, 1996 and 1997) to assist states in implementing state employer sanctions programs and in defraying state and local costs (such as health, education, and law enforcement costs) attributable to the presence of undocumented aliens.

A state will not be eligible for such a grant unless the state cooperates with (and does not take any action that impedes) the Attorney General in activities to prevent and deter the entry of undocumented aliens. To obtain a grant, the state must submit an application to the Attorney General who will determine the amount of the grant based on a formula involving the needs of the states and the extent of their cooperation with the Attorney General. Not more than 5% of the funds paid to a state maybe used for administrative purposes. Not more than 2% may be used by the Federal Government to administer the program.

Section 104—Requiring State enforcement as a condition of Federal assistance.

Section 104 requires states to enforce employer sanctions as a condition for receiving grants under the Omnibus Crime Control and Safe Streets Act of 1968. States could meet this requirement by either actively enforcing the existing federal employer sanctions program through private suits (see section 102 above) or by establishing and actively enforcing their own employer sanctions program. This provision applies to grants beginning in fiscal year 1996.

Section 105—Permitting complaints other than in writing.

Some violations of the employer sanctions law are brought to the attention of the Immigration and Naturalization Service (INS) by private individuals who complain that a particular employer is violating the law. Under current law, individuals can inform the Attorney General of violations only if they file written, signed complaints. In order to make it easier for people to register complaints, section 105 requires the Attorney General to establish procedures that permit complaints to be registered in person, by toll-free telephone number or by mail.

Section 106—Authorizing the Attorney General to seek judicial review of adverse decisions.

Under current law, defendants who lose their employer sanctions cases can appeal the decision to the appropriate Court of Appeals. The law, however, provides no right of appeal when the Attorney General is the losing party. Section 106 remedies this by permitting the Attorney General to appeal an

adverse decision to the appropriate Court of Appeals.

TITLE II—IMPROVING THE EMPLOYMENT VERIFICATION SYSTEM

Section 201—Eliminating unnecessary employment verification documents.

A fundamental weakness in the employer sanctions program is that a vast array of different documents can be proffered by job applicants to prove identity and authorization to work in the United States. Under the Attorney General's current regulation implementing the employer sanctions law, there are 29 different types of documents that applicants can proffer to illustrate employment eligibility, identity, or both eligibility and identity. Included among the current list of acceptable documents are a foreign passport, a Canadian driver's license, a school ID card, a report card, a hospital record, and a day-care or nursery school record. Section 201 would reduce confusion by greatly reducing the number of such documents that could be proffered to employers.

Documents to establish both identity and employment authorization.

Under current law, the following documents establish both identity and employment authorization: a U.S. passport, a certificate of citizenship, a certificate of naturalization, a foreign passport (if endorsed by the Attorney General), and alien-specific documentation issued, or recognized, by INS. Section 201 would remove the certificate of citizenship, the certificate of naturalization, and the foreign passport from the list, leaving the U.S. passport and the alien-specific documentation.

Documents to establish work authorization.

Under current law, the following documents establish employment authorization: a social security card, a birth certificate in the United States, and such other documentation as the Attorney General finds acceptable by regulation. Under current regulations, other acceptable documents include a certificate of birth abroad issued by the Department of State, a U.S. citizen ID card, an ID card for use of Resident Citizen in the United States (sic), and various other INS employment authorization documentation. Section 201 limits the list to the social security card and birth certificate.

Documents to establish identity.

Under current law, applicants can proffer a driver's license or a similar document issued by a state for the purpose of identification to establish identity. Also, children can proffer documentation deemed acceptable by the Attorney General. Under the current regulation, acceptable documents for children are: a school record or report card, a clinic, doctor, or hospital record, and a day-care or nursery school record.

This provision removes documentation for children from the list, leaving the driver's license and state identification card as the acceptable documents to establish identity.

Attorney General's authority to expand list.

This provision prohibits the Attorney General from expanding the list of acceptable documents for employment authorization or identity, or both, beyond the documents that are provided for by statute.

Section 202—Authorizing the Attorney General to improve the employment verification system.

Current law gives the President the authority to monitor and evaluate the degree to which the current employment verification system is secure. If the President finds it is not, the President can implement changes to establish a secure system. For example, the President could reduce the number of employment verification documents or even establish a call-in verification system that does not require documents at all. However, no effort has ever been made to utilize the authority provided by this law.

Section 202 transfers from the President to the Attorney General the authority to monitor and evaluate the verification system and to establish a secure system. If any changes are to be made to the social security card, the approval of the Secretary of Health and Human Services is also required.

Section 203—Report on consolidation of documentation evidencing temporary work authorization.

Throughout the years, INS has issued many different types of documents that can be used by aliens to demonstrate temporary work authorization. Consequently, there are numerous variations of valid temporary work documents, with the style of the document varying depending on the year the document was issued.

Section 203 requires the Attorney General to submit a report to Congress that describes the various types of documents that have been issued to aliens by INS for purposes of demonstrating temporary work authorization, INS' efforts to update or consolidate the documentation into a single, tamper-resistant document, the costs associated with such efforts, the status of current plans to update and consolidate the documentation, and the feasibility and cost of eliminating from circulation within 3 years after date of enactment, all of the various forms of temporary work documents and replacing them with a single, tamper-resistant document evidencing temporary work authorization.

TITLE III—ADDITIONAL PENALTIES AND INCREASES IN PENALTIES

Section 301—Civil penalties for aliens employed without authorization.

An employer who knowingly hires an unauthorized alien to work in the United states is currently subject to a range of fines, and possibly imprisonment. However, the alien who actually works without authorization is subject to no such sanctions. Section 301 creates civil penalties for aliens who work without authorization. Aliens who are self-employed would also be subject to this penalty. The civil penalty is not less than $250 and not more than $2,000.

Section 302—Prohibition of adjustment of status for unlawful employment.

Current law provides that aliens who have worked without authorization are generally not eligible to adjust status to permanent residence. However, an exception exists which allows immediate relatives and certain special immigrants who have worked without authorization to adjust. Section 302 eliminates this exception and provides that no one who has worked in the United States without authorization can adjust status to permanent residence.

Section 303—Increased penalties for violations of employer sanctions.

Current civil penalties for hiring unauthorized aliens range from $250 to $2,000 for the first offense, $2,000 to $5,000 for the second offense, and $3,000 to $10,000 for the third offense. Criminal penalties include a maximum $3,000 fine and 6 months in jail. Penalties for paperwork violations range from $100 to $1,000. The penalty for indemnity bonds is $1,000 for each offense. Penalties for discriminating based on national origin or citizenship range from $250 to $10,000, depending on how many previous violations occurred.

This section increases the penalties. The civil penalties for hiring aliens would range from $500 to $4,000 for the first offense, $4,000 to $10,000 for the second offense, and $10,000 to $30,000 for the third offense. The criminal penalty would be a maximum of 2 years in jail and a fine of $5,000 for individuals and $10,000 for organizations. Penalties for paperwork violations would range from $500 to $5,000. The penalty for indemnity bonds would be $2,000 for each offense. Penalties for discrimination would range from $500 to $30,000, again depending on how many previous violations occurred.

Section 304—Increase in civil money penalties for document fraud.

Current civil penalties for immigration related document fraud range from $250 to $5,000. This section increases the range of penalties from $500 to $10,000.

HONORING THE U.S.S. "WASHINGTON"

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. RICHARDSON. Mr. Speaker, I am honored to recognize the service of the U.S.S. *Washington*, a battleship which protected our Nation for more than two decades and defended the Allies and holds special memories to the thousands of sailors who served on it. I am proud to recognize the U.S.S. *Washington* and its rich history of accomplishments.

The eighth *Washington* BB56 was laid down on June 14, 1938, in the Philadelphia Navy Yard and launched on June 1, 1940. Sponsored by Miss Virginia Marshall, the U.S.S. *Washington* was commissioned on May 15, 1941, with Capt. Howard H.J. Benson in command. The battleship served for 4 months in 1942 with the British fleet as flagship on the mission to escort convoys to Murmansk and Archangel, Russia.

On August 23, 1942, the U.S.S. *Washington* sailed to the Pacific for 34 months of outstanding service. While in the Pacific the battleship fought and won a classic ship to ship duel with the Japanese battleship *Kirishima* at Guadalcanal becoming the first United States battleship to fight an enemy battleship and the only one to singly destroy one.

The U.S.S. *Washington* patrolled the enemy waters alone for 5 weeks where the battleship damaged three enemy cruisers and a destroyer, and sank a battleship, destroyer, oil tanker, and several other transports. In addition, the U.S.S. *Washington* shot down 12 enemy planes and bombarded 10 enemy islands. After bravely serving our Nation, the U.S.S. *Washington* arrived in Puget Sound Navy Yard on June 23, 1945, after steaming 289,609 miles and never being hit or losing a man to the enemy.

The U.S.S *Washington* was struck from the Navy list June 1, 1960, without ever receiving due praise for sinking more combat tonnage than any U.S. battleship in World War II. I ask my colleagues to join me in recognizing the contributions of the U.S.S. *Washington* and the persons who fought on its decks and manned its bows.

H.R. 1845, NATIONAL BIOLOGICAL SURVEY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEHMAN. Mr. Speaker, I wanted to express my regret for having missed the vote on final passage of H.R. 1845, a bill to authorize the Secretary of the Interior to establish a Biological Survey within the Department of the Interior. I was unfortunately detained in a meeting with Secretary of Labor Reich, and could not reach the floor to cast my vote. Had I been able, I would have voted in favor of the survey because, while I have reservations about it, I do believe that the Secretary will establish the survey even without congressional authorization. With this in mind, I want to ensure that this body's views are adhered to by the Secretary in managing the Biological Survey.

As part of the House's consideration of this bill, I offered two amendments which were accepted. They stipulate that the science conducted by scientists at places like the Sequoia National Park in my district will not be discontinued because scientists from the park are transferred to the survey. This will maintain the high quality of research on the giant sequoia and other concerns important to our Nation's parks are maintained.

The other amendment makes certain that employees of the survey will meet similar conflict of interest criteria currently applied to the U.S. Geological Survey. No survey employee may own an interest in land under survey or have side work in a job that might undermine the credibility of his/her work for the survey.

THE 30TH ANNIVERSARY OF BIOLOGY, BIOTECHNOLOGY, AND ENVIRONMENTAL SCIENCES PROGRAMS

HON. WILLIAM P. BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BAKER of California. Mr. Speaker, I rise today to extend my congratulations to the men and women of the Biology, Biotechnology, and Environmental Sciences Programs of Lawrence Livermore National Laboratory, which on September 24, 1993 celebrated the 30th anniversary of their efforts to understand, preserve and improve human health and the environment.

For three decades Livermore biomedical researchers have developed innovative technologies to understand the causes and improve the diagnosis of many human diseases. Today they are aggressively transferring these technologies to the commercial sector, and are developing new scientific directions in structural biology and bioengineering to keep this Nation at the forefront of biotechnology research in the 21st Century.

Livermore biomedical breakthroughs have captured the attention of the Nation and the world. Recently, Livermore scientists in the Human Genome Center, working as part of an international team, discovered the genetic defect that causes the most common form of muscular dystrophy. Another team of Livermore scientists has identified a gene responsible for a rare form of skin cancer. Additional groups of researchers have developed innovative methods for characterizing mutations that may cause cancer and birth defects.

At the same time, Livermore environmental researchers have been examining the effects of energy-related pollutants and radiation on all forms of life. Major assessments have been prepared on the consequences of the Chernobyl accident in the former Soviet Union, nuclear tests in the Marshall Islands, and the potential risks related to hazardous wastes at U.S. Department of Energy sites. Also, these scientists have developed innovative new techniques such as optical fibers to detect and monitor pollutants in environmental media. They have designed creative environmental cleanup strategies that include using microorganisms to completely degrade pollutants to harmless endproducts.

Additionally, atmospheric scientists at Livermore are developing and using the most sophisticated computer models in existence to predict local, regional, and global effects of man-made pollutants released into the air. For example, these models are being used to evaluate quantitatively the potential Greenhouse Effects on the biosphere; played a significant role in the assessment of the atmospheric and environmental consequences of the oil fires ignited in Kuwait during the Gulf War; and were instrumental for evaluating atmospheric dispersion and terrestrial deposition of the radionuclides released during the Chernobyl accident.

Again, I offer my heartfelt congratulations and sincere thanks for three decades of enormous contributions to the Nation.

IN HONOR OF MELBA SAWYER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Melba Sawyer's distinguished career of services to the children of Alameda County and the East Bay.

For more than 23 years, until her retirement in July, Melba Sawyer served as a teacher at the Alameda County Juvenile Court Schools and with the Castro Valley Unified School District.

While working for the Alameda County Office of Education, Melba Sawyer was a teacher of language arts and home economics. Previously, she was a special education teacher in Castro Valley who worked with the blind. She is also a founding board member of Project Eden, a drug abuse program in the East Bay.

The people of Alameda County will miss this dedicated woman who spent her life teaching and helping the young people who will lead the next generation. She chose a career of service that many shy away from, and our friends and neighbors are better off as a result. I want to join those who have recognized and thanked Melba Sawyer for her hard work and many achievements.

THE 1993 CRIME BILL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DORNAN. Mr. Speaker, as I address the House, the Judiciary Committee is preparing to mark up the 1993 crime bill. Since our Nation is being pummeled by a storm of violence and crime, it is important that every Member of the House take a personal interest in the crime bill. In my district it will literally mean the difference between life and death for many citizens.

The city of Santa Ana, CA, sits squarely within my congressional district. Santa Ana is the seat of government for Orange County and, therefore, houses many of the judicial and social services for all of Orange County's citizens.

Because of the rapid increase in crime throughout southern California, the court and jail systems in Orange County are beyond bursting at the seams; they have become sieves, pouring arrested criminals back onto the streets. In fact, the Federal court in Santa Ana was deemed so inadequate that Congress this year has funded a massive expansion of those facilities.

Unfortunately, even though the court system will be expanded and improved, there will be nowhere to house individuals charged with crime while they await trial. Compounding the problem is the fact that Santa Ana was identified as a high crime area and targeted for Operation Weed and Seed funds.

In the last year, as a result of weed and seed funding, drug arrests in Santa Ana have increased 26 percent, robbery has been reduced by 45 percent, assault is down 38 percent, auto burglary is down by 60 percent, and commercial burglary has been reduced by 35 percent. However, as of October 21, Santa Ana was the site of 61 murders, more than the entire amount in 1992. The increase in murders and arrests have placed additional burdens on the jails in Santa Ana, and as criminals learn that the revolving door will put them back on the streets, we will undoubtedly see crime rates increase for burglaries and assaults.

I know that other cities are in the same predicament: releasing criminals onto the streets because the jails are full. And the waves of crime and drug abuse continue.

And what is the Clinton administration doing about the crime and drug problems plaguing our cities? They have rolled up the carpet at the Office of Drug Control Policy and are planning to kill the very successful Weed and Seed Program. You would think someone in the administration is inhaling. But unlike the soft on crime Clinton administration, I am not willing to hand our streets over to drug dealers and thugs.

I will be offering an amendment to ensure that Operation Weed and Seed continues.

Also, I will be exploring ways that the Federal Government could support innovative incarceration and retention programs. I ask all members to support my efforts to clean up America's streets.

A BANNER YEAR—1992—FOR THE AMERICAN NUCLEAR ENERGY INDUSTRY

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. WALKER. Mr. Speaker, I want to bring to the attention of my colleagues the outstanding performance of America's nuclear energy plants and how well American nuclear energy technology is serving our Nation and the world's energy needs in an environmentally responsible manner.

According to reports compiled by the Federal Energy Regulatory Commission and the Department of Energy's Energy Information Administration, 1992 was a banner year for American nuclear energy plants in setting reliability records and in lowering electricity generation costs. On average, the overall reliability of the Nation's nuclear reactors, as measured by capacity factors, continued its upward trend, climbing to 70.56 percent in 1992. Twenty-seven electricity generating plants achieved capacity factors of 80 percent and above.

Equally impressive and important to the economy, these nuclear energy facilities, which in 1992 generated more than 22 percent of America's electricity, operated with an average production cost of 2.16 cents per kilowatt hour. The top 10 most economic plants in the Nation generated electricity for less than 1.5 cents per kilowatt hour. This compares to the averages per kilowatt hour for electricity produced by coal powered plants at 1.98 cents, gas at 3.07, and oil at 3.51. (Statistics provided by the Utility Data Institute 1992).

Succinctly stated, in 1992 America's nuclear stations continued a decade long trend of supplying America's manufacturers, commercial enterprises and private residences with an economic and reliable supply of electrical power.

Furthermore, I want my colleagues to realize that this vitally needed energy was generated without any air polluting sulfur dioxide, nitrogen oxide, dust or greenhouse gases such as carbon dioxide. The electricity needs of 65 million households were met with no air pollution.

The fact is, U.S. nuclear energy plants reduce sulfur dioxide emissions, which are believed to cause acid rain, by 4 million tons each year, and reduce carbon dioxide, one of the greenhouse gases, by 20 percent.

Nuclear energy is not only contributing to a cleaner American environment, nuclear energy is weighing-in globally as part of the solution to supplying vitally needed energy without noxious air pollutants. The world's 418 nuclear energy stations produced 17 percent of the electricity consumed, thereby reducing the worldwide emission of carbon dioxide by 5 percent.

American industry is ready to build advanced nuclear stations, featuring enhanced safety features and simplified operations, at home and for export abroad. This would translate into hundreds of billions of dollars in export earnings and tens of thousands of jobs here in America.

For these reasons—the economy, the environment, for trade and jobs—it is important that my colleagues realize the successes of America's nuclear energy program and understand the importance of nuclear energy to the future. We in this Congress will play a guiding role that will determine if nuclear energy continues in America's energy mix, and whether American industry will prosper from its innovation and development.

One of the hallmarks of the last Congress is the Energy Policy Act of 1992, a blueprint for insuring our Nation's energy security and environmental well being into the future. Maintaining the nuclear energy option is an important plank in this blueprint. I commend my colleagues for standing by that policy by fully implementing it in the fiscal year 1994 Energy Appropriations Act conference report.

Mr. Speaker, it is clear from the latest performance numbers that America's investment in nuclear energy is paying great dividends in economically priced energy and a cleaner environment. I praise the operators of these outstanding energy facilities and urge my colleagues to continue to support this vital domestic energy source as we did this year.

SALUTE TO COL. ANTHONY C. VOLANTE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GALLEGLY. Mr. Speaker, I rise today to honor Col. Anthony C. Volante of the 146th Tactical Airlift Wing of the Air National Guard, who retires from the military Friday after more than 40 years of service to his country.

Colonel Volante retires as the support group commander for the 146th, based at the Channel Islands ANG Base in Oxnard, CA—a long way no matter how you look at it from the day in 1953 when the Jersey City, NJ, native enlisted in the Air Guard as an airman basic. Along the way, he has compiled an outstanding record that I would like to share with my colleagues.

After moving to California in 1955, he continued his career in the Air National Guard by joining what was then the 146th Supply Squadron in Van Nuys. He served simultaneously as an air technician at the Van Nuys ANG Base. Among his responsibilities were item accounting, document control, inventory, contracting and procurement, and he eventually rose to become the squadron's first sergeant.

Shortly after entering the comptroller career field, he was commissioned as a first lieutenant in 1970 and assigned to the 146th Combat Support Group as a computer system operation officer. An excellent musician as well, his career took a delightful twist as he was temporarily named commander of the 562d Air Force Band—an assignment supposed to last 3 months that eventually stretched 3½ years before he returned to computer systems operations.

In 1978, he was assigned as chief management and procedures, for the 146th Combat Support Group, and soon became the base budget officer and comptroller. In 1980, he became squadron commander of the 146th Resource Management Squadron, and 4 years later was named technical resource manager, responsible for a wide range of budgetary, logistics and supply functions. In 1987, he was promoted to deputy commander for resources for the wing, and as I said earlier, he retires as the support group commander.

Throughout his career, Colonel Volante has emphasized professional excellence. His units have consistently scored outstanding ratings, and during his tenure as squadron commander his group twice earned the Governor's Outstanding Unit Citation.

Mr. Speaker, Colonel Volante is an embodiment of the American dream, and proves once again that talent and hard work is the key to success. I ask my colleagues to wish him and his wife, Barbara, well upon his retirement.

HOUSE CONCURRENT RESOLUTION 170 DIRECTS PRESIDENT CLINTON TO REMOVE ARMED FORCES FROM SOMALIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GILMAN. Mr. Speaker, last Friday, along with the distinguished ranking Republican member of the Committee on Armed Services, the gentleman from South Carolina [Mr. SPENCE], I introduced House Concurrent Resolution 170, a concurrent resolution pursuant to section 5(c) of the War Powers Resolution directing the President to remove United States Armed Forces from Somalia by January 31, 1994.

Concurrent resolutions pursuant to section 5(c) of the War Powers Resolution are entitled to expedited consideration under section 7 of the War Powers Resolution. In accordance with section 7, our concurrent resolution has been referred to the Committee on Foreign Affairs. It must be reported by that committee within 15 calendar days, and it must be voted on by the House within 3 calendar days thereafter. This means that House Concurrent Resolution 170 must be reported by November 6, and voted on by the House by November 9.

Section 5(c) of the War Powers Resolution states that the President is required to withdraw U.S. Armed Forces from hostilities outside the territory of the United States whenever Congress so directs by concurrent resolution. Subsequent to the adoption of the War Powers Resolution, however, the Supreme Court ruled that Congress cannot impose legally binding obligations on the President by concurrent resolution. Accordingly, the adoption of House Concurrent Resolution 170 will amount to an expression of the sense of Congress that United States forces should be withdrawn from Somalia by January 31, 1994.

It will not legally compel the President to withdraw U.S. forces by that date.

Mr. SPENCE and I have introduced separate legislation, H.R. 3292, that would compel the withdrawal of U.S. forces by January 31. That bill is modeled after the Byrd amendment to fiscal year 1994 Defense appropriations bill that was adopted by the Senate 2 weeks ago. The Byrd amendment cuts off funding for United States military operations in Somalia effective March 31. The principal difference between our bill and the Byrd amendment is that our bill moves the funding cutoff date forward 2 months, to January 31.

Since the administration is not objecting to the Byrd amendment, the Byrd amendment will appear in the conference report on the Defense appropriations bill unless the House acts in the interim. This means that the only role the House would have in reviewing and approving the President's new policy in Somalia would be in voting on a conference report. We would have no meaningful opportunity to debate the issue or to vote on alternatives to the March 31 date.

The issue of continued United States military operations in Somalia is of great importance to the American people. Certainly it deserves more careful consideration than will be permitted by a mere vote on a conference report.

In particular, I think we need to look carefully at the March 31 deadline that the President has set for withdrawing U.S. forces and that the Senate has voted to make legally binding. I must emphasize that there is no longer any question about whether there should be a deadline for withdrawing United States forces from Somalia. Both the President and the Senate have decided to set a deadline, and it is obvious that we are going to have one. The question now is whether March 31 is the right deadline, or whether an earlier deadline would be more appropriate.

Mr. SPENCE and I introduced H.R. 3292 on October 15 in order to permit the House to consider this question. It has become clear, however, that the House leadership has no intention of permitting the House to fully consider the question. H.R. 3292 will not be allowed to come up for a vote. It is for this reason, and this reason alone, that Mr. SPENCE and I have decided to rely on the expedited procedures provided by the War Powers Resolution to bring the question before the House by means of a concurrent resolution. We would prefer that the House consider H.R. 3292. Since that is not going to happen, we have introduced House Concurrent Resolution 170.

Our introduction of House Concurrent Resolution 170 is without prejudice to questions about the constitutionality of the War Powers Resolution. We have introduced the concurrent resolution solely in order to take advantage of the expedited procedures provided under the War Powers Resolution for this type of concurrent resolution, not because we are taking any position on the constitutionality of the War Powers Resolution.

Mr. Speaker, I request that the full text of House Concurrent Resolution 170 be inserted at this point in the RECORD and I invite our colleagues to support this measure.

H. CON. RES. 170

Resolved by the House of Representatives (the Senate concurring).

SECTION 1. FINDING THAT THE UNITED STATES ARMED FORCES IN SOMALIA ARE ENGAGED IN HOSTILITIES.

For purposes of sections 5(c) and 7 of the War Powers Resolution (50 U.S.C. 1544(c) and 1546), the Congress finds that the United States Armed Forces in Somalia are engaged in the hostilities without a declaration of war or specify statutory authorization.

SEC. 2. REMOVAL OF ARMED FORCES FROM SOMALIA.

Pursuant to section 5(c) of the War Powers Resolution (50 U.S.C. 1544(c)), the Congress hereby directs the President to remove the United States Armed Forces from Somalia by January 31, 1994.

KASHMIR—WHERE HUMAN RIGHTS HORROR STORIES CONTINUE UNABATED

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. PORTER. Mr. Speaker, the Congressional Human Rights Caucus recently sponsored a briefing to discuss human rights conditions in India. One of our speakers, Safia Qadri, provided a chilling account of the horrors which are currently taking place in Kashmir. I would like to enter into the RECORD a copy of Ms. Qadri's statement:

STATEMENT BY SAFAI QADRI, KASHMIR-AMERICAN COUNCIL

Thank you for organizing this briefing and for inviting me to address this group on the deplorable human rights situation in Kashmir.

Since 1990, when India's crackdown in the valley began, the Indian military has systematically raped thousands of Kashmiri women, burned entire villages to the ground, illegally detained and tortured untold numbers of Kashmiri civilians, and shot peaceful demonstrators in the streets.

Thank you for letting me speak this morning about a particular aspect of the crisis in Kashmir, the abuse of women and children including the systematic use of gang-rapes and other forms of sexual abuse.

The molestation against these civilians only fuel animosities and make the conflict more intractable. The abuses empower the militants, as each day more people lose hope that a peaceful settlement can be achieved.

In an effort to suppress the will of the Kashmiri people to seek self-determination, the Government of India has waged a war of terror against the civilian population in Kashmir. This campaign has particularly affected women and young children. India's abuses in Kashmir have been documented by many leading human rights groups such as Amnesty International, Freedom House and, most recently, a report by Asia Watch and Physicians for Human Rights.

Asia Watch and Physicians for Human Rights chilling new report "Rape in Kashmir A Crime of War," provides extensive evidence and documentation that the Indian Government is systematically using rape as a means of humiliating and punishing the entire Kashmir state.

The report details case after case of random and planned attacks against the innocent women and children of Kashmir. Rape, according to the report, "is used as a means of targeting women whom the security forces accuse of being militant sympathizers; in raping them, the security forces are attempting to punish and humiliate the entire community * * * In both conflict and non-conflict situations, the central element of rape by the security forces is power. Soldiers and police use rape as a weapon; to punish, intimidate, coerce, humiliate and degrade."

In one widely reported case, a bride and bridesmaid were gang-raped by an Indian detail when the bus carrying their wedding party was stopped and searched. The bride was taken away by the Indians and was only released after 48 devastating hours in their custody. In another prominent case documents in Asia Watch's report, over 50 women had been raped from the town of Kunan Poshpora by army soldiers. The incident illustrates how the Indian government deals in resolving these cases.

The rapes allegedly occurred during a search operation in the village conducted by the army unit. The village headman and other village leaders claimed that they reported the rapes to army officials on February 27, and that the officials denied the charges and took no further action * * *. A local magistrate who visited the village requested that the commissioner order a more comprehensive investigation, only to be told that the investigation officials in Delhi had eventually ordered never commenced because the police officer assigned to conduct it was on leave at the time and was then transferred by his superiors.

Women and children are protected from deliberate military assault by every international convention of war. And yet, in its war on the Kashmiri people, India specifically targets non-combatants. All Kashmiris are acceptable targets for attack—even women and small children.

These atrocious acts committed by the Indian paramilitary forces are done with total impunity. Despite the fact that these abuses are being committed by Indian authorities, the Government of India has yet to admit that such abuses even occur, much less bring the perpetrators to justice.

The only way for this carnage to end is for the United States and the international community to bring pressure to bear on the Indian Government to cease its human rights abuses and seek a peaceful, negotiated settlement to the crisis. The United States and the United Nations should work to bring all parties to the dispute—Indian, Pakistani and Kashmiri—to the peace table.