HOUSE OF REPRESENTATIVES—*Thursday, July 28, 1994*

The House met at 11 a.m.

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

Encourage us, O God, to use the abilities that You have given to every person in ways that serve the common good and are of service to all people. May we not separate our concept of service by isolating our daily tasks from all spiritual thought and prayer, but let us see that we truly serve You, O God, when we do the works of justice day by day and make our contribution to the welfare of others. May the prayers we say with our lips be expressions of the beliefs of our heart, and all that we believe in our hearts, may we practice in our daily lives. This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida [Mr. MILLER] please come forward and lead the House in the Pledge of Allegiance.

Mr. MILLER of Florida led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 2182) "An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes," agrees to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. SHELBY, Mr. BYRD, Mr. GRAHAM, Mr. ROBB, Mr. LIEBERMAN, Mr. BRYAN, Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. LOTT, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mr. FAIRCLOTH, and Mrs. HUTCHISON, to be the conferees on the part of the Senate.

UNIVERSAL HEALTH CARE COVERAGE

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

Mr. VISCLOSKY. Mr. Speaker, the overwhelming majority of Americans know that there is a health care crisis and that our health care system must be reformed.

The overwhelming majority of Americans also want guaranteed access. They know that health care reform without universal coverage is not real reform at all. Only universal coverage can cure the ills that are killing our health care system.

Without universal coverage, every American will be at risk of having their insurance taken away.

Without universal coverage, middle-class families will have to pay more for less security.

Without universal coverage, both small and large employers that provide health care insurance will be forced to continue to pick up the tab for those who do not.

Without universal coverage, cost will continue to skyrocket.

There are those on the other side of the aisle who say they do not believe universal coverage is necessary. They are many of the same people—all of whom have health care insurance—who have said that there is not a health care crisis.

Mr. Speaker, it is clear that real health care reform must include universal coverage. We must remind everyone that the goal is not to score political points, but to bring real reform to our health care system.

WHITEWATER WHITEWASH

(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 believe there is a whitewash of Whitewater going on.

The Committee on Banking, Finance and Urban Affairs that is investigating the Whitewater case has said that they will not talk about the Vince Foster death and his connection to Whitewater. There was a vote taken in the committee 2 days ago on party lines and they squelched any questions pertaining to Mr. Foster's death and his connection with Whitewater. Now today, 2 days later, they have said that they are going to have 10 people from the White House on one panel. One of those people is Hillary Clinton's chief of staff who went into Vince Foster's office 2 or 3 hours after his death and took out all the Whitewater files along with Bernie Nussbaum and Patsy Thomasson. They are putting 10 of them up there at one time and giving the Republicans only 5 minutes to question all 10 of them.

This is a deliberate attempt to obstruct finding the answers to this very important issue, Whitewater. I am saying to my colleagues what Abraham Lincoln said a long time ago:

It is true that you may fool all the people some of the time; you can even fool some of the people all the time; but you can't fool all of the people all the time.

Mr. Speaker, the truth will come out. It may take some time, but it will come out.

RWANDA

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

Mrs. CLAYTON. Mr. Speaker, the human disaster associated with recent atrocities in Rwanda should shake the conscience and civility of all humanity and Members of this body. This human catastrophe, which has been graphically portrayed in televised footage of the refugee camps in Goma, Zaire, and the massive destruction of Kigali, calls into question many pertinent issues relating to United States foreign policy and the responsibility of the world community of nations.

The question is begged: How much human tragedy and mass genocide must occur before the world recognizes its collective responsibility to act? How many more deaths must we witness in nations like Rwanda before we are compelled to take decisive action? I believe that these questions demand that we probe deeper into the nature and focus of American foreign policy in a post-cold-war era—a time in which we as Americans must rethink and redefine what constitutes American interest.

Despite attempts to treat American economic interest and respect for human rights separately, I believe that appropriate U.S. foreign policy must

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

attempt to harmonize these concepts. In the big picture, a more stabilized and civil world directly serves our interests. In order to maximize and expand global market opportunities for our industries, our trading partners, or potential trading partners, must have stable, free, and civil societies where the rule of law is the standard.

In an ever dangerous world which continues to see bloodshed, famine, and unrest, we must carefully analyze how American military and diplomatic resources are utilized. As Americans, we must solicit other nations to share in a collective responsibility. As a community of nations, we must diligently work to prevent future conflicts from resulting in the same degree of suffering seen in Rwanda.

In defining our new American interest in the post-cold-war era, one thing is certain—we must act. We must act as leaders.

GROW UP, MR. PRESIDENT

(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, there is something very disturbing about watching the President withdraw from reality and say things that are simply not true as an act of denial. In both the Wall Street Journal and the Los Angeles Times today, there are polls indicating that the public rejects the Clinton plan. Not the Republicans, the public, the American people. That the more they have learned, the more opposed they are to the Clinton plan.

The President's reaction yesterday was to blame Republicans for not cooperating. Senator CHAFEE said correctly last night, it is simply not true. Republicans have been cooperating on passing NAFTA. We are currently cooperating on both MFN for China and in trying to help with the GATT agreement. We Republicans helped sustain the space station. Republicans have helped develop aid to Russia. Republicans are willing to work this evening, this afternoon, at lunch today with the President on health care. But we are not preparing to ram down the throat of the American people a big-bureaucracy, big-tax, left-wing bill that makes no sense. The President just needs to grow up a little bit and recognize that his idea has failed, the time has come to work together as adults, and we are ready.

REPUBLICANS BENT ON DEFEATING HEALTH CARE

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

Ms. DELAURO Mr. Speaker, I have in front of me a copy of a memo from a group called the Project for the Republican Future to the Republican leadership in Congress. While the memo is only a few pages long it speaks volumes about a Republican Party bent on defeating the most important legislation of our time: Health care reform.

The memo advises Republicans to reject health care legislation, and I quote "sight unseen." Because, the memo reads: "health care reform is now about politics and absolutely nothing else."

Well, Democrats believe health care reform is not about politics, it is about people—the small business owner struggling to keep pace with health care costs; senior citizens forced to make the choice between prescription drugs or their next meal; the father who lies awake at night worrying that one accident or one illness will drive his family to financial ruin.

These people are what health care reform is about and for Republicans to ignore their needs in favor of a cynical political strategy is unconscionable.

□ 1110

SERGEANT SCHULTZ

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

Mr. BALLENGER. Mr. Speaker, why does Banking Chairman HENRY GONZALEZ remind me so much of Sergeant Schultz from Hogan's Heroes?

Perhaps it is because of his willing neglect of his basic responsibility of oversight.

Mr. GONZALEZ sees nothing wrong with the questionable activities of the Clinton administration. And he is becoming either a knowing or unwitting accomplice in a coverup of the Whitewater affair.

His actions as Banking chairman in this affair have been inexcusable. At each turn, he has sought to limit, muffle, crack down, or subvert the minority as it seeks the truth on this matter.

He has refused to launch an investigation on his own into the Whitewater affairs, despite widespread media reports of questionable activities.

How sad it is to see the process and the truth suffer in such a way.

Mr. Speaker, HENRY GONZALEZ may see nothing when it comes to Whitewater, but it is hard to see if you refuse to open your eyes.

GUARANTEED COVERAGE AND THE MIDDLE CLASS

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

Mr. DERRICK. Mr. Speaker, the American middle class knows what health care reform ought to mean: The promise of guaranteed coverage that cannot be taken away.

Some 70 percent of Americans think Congress should work on reform until we get it right, and to most Americans, getting it right means guaranteeing universal coverage. The opposition favors going only half way toward this goal.

There is no half way to health care reform. Half way falls short of center, and the center is our middle class. What good is reform that will not benefit the majority of Americans?

The opposition seeks to hold health care reform hostage for partisan ends. They want to send Democrats to the voters empty-handed. But Americans view anything less than guaranteed universal coverage as a partisan sham and betrayal. Congress can give Americans the health care reform it wants—let us make sure we do.

INNOCENT UNTIL PROVEN GUILTY

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

Mr. TRAFICANT. Mr. Speaker, in 1989 Kim Vielma had the IRS office in Bellevue, WA, deny her $2,000 tax shelter. But since she needed surgery, had no money and no savings, they made an agreement with her, signed an agreement and settled it.

She thought it was over, so she moved to Las Vegas. When she got to Las Vegas she got a notice, she was called in and they said, "This agreement is off. This is not Bellevue. We want $25,000," penalties and interest for a $2,000 issue, folks. She said, "How could you do this?" They said, "It is none of your business. Pay it, and if you do not pay now, you will only pay more later."

Shame on Congress. Hide your face. Kim Vielma getting ripped off like this. She had an agreement. They tore the agreement up, threw her to the wolves. "Who are you? You are just a citizen of the United States and what right do you have? You are guilty."

Sign Discharge Petition No. 12. You are innocent until proven guilty in America, including a taxpaper. Think about it.

FEDERAL RIP-OFF PROGRAMS HURTING THE POOR

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

Mr. DUNCAN. Mr. Speaker, almost every day we hear or read horror stories about the waste and inefficiency of our Federal Government.

It seems that the Federal bureaucracy cannot do anything in an economical way.

The General Accounting Office has now released a report detailing terrible

conditions in all the Housing and Urban Development apartment buildings they studied across the country.

These buildings had received Federal subsidies from HUD averaging $700,000 each.

A front-page story in the Washington Post reported that one apartment development received $638,000 for rat-infested apartments for which the rent was 43 percent higher than that at nearby private developments.

Another development received $558,000 while every apartment fell below even minimum standards, only 40 percent were occupied, and some of those were declared unfit for human habitation.

This is a program that spends hundreds of millions across the country.

Once again we see that Federal programs benefit the bureaucrats and enrich Federal contractors, but they really do almost nothing for poor people except to help insure continued poverty.

These millions would do much more for the economy and for low-income people if the funds were left in the private sector.

U.S. FOREIGN POLICY—BASED ON MORALITY OR GEOGRAPHY?

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

Ms. FURSE. Mr. Speaker, today Leyla Zana is in prison, and she faces the death penalty. She along with six elected Kurdish leaders are charged with treason. They all face the death penalty.

What is their crime, Mr. Speaker? It is exactly what I am doing today. They spoke out on the issue of human rights.

Mr. Speaker, these Kurdish parliamentarians are not in Iraq whose treatment of the Kurdish people we have called rightly crimes against humanity. No, these parliamentarians are in Turkey, a country that the United States supports with massive aid and military assistance.

Mr. Speaker, every time Members of Congress protest the conditions of repression and torture and human rights we are told that we must remember that Turkey is strategically important to us. Does our morality depend on geography rather than on conviction?

It is time that Congress demands the release of the six Kurdish parliamentarians.

CONGRESSIONAL PERKS TRANSLATE TO ELECTORAL 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, 1 week ago, I warned about how the abuse of frequent flyer miles by Members and staffers would hurt us. Today's Roll Call has a front page article on the personal use of frequent flyer mileage. Needless to say, papers in our districts will pick up the story.

Like the gym, parking, the beauty and barber shops, tax advice, and so forth, these are all minor, almost meaningless perks, but they have the voters up in arms.

My bill, H.R. 4444, reforms air travel. I also support Representative ENGLISH's bill to reform air travel. But merely reforming here is not enough, I say to my colleagues. This is only one needed step in the long journey of congressional reform.

We will suffer from this electoral death by a thousand cuts unless we have total reform. First, the gym. Then parking. Then tax advice. Now, frequent flyer miles.

None of us ran for office because of these trivial perks, so let us not be driven from office because of them.

Support total, not piecemeal, reform, I say to my colleagues. Support H.R. 4444, the one-stop shop for congressional reform.

□ 1120

HEALTH CARE REFORM

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

Mr. UNDERWOOD. Mr. Speaker, I join my freshman colleagues this morning to call for a concerted effort to enact a health care bill in this session. While there is disagreement on aspects of health care reform, it is important not to lose sight of our goals—one primary goal is universal coverage, which we can deliver, not universal agreement, which we will never achieve.

Universal coverage means that all Americans will have some form of health insurance. I am pleased to note that in every health reform bill, the Americans who live in the territories, such as my home island of Guam, are fully included, and share in the benefits as well as the responsibilities of the health reforms.

Most Americans agree that the status quo is not good enough. I join my colleagues in urging Congress to find common agreement on a bill that delivers health reform.

A study by the Catholic Health Association finds that without universal coverage, middle-class Americans will pay more for health insurance premiums because some reforms will add higher risk groups to insurance pools without significantly expanding those pools, thus driving up costs. The Catholic Health Association conclusion is that universal coverage makes good economic sense for middle class America, and it is the right thing to do.

ALLOW TIME TO STUDY THE CONFERENCE REPORT ON THE CRIME BILL

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

Mr. MANZULLO. Mr. Speaker, the crime conference committee concluded its work about an hour ago.

The House rules provide that we have at least 3 days to examine the document, this 800-page, $30 billion document, provided the document finds its way to the printer by midnight tonight. That means that by Tuesday, Members of this House who will be returning from their home districts will have very little opportunity to examine this document.

Mr. Speaker, we do not want the disgrace that took place in this House on the conference report on earthquake relief which included such things as $5 million to remodel Penn Station.

This is a big bill. It is an important bill. And we want the House Committee on Rules, No. 1, not to waive that 3-day rule, and we would suggest to the leadership on both sides that Members be given until the end of next week before that matter comes up for an important vote.

THANK YOU TO THE CONFEREES ON THE CRIME BILL

(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, I am delighted to get to come to this well and bring good news. The good news is the crime bill has been completed, and the Violence Against Women Act is in there stronger than ever.

I really salute the House conferees who yielded to the Senate who had much stronger provisions in several cases, and that rarely happens. Nobody wants to give up their turf.

What that means is that the fact that America has three times as many shelters for homeless dogs and cats as it does for battered women and children will now change, that there will be funding for that. There will be training at the local level, and we will say once and for all we must get tough on this.

You cannot continue to batter a person over and over and over again and have the police called and have them just walk you around the block and you go back in and continue the beating. That will not be accepted.

If we do not get violence out of the home and domestic terrorism out of the home, we will never, never get violence off the streets.

So that is good news today, and I really thank all of the conferees for working so hard on it.

PRESIDENT'S PATRONIZING POLITICAL PARTRIDGE FAMILY

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

Mr. HOBSON. Mr. Speaker, the television generation finally put one of their own in the White House when they elected Bill Clinton President in 1992.

It is amazing how fast the White House went into reruns.

Just as in 1992 they have again decided to circle the buses like some latter-day "Wagon Train." Instead of "Rawhide" we get "Run-and-Hide." Instead of Rowdy Yates, we get employer mandates.

It is no wonder the administration is replaying "The Fugitive." Support for their plan and their President has dropped so far that the Clinton name has become a drag on the plan. So they have decided to put their plan in drag.

They have dressed it up as new, dropped the Clinton name, but kept all its anti-competitive, anti-employee, anti-family, and downright anti-American elements.

Instead of "Father Knows Best" we get "Big Brother Knows Best." Instead of facing reality, the administration runs from it.

And so we are being treated to a patronizing, political Partridge Family trying to tell Americans that the government knows their health care needs better than they or their doctors do.

BAN ASSAULT WEAPONS

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

Mr. KREIDLER. Mr. Speaker, I am pleased that conferees on the crime bill have agreed to keep the ban on semiautomatic assault weapons.

There are more than 1 million of these weapons in the United States today.

They are not designed for sport.

They are not designed for hunting.

They are designed to assault and kill.

Just last month, in my State of Washington, 1 man murdered 4 people and wounded 23 others in a matter of seconds.

That's the power of an MAK-90 assault weapon.

Violence is an epidemic in America. It kills more than 50,000 people each year. It costs $3 billion in medical bills alone.

Government cannot eliminate violence or solve all the problems of crime.

Stopping violence starts with each of us, in our homes, schools, communities, and businesses.

But we, in Congress, can do something about the deadliest violence of all. Only assault weapons produce such random, wanton, and ruthless killing—and that is why we must ban them.

FEARS OF RATIONED HEALTH CARE NOT JUSTIFIED

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

Mr. STRICKLAND. Mr. Speaker, there has been a lot of scary talk about the possibility of rationing in a reformed health care system. That is just a political ploy to appeal to people's fears.

Let me tell you about the real fear a family in my district felt when an insurance company—operating under our current system—tried to ration care.

A young wife and mother had severe liver problems. Doctors were left with one last hope—a transplant. The physician started to plan the procedure, the family began to prepare itself.

Enter the insurance company.

They said "no."

"No, we will not cover the cost of this operation."

If not for a caring physician, who very strongly took the company to task, this woman would be dead, her husband a widower, her young children without a mother. That set of circumstances is scary, and it happened under our current system.

Mr. Speaker, we are not going to pass a bill that rations care. We will pass a bill which restores some of the humanity which some in the insurance industry have forsaken in the name of higher profits.

HEALTH INSURANCE FOR EVERYONE

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

Ms. ESHOO. Mr. Speaker, as we consider health care reform, I urge my colleagues to remember the 550,000 people we each represent at home. That is our job.

More than 75 percent of our constituents believe it is essential that everyone has guaranteed private health insurance.

They believe we should build on what we now have: a private system where employers and employees share the costs and a choice between doctors and plans.

They know insurance reforms must be passed because their coverage is dropped if they become sick or if they have something currently wrong with them they cannot get insurance at all.

Some 88,000 of my constituents, including 13,000 children, currently have no health insurance. None. And almost every single one of them is from a working family.

It is not fair that hard working families who play by the rules and pay their taxes cannot get or afford insurance. It is equally unfair that when these uninsured turn to our county hospitals, other taxpayers end up picking up the tab.

I urge my colleagues to step up to home plate and hit a grand slam for the middle class. Listen to your people, not the $50 million of media fear tactics funded by the special interests.

Our families and children at home want us to do the right thing for them.

□ 1130

THE NEED FOR HEALTH CARE REFORM

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

Mrs. KENNELLY. Mr. Speaker, I would like to direct your attention to an op-ed in last Sunday's New York Times by Adam Clymer. He makes a strong case for health care reform that includes universal coverage.

As Mr. Clymer points out, the economic benefits of universal coverage are substantial and should be apparent to even those Members most opposed to reforming health care.

Unless everyone is insured, it will not be possible to control the soaring costs of health care. Cost shifting will continue to occur and people with insurance will pay the bills of those without insurance.

There are many reasons to push for health care reform: The obligation to help families get care for children, the need to assist people with preexisting conditions. But in addition to medical concerns, we have an economic one, as well.

It is not possible to reform our system overnight, but we have to try. To do better we must have universal coverage. Our economic health may depend on it.

UNIVERSAL COVERAGE AVOIDS HIGHER PREMIUMS

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

Mr. STUPAK. Mr. Speaker, in the next few days this body will begin the national debate on health care, and I for one believe that we must have universal coverage in any health care reform. If we do not have universal coverage, middle-class Americans will be hurt. Without universal coverage, middle-class Americans will experience higher insurance premium prices. In addition, the current practice of cost shifting would continue and those who have insurance will continue to pay for the health care of those who do not. In short, middle-class Americans will pay more for health care unless we have universal coverage.

Incremental market-based reforms will not fix the problem of escalating health care costs. Incremental reforms will not foster the competition needed to control health care spending. Insurance companies will still have the incentive to insure healthy people and not insure sick people, as my colleague from Ohio just articulated.

To ensure that every American contributes their share to health care costs, we must have universal coverage. The middle class cannot continue to shoulder the burden of health care costs.

Congress must act now and must include universal coverage in health care reform. It is time to help the middle class.

HIGH-TECHNOLOGY SOLUTIONS, INC.: AN ECONOMIC SUCCESS STORY

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

Ms. SCHENK. Mr. Speaker, I want to share with my colleagues an economic success story from my hometown of San Diego. High Technology Solutions, Inc., is a small business specializing in electrical and computer support for the defense and commercial sectors.

This business has grown from just 3 employees in September 1990 to 61 employees today, their revenues have grown to $3 million, and next year they expect revenues of nearly $8 million.

High Technology Solutions has prospered because they have taken advantage of small business lending programs and they have aggressively moved from defense to commercial lines of business.

They are just one of many success stories behind our Nation's economic recovery.

HEALTH CARE BLUES

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

Ms. MCKINNEY. Mr. Speaker, I rise to tell you if we do not pass health care for all Americans, then middle class Americans will continue to have the health care blues.

Far too long have we permitted our citizens to fall, because there was no guaranteed health care for them.

When some of our most prized heartthrob entertainers needed health care, they found out it was not there.

Performers like Mary Wells, Jackie Wilson, and LaVerne Baker all needed health care reform.

Now is too late for them, but it is not too later for the hard working American families who will benefit from the reform that we are about to pass.

Mr. Speaker, the "go-slow, just say no, scare your pants off" crowd are singing the wrong song for America.

There is no need for Americans to play the health care blues.

Let us pass health care for all.

THE CRIME BILL

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

Mr. RUSH. Mr. Speaker, in communities across the country, last Monday night was just another summer evening.

But in my community, on the south side of Chicago, last Monday night saw yet another life end because of senseless, gruesome violence. The violence and record levels of crime gripping our Nation is paralyzing citizens with fear and interfering with any semblance of normal family life.

Monday night's horror in Chicago claimed 3-year-old Kevin Taylor, who was fatally shot by gangs as he and his family were returning from the grocery store.

The tragedy did not end there. The next day in the same neighborhood, as police were interviewing a witness, gang-related gunfire erupted again.

The witness was struck down while talking to the police officers.

According to police statistics as of Tuesday, the number of murders in Chicago reached 545—100 more than the murder rate of only a year ago.

Gang warfare, supported by an ever-increasing drug flow into this country, is wiping out our communities, leaving permanent scars on the lives of hundreds of innocent, hardworking, law abiding citizens and their children.

Mr. Speaker, these statistics and these tragic tales speak for themselves. Crime is the No. 1 problem in our country. We must support this crime bill and save our children and save ourselves.

HOUSE CONFEREES SHOULD INSIST ON THE HOUSE POSITION ON D.C. SPENDING CUTS

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

Mr. BLILEY. Mr. Speaker, in just a few minutes it is my understanding that we will appoint conferees on the District of Columbia appropriations bill to confer with the other body. At that time my friend, the gentleman from New York [Mr. WALSH], will offer a motion to instruct conferees to insist on the House language with regard to the spending cuts that we mandated.

Mr. Speaker, I intend to support the gentleman. It is absolutely imperative that we do this. The other body, what they did was not near as effective as what we have proposed, and it would be a tragedy if we receded to their position. It is a shame that we have to do any of this at all, but since the District has not seen fit to do it themselves, apparently we are going to have to do it for them.

□ 1140

HEALTH CARE REFORM MUST BE BIPARTISAN

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

Mr. WALKER. Mr. Speaker, yesterday the President of the United States indicated once again how much he is in favor of going the bipartisan route on health care. We on the Republican side are a little concerned about these ongoing statements, that they mean little except that the President likes to use the words. The fact is that, when the President designed his original health care bill, and did so utilizing a health care task force, which is now under suspicion for having violated Federal ethics rules, when he put together that task force, Republicans were not invited to be a part of that process to formulate the original bill. Therefore, Mr. Speaker, we had every reason to believe this was being done on a partisan basis.

The bill that was crafted by that task force has now been thrown out by the Democratic leadership. The Democratic leadership is now in the process of trying to design their own health care plan. Once again that is being done purely by Democrats. Republicans are not being included in that process.

Mr. Speaker, we have a hard time understanding how the President sees that as bipartisan. On the other hand, there is a bipartisan process under way in which Democrats are meeting with Republicans in an attempt to craft a bill that will be an alternative to the Democratic leadership bill. That is the true bipartisan process under way on health care.

Mr. Speaker, if the President of the United States wants to achieve a bipartisan consensus on health care, what he should do is come into that process and help us craft a bipartisan bill, abandon the Democratic leadership efforts which are aimed at producing a partisan product, come up with a bipartisan bill, and then we might have a real chance of passing health care reform that really meets the needs of middle class America sometime before the end of this session.

POLITICS AND REFORM

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

Mr. GEJDENSON. Mr. Speaker, we have two problems really at hand here. One is that the opposition in this House does not believe in the Government taking the lead on health care reform, and they ought to be honest

enough to come forward. We have had these debates before in Social Security. They were unanimously against passing Social Security. They resisted Medicare, and we saw the other night on ABC News members of the Republican Party standing up and saying Medicare was a socialist plot. But there is more to it than just their philosophical objections to the Government's role in health care. There is a political goal here as well.

Mr. Speaker, 2 days ago, Republican strategist Bill Crystal wrote a memo to Republican leaders urging them to defeat all reform, to send the Democrats to the voters emptyhanded. Rather than working with us to try to address these issues, there is a political goal here to try to stop the crime bill, to try to stop health care reform, to try to stop campaign finance reform, for the political advantage. It is a message to our side to unite to pass the crime bill, to pass campaign finance reform and to pass a health care bill that affects all Americans, and to do it now.

APPOINTMENT OF CONFEREES ON H.R. 4649, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995; AND DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4649) 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, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. WALSH

Mr. WALSH. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. WALSH of New York moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4649, be instructed to insist on the House position on amendment numbered 16, reducing the D.C. budget by $150 million.

The SPEAKER pro tempore. The gentleman from New York [Mr. WALSH] will be recognized for 30 minutes, and the gentleman from California [Mr. DIXON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. WALSH].

PARLIAMENTARY INQUIRY

Mr. WALSH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALSH. Mr. Speaker, do we have the right to close debate?

The SPEAKER pro tempore. The proponents of the motion will have the right to close the debate.

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

Mr. Speaker, I rise today to offer a motion to instruct conferees to hold the House position in conference.

The Senate is requiring the District to cut $75 million from its budget, and is cutting $20 million from the Federal payment. In my opinion, this position does not effectively address the systemic problem of overspending.

The House, in a bipartisan compromise, is requiring the District to cut $150 million from its budget. The compromise also stipulates that if the 1995 cash spending and outlays exceed the cash receipt, the Federal payment for 1996 will be reduced by the amount that the District overspent. In addition, the District must provide quarterly reports of revenues and spending.

I remind my colleagues of the GAO audit on the District of Columbia finances which revealed gross overspending by District agencies—a clear violation of the Anti-Deficit Spending Act.

GAO reported that:

Although in 1991 the District received permission to borrow $331 million in general obligation bonds, and another $100 million more from Congress, its cash position has declined by $200 million since then;

The District will finish 1995 with a minimum cash deficiency of $21 million. The report also suggests the possibility of a $200 million deficit in 1995 if changes in spending practices and real cuts are not made;

Mayor Kelly claims to have cut employment by 17 percent. However, payroll costs continue to rise. Also, the Mayor made a conscious decision not to make the pension payment this year, forcing a raid of the fund. While an agreement has been reached, the Mayor's initial refusal to pay has cost taxpayers an additional $13 million in interest.

The District of Columbia must get its fiscal house in order. The law states that they must present balanced budgets to the Congress, and they have not.

I mentioned—in a 1991 supplemental request, the District asked for and received an additional $103 million to balance its budget;

In 1992, $28 million was transferred out of the water and sewer fund to the general fund to balance the books;

In 1993, the District changed its property tax year to get five quarters. This act of budget gimmicking directly impacted the Federal formula payment. We paid them roughly $37 million more this year.

In 1994 the refusal to make pension payment.

In 1995—the District will receive $668 million in Federal payment, $52 million directly to the pension fund and $770 million in direct grants. This means the District is receiving a total of $1.5 billion in Federal moneys. Surely a cut of $150 million, less than 5 percent of the total DC appropriations is reasonable.

The House has acted responsibly given the condition and financial state of the Nation's capital. The House bill passed by a very narrow margin—213 to 210—3 votes.

If we do not hold to the House position, there is no guarantee that the D.C. conference report will pass. I for one will not support it.

□ 1150

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

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

Mr. Speaker, let me first indicate that the motion to instruct that my ranking Member, the gentleman from New York [Mr. WALSH] is asking for is the result of an agreement that I entered into in connection with an amendment I offered on behalf of the gentleman from New York [Mr. WALSH] and the gentleman from Virginia [Mr. BLILEY].

Certainly, I cannot disagree with many of the statements that the gentleman from New York [Mr. WALSH] made about the District government. There is an admission by everyone that the District is in a dire financial crisis, and that something has to be done, that is, mainly spending cuts.

We all know that as the appropriation bills pass through this House and as the Senate passes their appropriation bills, we then go to conference. That is where we iron out the details. I think everyone in this House wants to see the financial condition of the District improve so that they can get on their feet in fiscal year 1995. I just disagree with the gentleman when he says that surely $150 million is reasonable, because I do not know for a fact that it is reasonable. I know the Senate has cut the Federal payment, which I feel very strongly about, by $20 million, and I know their mark is below us in the fact that they have cut $80 million in spending, that is, $75 million in unspecified spending, and $5 million for the law school.

Because of this crisis, I think it is entirely inappropriate for us at this moment to say what the exact amount of the cut should be. I assure the gentleman from New York that emotionally and psychologically I am with him, but to just pick a figure at this point when we have to negotiate with the Senate is, I think, not entirely appropriate. I do not know how anyone can say at this moment what the reasonable figure is. I agree there should be spending cuts, but I do not think there is any magic number. It may turn out to be more than that, but I doubt it. The District is now working on a plan, and I think we have a responsibility to examine the plan the

Mayor sends us, although I agree, and I think the House agrees, that the District has to curtail its spending. But it is just wrong for us to pick out an arbitrary figure of $150 million, which is a ballpark guess that was made as the bill was moving through the process.

We are not getting down to the nuts and bolts of this matter. We are all together on the issue, but I do not think we should just arbitrarily pick a figure and say that it is $150 million and that is it. I ask the Members to give us more flexibility. We have to work with the Senate, and it is not an exact science.

I assure the gentleman that I am for the survival of the District financially, and to me that means a cut in their spending, but we do need more flexibility in the conference.

Mr. Speaker, I would also like to take this time to thank the gentleman from Virginia [Mr. BLILEY], who has been very cooperative in this matter, and I hope the Members will allow us some flexibility. We are all operating on good faith here. We are all saying that spending cuts have to be made. I just think that now is not the time to put in concrete any particular number.

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

Mr. WALSH. Mr. Speaker, I yield myself such time as I may consume to respond briefly to the comments of my distinguished colleague regarding the House position.

This number of $150 million was arrived at through some very, very serious and hard bargaining. It was not arrived at arbitrarily, although the numbers bounded around a little bit. I think most of us agree that based on what we could accomplish, that was the right number. It is less than 5 percent of the total District of Columbia appropriation, and I think it is reasonable by any measure.

For us to realize that we are only able to pass this appropriation bill by three votes and then to go back and agree we are flexible when we go to conference, I think, belies the fact that this barely passed the House of Representatives, and if we change that figure again, I am very concerned that this bill will not pass.

Madam Speaker, I yield 10 minutes to my good friend, the gentleman from Virginia [Mr. BLILEY], the ranking Member of the Subcommittee on the District of Columbia.

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

Madam Speaker, today I rise in support of Mr. WALSH's motion to instruct conferees to support the House language in the D.C. appropriations bill for fiscal year 1995. It is imperative that Congress preserve the House version of the appropriations bill for the District. I do not believe it is necessary to remind Members that this bill passed by the slimmest of margins earlier this month and that the one undisputed reason for its passage with the compromise that was so carefully crafted by very concerned Members of this body including Mr. DIXON, Mr. WALSH, and myself. Without the compromise to require $150 million in spending cuts from the District's budget, I believe it is safe to say that this bill would not have passed. The importance of maintaining the integrity of this compromise cannot be overemphasized.

The Senate-passed version includes $75 million in spending cuts and a $20 million lower Federal payment. But don't be deceived by even these provisions of the Senate's bill. The Senate version does not include the House language regarding overspending. The House version requires that if the city overspends in fiscal year 1995, the fiscal year 1996 Federal payments will be decreased by the amount of the city's overspending. The Senate plainly failed to include this protection against overspending and impose any strict penalty for expending more than it takes in once again.

Unquestionably, the Senate version fails drastically short of what I believe is the only responsible thing that Congress can do in light of the District's current financial situation. This body has heard a great deal of discussion about the General Accounting Office's recent report on the city's finances. We have also heard about the city's impending need for financial assistance from someone or somewhere, and about the failure of the city to respond to congressional employed to balance the budget and defer statutorily required payments, with examples of underestimating expenses and overestimating revenue projections, and with accounts of violations of the Anti-Deficiency Act, which have resulted in the city spending more than was provided in the appropriations bill year after year.

GAO has stated that if no action is taken, the deficit in fiscal year 1995 alone could be over $200 million. The long-term outlook for the city is even bleaker. The deficit by the year 2000 is predicted to be $742 million. That amount is at least $50 million more than the Federal payment for next year and represents about 20 percent of the city's budget for next year as well. The city has no alternative but to make some drastic changes in how and where it spends its money because it simply does not have enough resources to continue with the financial management system that has lead the city down this very perilous road toward financial ruin.

As I have indicated, the Senate version clearly cannot adequately address these problems. However, the House-passed version of this bill contains a number of very important provisions. The House requires the city to make $150 million in spending cuts and to report to the Congress as to the nature of these cuts. The House also does not abuse the sensitive provisions of the home rule charter and does not involve Congress in micromanaging the city's budget. It does, however, recognize that there is a serious problem with the manner in which this budget was drafted. Before Congress can responsibly pass an appropriations bill for the city, we must feel satisfied with the reliability of the numbers used in the preparation of this budget. Clearly, without at least this $150 million in spending cuts, the reality of the city staying within the guidelines of this budget are virtually nonexistent.

And let me repeat my warning to every Member of Congress. There is no question that the District will be seeking additional Federal funds. The Mayor has already begun to circulate a plan which is heavily dependent upon assistance from the Federal Government. Quite simply, we cannot pledge one more penny of taxpayers' money without demanding the discipline that will be required by the House position. The Senate's version merely calls for half as much. Clearly this is not adequate.

Congress has given enough. The citizens of this great city have given enough. It is time for the city to give Congress a reason to pass an appropriations that will genuinely reflect the true financial situation of the city. I believe that can only be done if we stand by the House-passed version and insist that Congress demand more accountability from the city. I also believe that there is strong sentiment in the Senate to support the House language. By insisting on the House position, I believe that we can prevail in conference and get a budget to the President as quickly as possible. We need to give the District as much time as we can to rework its budget before the new fiscal year begins. We certainly recognize the fact that the Mayor of the District is working on changes that reflect some of Congress' specifications and we deeply appreciate this. It is imperative that the Council join in those efforts quickly. It will take leadership to meet the challenge. It will take cooperation to find the solution.

Unnecessary delays in the conference and movement toward final passage will not help the District. If we do not maintain the House position, there may be even worse consequences. I urge your support of Mr. WALSH's motion to instruct the conferees to insist on this language and to require the city to do everything it can to get its fiscal house in order.

□ 1200

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

Madam Speaker, just let me read to you the motion that I made, or a part thereof. I asked that we would disagree to the Senate amendments and agree to the conference asked for by the Senate.

That means that the Senate wants to conference on this bill. They in fact do not want to accept the House-passed bill. I think I can safely say that the gentleman from Virginia [Mr. BLILEY] and I, clearly agree that in this crisis, we should provide the District government with the maximum Federal payment, which in this case is $667 million. The Senate cut that amount by $20 million. I want to bring that up in the conference. I think it is very important. And I know that the gentleman from Virginia [Mr. BLILEY] and I agree with the enforcement mechanism, that is, if the District government does not make the necessary cuts as directed by the conference agreement, that amount of money will be taken out of the following year's Federal payment.

There are other issues in the Senate bill that I disagree with, and I believe the gentleman from New York [Mr. WALSH] and the gentleman from Virginia [Mr. BLILEY] also disagree with those issues.

I guess it is like a broken record, but I want to repeat it: We cannot have it all our way, because the Senate wants a conference with the House. If they wanted to accept our bill, they could have accepted our bill. I am for cuts in spending, but I cannot argue with the Senate conferees to bring the Federal payment up to the House level, to put back in the enforcement mechanism, to strike certain other provisions. We just cannot have it all our way.

Now, I know that a lot of Members feel that $150 million is the appropriate number. I assume the Senate thinks that $75 million is the appropriate number. But the way we have been doing business around here is to negotiate these differences. We are all on the same page as it relates to reductions in spending—the District has to reduce spending.

The recitation of all the problems of the District, which I fully acknowledge, that the gentleman from New York [Mr. WALSH] and the gentleman from Virginia [Mr. BLILEY] have given, do not move us a step further in coming to some resolve on the issue and helping the District through a crisis in fiscal year 1995. That is all that I am saying. And because we, after careful consideration, picked $150 million, the legislative process allowed the Senate in their wisdom to pick $75 million. We want a lot of things done in conference so we have to have flexibility. Maybe $141 million is the correct number, but I do not know at this point. But to say that we are going to stand pat and ask the Senate to yield on this and all of these other items is not in the real world. If the Senate wanted to accept our bill, they could have done that, but they didn't.

Madam Speaker, I yield 10 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Madam Speaker, I thank the gentleman for yielding. I want to strongly associate myself with the gentleman's remarks.

Madam Speaker, I strongly oppose the motion to instruct, but, as my colleagues on the other side of the aisle recognize from the way we have worked together and from my own criticisms of the District, I certainly do not do so because I believe that the District should not make whatever cuts are necessary to sustain its viability. If my colleagues are disappointed that the Congress has come to this moment, surely they can imagine that I am far more disappointed than they.

I urge my colleagues to sustain the bipartisanship that produced the compromise in the House version of the bill, and to show their good faith by treating the D.C. appropriation in the way that we treat other appropriations. Of course, that is always to allow the chairman, particularly in difficult circumstances, the flexibility that is needed.

This should especially be the case with the gentleman from California, Chairman DIXON, who has managed to hold the District's feet to the fire with the GAO report and with very tough hearings, without gratuitously hurting the Capital City.

The chairman needs flexibility and negotiating room precisely because of real differences that matter to both sides in the Senate and House bills. I submit, Madam Speaker, that you simply cannot negotiate if you take the most important item off the table.

Now, the $150 million figure is a figure I embraced as part of the compromise. But I must say, Madam Speaker, it is in the nature of auction bargaining that we got to this figure. We did not get to this figure by relating it to the District's programs or to its expenses. We do not know if the figure will toss the District over the side so that we have to pick up the pieces. All we know is that we had to pick a future, and that is the figure they came up with. I challenge anybody to itemize that figure and justify that figure in any particular terms.

At the same time, I am not prepared to say in conference something close to this figure should not obtain. All I am prepared to say is that it makes no sense to go to conference with this item inflexibly tied to the chairman.

I say also to my colleagues that this is no time for piling on the District. It really did take a lot to begin to get the District's attention, more than should have been required. But can anyone doubt now that we have gotten their attention?

This motion to instruct might have been more appropriate had not Members read the front page of the Washington Post this morning. We finally got the headline that we have been waiting for. That headline says that the District is moving ahead, even before we go to conference, much less out of conference and pass the bill, we are told that Mayor Kelly will do 2,500 buyouts, which in my judgment is the way to quickly downsize the government and begin to get the revenue cuts the Congress wants and the District needs.

We are told that the Mayor believes there are going to have to be even tougher decisions made, cuts in AFDC and general public assistance, at a time when a very large proportion of the D.C. residents depend upon these benefits.

□ 1210

She is seeking council approval of legislation to reorganize D.C. General, and that is where much emphasis needs to be placed. I am going to, myself, be introducing legislation in this Congress that may be necessary. And I am going to be pressing her, and the council, to move swiftly at each step along the way.

I am going to involve myself in D.C. affairs, given what has happened during the course of this year, in a way I have never done before. I never intend for the Congress to be placed in this position again.

We see the kind of success that ought to encourage the House to recognize what it has achieved. For example, the District is having some success with an entirely new public safety fee to generate revenue. Now, generating revenue in a district that has the high taxes the District has took some creativity; 60 percent of our budget goes to schools and cops alone. And we know what the crime situation is like in the District. We have had great outlays for police. Now we have put a fee, not only on residents, but on big entities to say, help us by paying some share of these costs that have escalated.

I want my colleagues to understand that the differences between the House and the Senate bill are not easily fungible, even in numbers. They want $20 million less than the Federal payment. The chairman knows that the District is running out of cash. Our compromise with our colleagues in the minority also recognized that if we take cash from the District, we are really cutting off all of our noses to spite our faces. They are so cash short. We do not know how the Senate got to where it wanted cash from the Federal payment instead, but it wants only half as many cuts.

How the two Houses should mesh should relate not to what the House has decided, not to what the Senate has decided, but to what is in the best interest of the innocent bystanders, the residents of the District of Columbia, who could not get into this struggle, but who are going to have to pay

the price. And that and that alone ought to be the standard that guides a vote on this matter today.

Should the emphasis be on providing cash so that we get more money from the Senate in order to keep the District from perhaps going belly up? Or do we need the motion to instruct to pound home the necessity of the cuts? Which is most important should guide how we react to this matter.

The motion to instruct, in my judgment, is far from necessary. Already we are told that the Mayor is close to $100 million in cuts. The gentleman from California, Chairman DIXON, said during debate on the bill that we could need even more in savings than we have. We do not have any idea what is the underlying basis for the $150 million figure. But my objection is not to the House version. I agreed to that compromise. My objection is to weakening the chairman in negotiations with the Senate. All this motion to instruct does, is to undermine his negotiating strength and, ultimately, the House position.

May I remind the House that it is customary to leave a chairman some room to represent vigorously, as the gentleman from California [Mr. DIXON] will, and Members know he will, vigorously, the House position, to leave a chairman room to then negotiate back and forth. That is what is customary.

The gentleman from California [Mr. DIXON] and the ranking member himself, the gentleman from New York [Mr. WALSH], have put in place extraordinary requirements, including quarterly reports. The kind of monitoring of the District that the Congress is going to be doing during the next fiscal year is unprecedented. Nobody can have any doubt at this point that the necessary cuts will be made, given the head start the District has already made and given what is in the bill right now to monitor the District by Members sitting on both sides of the aisle.

Madam Speaker, finally, may I say, I have tried throughout this debate to be an advocate for those who I represent without being an apologist for the District of Columbia. I am more deeply disappointed, than any Member of this House, that we have gotten to the point we are today. I can assure the House, however, that the District, finally, now gets it.

Let us go to conference with a problem-solving attitude, not with a punitive motion to instruct.

Mr. DIXON. Madam Speaker, I have no further questions for time, and I yield back the balance of my time, subject to the fact that the gentleman from New York [Mr. WALSH] would like to close.

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

Madam Speaker, in conclusion, I would like to just state a couple of the differences between the House position and the Senate position and restate why I think it is so critical that the House stick to its position.

First of all, the House language that requires the $150 million spending cut by the District of Columbia provides that the District of Columbia cannot cut its own rainy day fund in order to arrive at that $150 million cut.

In other words, the district has set aside about $22 million for a rainy day fund. We encourage that. We applaud that, but we do not want the district to have the ability to wipe that out and count that as savings. The Senate does not have that requirement.

Mr. DIXON. Madam Speaker, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from California.

Mr. DIXON. Madam Speaker, there has been some confusion about the rainy day fund. Just as I maintain and the gentleman maintains and certainly the gentlewoman from the District of Columbia [Ms. NORTON] maintains, the District's budget at this moment is cosmetically balanced on paper. The rainy day fund is actually misnamed. There is not any money that is left over that they can use. It is clear, from all of their finances, that they will have to use the rainy day fund money in 1995.

It was a mechanism put in place by Chairman Clark and the city council to allow them to exercise some control over a portion of the District's money.

I am sorry they called it a rainy day fund, because that implies it is a surplus that they can do something with on a rainy day.

The reasons I recommended to the committee that we not involve ourselves in the rainy day fund were one, it is not a surplus, and, two, it was an arrangement worked out by the city council and the Mayor that gives the city council some control over how some of the money will be spent.

So I am not arguing with the gentleman, but I just want to correct the gentleman's statement and explain that it is not a rainy day fund. In excluding the rainy day fund from the $150 million spending cut, it was my intention and the committee's intention not to interfere with home rule and the agreement that had been made at the local level. The logical thing for the executive, the Mayor in this case, to do is to say that "Congress directed that these cuts be made and, therefore, I will take it out of the rainy day fund, and, Mr. Councilman, you have nothing to do with it."

I was only preserving that shield of home rule. I am not arguing with the gentleman. I just wanted to make that explanation.

Mr. WALSH. I thank the gentleman for the clarification on that.

But it just further points out the fact that there is all kinds of gimmickry within the budgeting, that we are not getting balanced budgets, that a rainy day fund is not a rainy day fund. The $22 million set aside is not set aside. And this is going to continue. This will continue unless we stick to the House position, which does provide some discipline.

The Senate does not require that if the District deficit spends that they lose dollar for dollar in the following year appropriation bill. There is no discipline in the Senate position.

□ 1220

There is no discipline in the Senate position. So we have to stick to our position. I remind my colleagues with the chairman of the subcommittee, my distinguished colleague, the gentleman from California [Mr. DIXON], and the gentlewoman from the District of Columbia supported this bipartisan agreement and, in fact, argued in favor of this agreement in the House.

I believe there is some flexibility in our position. I have been told over and over that home rule is the most critical issue in this debate. The House position supports home rule. The Senate position does not. So there is some flexibility. We are saying we have got to stick to the House level of cuts and at the same time we honor the principle of home rule that has been held up as such a Holy Grail in all of this debate. That is the House position.

Finally, I would remind my colleagues of the closeness of the vote. Three votes, one, two, three votes. If we reduce the spending cut, then we stand to lose the whole agreement. It could very well go down, the budget, entirely. Then we have really got a problem.

If we back away from our position, we lose our ability to get the financial discipline that we all agree is necessary; that the District of Columbia has not taken upon itself, that the House has decided and deemed that we should.

Madam Speaker, I urge that my colleagues support this motion to instruct the conferees.

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

The SPEAKER pro tempore (Mrs. KENNELLY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. WALSH].

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

Mr. WALSH. 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 316, nays 101, not voting 17, as follows:

[Roll No. 358]

YEAS—316

Allard
Andrews (ME)
Andrews (NJ)
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
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brooks
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (GA)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Swett
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—101

Abercrombie
Ackerman
Bacchus (FL)
Becerra
Beilenson
Berman
Bishop
Blackwell
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dixon
Durbin
Edwards (CA)
Engel
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gephardt
Gibbons
Gonzalez
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kennelly
Kopetski
LaFalce
Lantos
Lewis (GA)
Markey
Matsui
McCloskey
McDermott
McKinney
Meek
Mfume
Mineta
Mink
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Pelosi
Reynolds
Richardson
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Scott
Serrano
Sharp
Skaggs
Stark
Stokes
Studds
Swift
Thompson
Torres
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Whitten
Woolsey
Wynn
Yates

NOT VOTING—17

Andrews (TX)
Carr
Chapman
Doolittle
Gallo
Grandy
Hayes
Hoyer
Klein
Laughlin
Margolies-Mezvinsky
McDade
Rangel
Slattery
Sundquist
Washington
Wheat

□ 1242

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Rangel against.

Messers. BERMAN, TOWNS, MATSUI, and FLAKE changed their vote from "yea" to "nay."

Mr. GEJDENSON, Ms. ESHOO, Mr. THORNTON, and Mrs. MORELLA changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mrs. KENNELLY). Without objection, the Chair appoints the following conferees: Messrs. DIXON, STOKES, and DURBIN, Ms. KAPTUR, Mr. SKAGGS, Ms. PELOSI, and Messrs. OBEY, WALSH, ISTOOK, BONILLA, and MCDADE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4426, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1995

Mr. OBEY. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Madam Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. LIVINGSTON moves that the managers on the part of the House, at conference on the disagreeing votes of the two Houses on HR 4426, be instructed to insist on the House position on the Senate amendment numbered 2 concerning the Global Environment Facility.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Madam Speaker, I yield myself such time as I may consume.

Mr. LIVINGSTON. Madam Speaker, I will not use all of our time.

I just want to say that this is a very straightforward and simple motion which instructs the conferees to keep us at the current House level that was included in the bill when it went to the Senate.

The other body has gone to a much higher level. We would like the conferees to maintain the lowest level.

Mr. OBEY. Madam Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, let me simply say that I would be happy to accept the gentleman's motion and assure the gentleman we will try to do everything possible in conference to stick with the position outlined by the gentleman.

Mr. LIVINGSTON. Madam Speaker, I thank the gentleman for his statement.

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

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. OBEY, YATES, WILSON, and OLVER, Ms. PELOSI, Mr. TORRES, Mrs. LOWEY, and Messrs. SERRANO, SABO, LIVINGSTON, PORTER, LIGHTFOOT, CALLAHAN, and MCDADE.

There was no objection.

RADON AWARENESS AND DISCLOSURE ACT OF 1994

Mr. MOAKLEY. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 491 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 491

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee on the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Madam Speaker, all time yielded is for the purposes of debate only.

Madam Speaker, House Resolution 491 is an open rule providing for consideration of the Radon Awareness and Disclosure Act of 1994. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee. It makes in order the Energy and Commerce Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of debate. The rule provides one motion to recommit with or without instructions.

Madam Speaker, House Resolution 491 will allow the House to consider the Radon Awareness and Disclosure Act. This bill expands and improves the radon activities of the EPA to reduce the danger of radon to the American public.

The bill ensures that anyone buying or leasing a house will receive a warning about the dangers of radon before they sign on the dotted line. Buyers will have the opportunity to request a radon test and to insist upon a remedy—if indoor radon hazards are present—before they make their purchase.

The bill also requires EPA to develop standards for new construction in high radon areas, and creates a new program of performance and efficiency standards for radon products and services.

Madam Speaker, radon is a known carcinogen. The Surgeon General, and other top health officials, have warned that radon is the second leading cause of fatal lung cancer in this country, just behind smoking cigarettes.

It is a hazard which can be prevented without a great deal of effort or expense if people have the information they need to make decisions, and some confidence that they have reliable products and services to fix that problem.

House Resolution 491 is an open rule that will expedite consideration of this very important legislation. I urge my colleagues to support the rule and the bill.

Madam Speaker, I reserve the balance of my time.

□ 1250

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

Madam Speaker, yesterday the Committee on Rules called an emergency meeting to grant this rule providing for the consideration of the Radon Awareness and Disclosure Act. As it turned out, the emergency was not—the emergency was that there was not enough legislation ready for floor consideration to keep the House busy for the next couple of days. We had one recorded vote on Monday, and yesterday we completed our legislative business in less than 4 hours. This Congress has a lot to do and very little time in which to do it. We need to use that time to address the real emergencies facing our Nation, welfare reform, crime control, items like that.

However, today we are considering this legislation to encourage radon awareness and disclosure and testing, and I do rise in support of this marvelously open rule. The legislation is well intentioned, and I think it is important to insure that the public is fully informed on the consequences of radon exposure, and radon testing should be more aggressively encouraged.

However, I do not support the provisions of this bill which will require ordinary homeowners and others to provide certain information regarding radon to potential buyers during real estate transactions. I do not think that it is wise Federal policy to allow the Environmental Protection Agency to get into the real estate business, nor do I believe that the EPA has the manpower or the economic resources necessary to implement and administer such a massive regulatory program. These matters are best regulated by State and local governments. In fact, 35 States already have some form of radon disclosure requirements, and I am sure that others will follow.

Madam Speaker, I think that there are better ways to inform the public about radon than to make it the responsibility of property owners. This open rule will allow Members to address their concerns over these disclosure provisions. One of the brilliant amendments we will have considered is the Oxley amendment, which cuts out some of that bureaucratic red tape, with other amendments we will see down the line. I do urge adoption of the rule, but I have grave concerns about the bill itself.

Madam Speaker, I would submit the following information to be printed in the RECORD.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONGRESS

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	80	21	26	59	74

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through July 27, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONGRESS

Rule number, date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149, Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States Forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-Postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National Defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, some things are best handled at the local and State and city level, but if the gentleman from California took a look at this map and saw the dark areas which represent places where radon is found——

Mr. DREIER. Madam Speaker, I cannot see the map. Could the gentleman hold it up?

Mr. MOAKLEY. Madam Speaker, I am sorry, I thought the gentleman's eyes were better.

Madam Speaker, the gentleman's house is right here in the dark area.

Mr. DREIER. I thank the gentleman.

Mr. MOAKLEY. Madam Speaker, I think it is a very important rule. Yes, we have brought it up on the emergency calendar, but it was not the only other business that we wanted to call up the Rules Committee specifically for. We had other legislative matters before us.

Mr. DREIER. Mr. Speaker, let me just say in response to the words of my very distinguished chairman that the other emergency item that was up was the parks concession bill, which fell under that same category as emergency.

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

Ohio [Mr. OXLEY], the author of the amendment to which I referred. It is one of the most thoughtful amendments we will be considering on this bill.

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

Mr. Speaker, I would just simply state that I support the rule because it does give me an opportunity to offer a commonsense solution to this problem that was caused by the legislation that was initially debated on and voted on in the Committee on Energy and Commerce.

I think the debate will show that efforts at the State and local levels are far more important and better able to address the problem of radon than a Federal solution that gets the Environmental Protection Agency involved in every home sale in this country.

With that, in support of the rule I thank the gentleman for yielding.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. I thank the chairman of the Committee on Rules for yielding this time to me.

Mr. Speaker, we will have an open rule on this bill, and I do support the rule. But I did want to respond to the statements made by the gentleman from Ohio [Mr. OXLEY]. He will be proposing to strike out the guts of this legislation which is to inform people at the time they are about to buy a house that they may want to consider, but it is up to them, whether they want to get a test for radon.

Mr. Speaker, radon is a radioactive gas, it causes lung cancers, it is a serious health problem, and the General Accounting Office said that people really were not doing the testing.

The argument the gentleman advances is that this will interfere with real estate transactions. I point out to the Members that all the industries involved with real estate, including the National Association of Realtors, the National Association of Home Builders, the Mortgage Bankers Association, the National Apartment Association, all these groups support the bill and oppose the idea of the Oxley amendment which would take away from the public, from the consumer, this additional information that would be provided.

Mr. Speaker, I did not want to leave that comment unresponded to. I would urge support for the rule and urge support for the bill and against any amendments to it.

Mr. MOAKLEY. Mr. Speaker, does the gentleman from California have any more vignettes?

Mr. DREIER. Mr. Speaker, I have as many vignettes to offer as the gentleman has maps to offer at this point, if he would like to share any further with us. I have no other speakers who have requested time.

Mr. Speaker, I urge a "yes" vote on this spectacular open rule, and I praise the chairman of the Committee on Rules and my colleagues on both sides of the aisle upstairs who reported out this open rule. It is a very good way to approach this emergency legislation.

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

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 491 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2448.

□ 1259

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House of the State of the Union for the consideration of the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. OXLEY] will be recognized for 30 minutes.

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

□ 1300

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

Madam Chairman, today we are considering H.R. 2448, the Radon Awareness and Disclosure Act. This is important legislation that deserves serious attention and quick action.

Radon gas is radioactive and a known human lung carcinogen. It poses a serious environmental threat to American families. The facts speak for themselves:

Radon is the second leading cause of lung cancer in the United States.

Radon causes 14,000 deaths each year—more than drowning and fires combined.

Six million U.S. homes—1 out of every 15—have dangerous radon levels.

Hundreds of thousands of Americans live in homes that have more radioactive radon than would be allowed in a uranium mine.

It is important to point out that these findings are not the conclusions of one or two scientists or one or two studies. The conclusion that radon, a radioactive gas, is a human lung carcinogen and a cause of thousands of deaths each year is a medical and scientific consensus. Let me read you a list of the major scientific and health organizations that agree with this conclusion: National Cancer Institute; National Academy of Sciences; U.S. Surgeon General; Centers for Disease Control; Environmental Protection Agency; National Institute of Occupational Safety and Health; American Lung Association, and American Cancer Society.

Despite the health threat from exposure to the radioactive gas radon, we lack an effective Federal program to protect the public. According to GAO, fewer than 10 percent of the homes in American have been tested for radon hazards.

The legislation we consider today—H.R. 2448—takes a major step forward in protecting families from radioactive radon. It is an innovative, proconsumer, market-oriented approach to curbing radon exposures. It promises to increase radon awareness and testing dramatically by insuring that consumers receive information about the risks of radon when they need it most—before they buy a home.

The legislation has been endorsed by the Clinton administration, State and local governments, health groups, and the affected business organizations.

In fact, there is no interest group that is opposing this legislation. During the subcommittee markups at my subcommittee and Chairman SWIFT's subcommittee, and at the full committee markup, we negotiated this legislation with every affected interest group. These groups made valuable suggestions and we were able to accommodate their concerns.

As a result, this bill has support from organizations as divergent as the National Association of Realtors and the National Association of Homebuilders, on the one hand, and the Consumer Federation of America and the Sierra Club, on the other.

Let me read to you the list of organizations supporting this legislation:

BUSINESS ORGANIZATIONS

National Association of Realtors; National Association of Homebuilders; Mortgage Bankers Association of America; National Multi-Housing Council, and National Apartment Association.

STATE AND LOCAL GOVERNMENTS

National Association of Counties and Conference of Radiation Control Program Directors.

PUBLIC HEALTH ORGANIZATIONS

American Lung Association, American Cancer Society, American Academy of Pediatrics, and American Public Health Association.

CONSUMER AND ENVIRONMENTAL GROUPS

Consumers Federation of America, Citizen Action, Sierra Club, and U.S. PIRG.

Unfortunately, despite this consensus in favor of H.R. 2448 from across the spectrum, there will be an attempt today to gut this legislation.

The key provision of H.R. 2448 requires realtors and home sellers to give home buyers a radon pamphlet describing the risks of radon before selling the home. This pamphlet is essential to protect the consumer. It informs the consumer about the risks of radon so that the consumer is in a position to decide for him or herself whether to inspect the home for radon.

I want to underscore the point that the legislation does not require radon inspections. Nor does it require radon mitigation. These decisions—whether to inspect for radon and whether to mitigate radon—are left entirely to the buyer and the seller.

The problem we face today is that very few people test for radon because very few people are aware of the health risks of exposure to this radioactive gas. H.R. 2448 fixes this problem by giving people information about radon when they most need it—before they buy a home.

Unfortunately, Mr. OXLEY will offer an amendment to gut this provision. This makes no sense. His amendment fails to protect the consumer; it is opposed by the realtors; and it would deny State and local governments an important Federal program that the State and local governments want. This amendment should be rejected.

In closing, I want to commend the Members of this body who has worked so hard on this bill—the chairman of the Hazardous Materials Subcommittee, AL SWIFT, the chairman of the full committee, JOHN DINGELL, Congressman JIM SLATTERY, and of course, the sponsor of the bill and the leader of radon protection in this body, ED MARKEY.

Madam Chairman, I reserve the balance of our time.

Mr. OXLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to the legislation. At the appropriate time, I will have an amendment that addresses my specific concerns, but I would like to take this opportunity to make some general comments about the bill.

I would like to focus on several of the factual statements that will be made during this debate in support of the bill. We have already heard, for example, the statement that EPA has determined that radon gas is the second leading cause of lung cancer, causing between 7,000 and 30,000 lung cancer deaths each year. That is, in fact, what EPA says, and I do not have any information today to challenge that statement. But I think it's important for my colleagues to understand how EPA came up with these numbers.

The first thing to understand is that EPA's estimates of lung cancer deaths caused by radon in the general population are extrapolated from data on lung cancer deaths among uranium miners. Scientists have identified a strong correlation between uranium mining and lung cancer. Since uranium is a major source of radon, scientists have concluded that radon causes lung cancer.

However, the environment in a uranium mine is much different than the environment in a home. Levels of radon are higher, there are other pollutants in the air, and most of the miners were smokers. Several years ago, at EPA's request, the National Academy of Sciences tried to figure out how much less risk there is from radon in homes as compared to uranium mines. That's how EPA came up with the estimate of 7,000 to 30,000 lung cancer deaths caused each year by radon. But even the National Academy of Sciences admitted that there is still a lot more we need to know about how low levels of radon affect human health. Unfortunately, recent epidemiological studies have provided conflicting answers. EPA has another NAS study to combine the results of these studies to see if there are indications that exposure to low levels of radon is harmful.

It's also important to understand that EPA's estimates of deaths caused by radon in the general population are purely estimates; there is no clinical evidence that exposure to low levels of radon, such as those typically found in homes, causes lung cancer. In other words, so far as I know, no coroner has ever identified exposure to low levels of radon as the cause of death. Obviously, when lung cancer is the cause of death, it is very difficult to know what actually caused the lung cancer, especially if the individual was not a smoker.

Another statement we will hear in today's debate is that 1 in 15 of the homes in the United States have radon levels over EPA's action level of 4 picocuries. That statement is correct. According to a credible EPA study, 6 percent of the homes in the United States have elevated levels of radon. The important thing to remember, however, is that most of these homes are clustered together in specific geographic areas. Radon is not a problem uniformly across the country. It is a regional and local problem and it should be addressed, where possible, with regional and local solutions.

This brings me to my primary concern with this legislation, the real estate disclosure provisions of the bill that would make ordinary homeowners subject to penalties under the Federal Toxic Substances Control Act and which apply to every homeowner in the United States, regardless of whether that homeowner lives in a place where radon is a problem.

I represent an area where radon can be a problem. People are generally aware of this and there are State laws to address the problem. I think that's the appropriate response. At the appropriate time, I'll offer an amendment to correct this particular problem with the bill. I urge my colleagues to give my amendment serious consideration.

Finally, Madam Chairman, I would like to say just a word about two organizations that are supporting this legislation, the National Association of Home Builders and the National Association of Realtors. I understand why the homebuilders are supporting this bill, but I am not so sure I understand why the realtors have endorsed the bill.

With respect to the homebuilders, when this legislation was first introduced, it gave EPA the authority to require State and local building code organizations to adopt standards for minimizing the infiltration of radon gas into newly constructed buildings. The homebuilders and I were both concerned that it would be unworkable to give EPA the authority to enforce building codes throughout the United States. So we worked with Chairman SWIFT and Chairman WAXMAN to develop a compromise. That compromise, which is part of the bill before the House today, does not require any jurisdiction to adopt any particular building standard. However, it does require EPA to develop model standards for radon resistant construction and to work with model building code organizations to encourage States and localities to adopt such standards. The compromise also requires builders in certain high-radon areas to tell the purchasers of new homes whether they used radon-resistant construction techniques. I think this is a fair compromise and that is appropriate for the National Association of Home Builders to support the compromise.

With respect to the National Association of Realtors, I must admit that I do not understand why they are supporting this bill. The bill says that whenever a residential or commercial property is sold or leased, the seller must comply with certain disclosure requirements which are enforceable under the Federal Toxic Substances Control Act. The bill also says that whenever a real estate agent is involved in such a transaction, the real estate agent becomes liable along with the seller or lessor.

I talked with representatives of the National Association of Realtors and they told me that they support the bill because they support disclosure of known hazards in real estate transactions, including potential environmental hazards such as radon.

I agree that sellers should disclose known hazards, but I do not think its necessarily a Federal responsibility to mandate such disclosure. Ohio is one of a growing number of States that have a mandatory real estate disclosure law. When I talked to representatives of the

Ohio Association of Realtors they were confused about why their national representatives would support such legislation instead of working to develop appropriate and tailored disclosure requirements in every State. I continue to share their confusion over why the National Association of Realtors would support this legislation.

□ 1310

Mr. WAXMAN. Mr. Chairman, I yield myself 2 minutes, and I take this time to explain why the National Association of Realtors supports this legislation and would oppose the Oxley amendment.

The realtors support this bill and the disclosure to the respective buyer about the radon problem, simply just telling them about the radon problem and that tests could be taken should they so desire, because it is the right thing to do, it is the responsible thing to do, because they are aware that it is a national public health problem and it makes good business sense for them because they are caught in a dilemma. If the seller tells the realtor not to disclose some information, the realtor has to decide either to not disclose that information in order to please the seller whom that realtor is representing, most likely, or to disclose the information anyway and then anger the seller. But they fear that they will be later sued by someone for not disclosing the information about radon.

We went over this with the National Association of Realtors. Maybe in Ohio, if they had not thought about the issue and heard the arguments, they were puzzled by it, but the fact of the matter was that the National Association of Realtors in looking at this issue decided to go along with the same provision that we have under Federal law today requiring the disclosure of information about lead. That is under Federal law today, and the lead problem, which is a serious problem, especially for children, is one that the consumer would be informed about. The realtors supported it, and everybody supported it. This House adopted it, and it is now law.

The information would be given out in tests, if the buyer so desired, that could be taken before the transaction occurred. The test for radon, just for people's information, comes to around $30 a test. It is a very simple one and an inexpensive one. The mitigation is not that expensive either. But the important point is to get the information to the public.

Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee of the Committee on Energy and Commerce that also has jurisdiction over this issue.

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to underline the point that the gentleman has just made with regard to the fact that we are not breaking any new ground here in terms of asking at the Federal level that there be certain disclosures. I suppose that reasonable people can disagree as to what is a Federal responsibility or a State responsibility, but the fact is that the Congress has already said it is a Federal responsibility. We have done that in legislation passed by this Congress in the past. This merely adds a radioactive gas to the list of things that have to be disclosed.

Mr. Chairman, H.R. 2448, the Radon Awareness and Disclosure Act of 1994 is a fair, effective, and carefully crafted piece of legislation with broad support from consumer groups, environmental groups, public health organizations, State and local government organizations, and business organizations in the housing and real estate markets. This bill attacks the problem of radon exposure in a systematic way. First, the bill places special emphasis on those areas of the country in which we know there is a higher potential for elevated indoor radon levels by targeting the model construction standards to those areas. Second, to address the fact that as few as 10 percent of private homes in America have been tested for radon, the bill ties disclosure and information dispersal requirements to real estate transactions—an especially effective time to encourage testing. Third, the bill establishes a performance program for radon products and services, so that consumers may make safer, more informed choices.

This bill is the result of an extensive process of negotiation to meet the concerns of interested parties. It is important for Members to understand that the bill we consider today has changed significantly from the bill as introduced.

The bill as introduced contained a provision that some interpreted as a mandatory radon test during real estate transactions. The bill we consider today does not require testing. Rather, it requires the seller or lessor of a vulnerable premises to disclose to the buyer or lessee the results of any known radon testing and the presence of any known radon mitigation systems. The seller or lessor must additionally include in the contract a radon warning statement, and give the buyer or lessee a radon information pamphlet.

The bill as introduced provided for mandatory radon resistant construction in high radon areas. That section has been changed; the construction standards are voluntary in this bill. Sellers of new vulnerable premises in high radon areas must disclose to the buyer whether the premises has been or will be constructed in compliance with EPA model standards. This requirement drops for subsequent sales after the premises has been occupied.

Finally, concern was expressed that the penalties provisions of the bill were too severe. This section was also amended and the penalties greatly reduced. The bill no longer contains criminal penalties, nor does it provide for citizen suits against private parties for violations.

The Environmental Protection Agency has determined that radon is second only to smoking as the leading cause of lung cancer in this country. Passage of this effective legislation is much needed to address this serious health hazard. I urge my colleagues to vote in favor of passage.

□ 1320

Mr. OXLEY. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD], the ranking member of the Committee on Energy and Commerce.

Mr. MOORHEAD. Madam Chairman, I rise in opposition to certain portions of this bill.

Before I describe my concerns with this bill, I want to commend the work of Mr. MARKEY, Mr. WAXMAN, Mr. SWIFT, and Chairman DINGELL in moving this legislation to reauthorize EPA's indoor radon program. While there is still one important area of disagreement on the bill, I think it is important to point out that we have worked closely with our colleagues on the Energy and Commerce Committee to make a number of improvements. I especially want to recognize my Republican colleagues, Mr. BLILEY and Mr. OXLEY, the ranking members of the subcommittees of jurisdiction, for their efforts to improve this legislation.

To begin with, let me say that I do not oppose reauthorization of EPA's indoor radon programs. I agree that EPA should be looking at whether radon presents serious health risks. I understand that EPA has provided significant funding for the National Research Council to study whether exposure to low levels of radon causes lung cancer. I think this is important work that should continue.

My concern with this legislation is with the provision on real estate transactions. That section says that before anyone can sell a house located anywhere in the United States, the seller must provide the buyer with several different kinds of information on radon.

As a southern Californian, I have several problems with this part of the bill. First, California already has a law that requires sellers to disclose environmental hazards to buyers, including radon.

Second, radon is not a big problem in California. We have other problems like floods and fires and earthquakes. I do not think that my constituents

should be subjected to these Federal radon disclosure requirements when radon is such a comparatively minor problem.

In this respect, California is like a number of other States in the country. For example, Texas, Louisiana, and Arkansas have very low amounts of radon. It just does not make sense to impose these requirements on homeowners across the board.

I am also concerned that this legislation would make ordinary homeowners subject to penalties under the Federal Toxic Substances Control Act. Where radon is a problem, State and local laws should be the way to deal with the problem.

At the appropriate time, Mr. OXLEY will have an amendment to correct this problem with the bill. I urge my colleagues to support the Oxley amendment. And if the Oxley amendment fails, I urge them to vote against the bill.

Mr. OXLEY. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Madam Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY], the primary architect of this legislation.

Mr. MARKEY. Madam Chairman, I would like to thank the gentleman from California [Mr. WAXMAN] and the gentleman from Washington State [Mr. SWIFT] for their long, hard work on this bill to bring it out here on the floor. I would like to thank all of the Members and all of the interests that have spent so much time and effort in dealing with this issue.

This is a quite unique situation. The issue, for example, of tobacco and the role that it plays in inducing cancer, lung cancer in American citizens, has been quite contentious over this past session of Congress. On the one side, there are the health-related groups, and on the other side is an industry that bitterly disputes the conclusions which have been reached by the health groups on the effect which tobacco has upon the lungs of Americans.

Here we have just the opposite case. Here we have agreement between the health groups, the environmental groups, the consumer groups, the home builders, the realtors, and every other interest that would have a view on this issue. And we have resolved it, I think in almost a model of cooperation that should be respected and supported, rather than undermined, even though there are no dissenting voices among those that are affected by this legislation.

Radon does have a role in creating lung cancer in this country. There is no question about it. All of the experts and the industries accept that fact, and they have been willing to in fact accept this compromise legislation.

I think that answers the question as to why these industries have accepted this legislation. It is not some mystery as to why they have accepted it. It is because there is compromise in the legislation. It is because on each one of the major points, the gentleman from California [Mr. WAXMAN] and the gentleman from Washington [Mr. SWIFT] were willing to sit down with the industries to work out their legitimate concerns and to give them the kinds of concessions they said they needed in order to support legislation.

Those concessions were made. It is not onerous, but yet at the same time it does give the information and the protection to Americans against the threat of radon inducing lung cancer in their families. I think this is the kind of process that has to be respected. If it cannot be respected out here on the floor, then legislation is going to be increasingly difficult to pass in areas of this nature.

It is not the American Tobacco Association against the American Lung Association. We do not have that debate out here. We have all parties agreeing. This legislation should be overwhelmingly supported, and any attempts to undermine it with gutting amendments should be resisted vigorously or else we undermine the very committee process that has produced a piece of legislation that has consensus out here on the floor today.

□ 1330

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendments in the nature of a substitute shall be considered under the 5-minute rule by section, and each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radon Awareness and Disclosure Act of 1994".

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

Mr. WAXMAN. Madam Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Environmental Protection Agency has determined that radon is second only to smoking as the leading cause of lung cancer, resulting in an estimated 7,000 to 30,000 deaths each year.

(2) Testing for elevated levels of radon is relatively simple and inexpensive.

(3) There is not an adequate effort by Federal agencies to encourage testing for radon.

(4) Efforts to encourage testing have had limited results, reaching only a small percentage of homes to date.

(5) The lack of a mandatory certification process leads to inaccurate radon testing, ineffective radon mitigation, erosion of public confidence in the industry, and a waste of consumer investment.

(6) Increased public awareness of the dangers of radon gas and the means to mitigate its effects will lead to more informed decision making and a more productive use of resources.

SEC. 3. DEFINITIONS.

Section 302 of the Toxic Substances Control Act (15 U.S.C. 2662) is amended by adding the following at the end thereof:

"(5) The term 'vulnerable premises' means any frequently occupied space below the third floor of any building (other than a building used for industrial purposes).

"(6) The term 'high radon area' means any county designated by the Administrator as having a predicted average indoor screening level for radon greater than 4 pCi/L, using the methodology described by the Environmental Protection Agency in the report entitled 'Map of Radon Zones: National Report (December 3, 1993)', including any amendments or revisions thereto.".

SEC. 4. NEW CONSTRUCTION.

Section 304 of the Toxic Substances Control Act (15 U.S.C. 2664) is amended as follows:

*(1) By striking the section heading thereof and inserting "**NEW CONSTRUCTION.**".*

(2) By inserting "(a) MODEL STANDARDS AND TECHNIQUES.—" before the first sentence and striking the last 2 sentences.

(3) By adding the following at the end:

"(b) FINALIZATION OF MODEL STANDARDS.—Not later than 3 months after enactment of this subsection, the Administrator shall promulgate model construction standards for controlling radon levels in new vulnerable premises which are located in high radon areas and which are covered by the model standards published by the Administrator on March 21, 1994 (59 Fed. Reg. 13402). Not later than 2 years after the enactment of this subsection, the Administrator shall promulgate model construction standards for controlling radon levels in new vulnerable premises which are located in high radon areas and which are not covered by such proposed model standards. The model standards shall achieve significant radon risk reduction and be technologically achievable and readily implementable. The Administrator may, where appropriate, promulgate model standards for controlling radon levels in new vulnerable premises in other areas designated by the Administrator.

"(c) PROMOTION OF CODE AND STATE ADOPTION.—(1) The Administrator shall work to ensure that organizations responsible for developing national model codes for new vulnerable premises adopt, and State and local authorities which regulate construction of new vulnerable premises adopt and enforce, the model construction standards promulgated under subsection (b).

"(2) If the Administrator determines that an organization responsible for developing national model codes for new vulnerable premises has adopted standards for controlling radon levels in new vulnerable premises that are at least as protective of human health and the environment as the model construction standards promulgated under subsection (b), such standards shall be certified as equivalent to the model construction standards promulgated under subsection (b).

"(3) At the same time that the Administrator promulgates model construction standards under subsection (b), the Administrator shall publish a pamphlet that describes the standards and their costs and benefits. The Administrator shall work with interested parties to achieve the broad distribution of the pamphlet. Such distribution may be coordinated with the distribution of the pamphlet distributed under section 310.

"(d) INCENTIVE FOR VOLUNTARY COMPLIANCE.—(1) In addition to the disclosure requirements of section 310, the following disclosure requirements shall apply to sales of new buildings (or any portion thereof) with vulnerable premises in high radon areas, or other designated areas, covered by model construction standards promulgated under subsection (b):

"(A) Any person who sells such a new vulnerable premises shall, prior to the signing of a sales contract—

"(i) provide the purchaser with the pamphlet on radon prevention in construction published under paragraph (3) of subsection (c),

"(ii) inform the purchaser in writing that the premises are located in a high radon area (or other area designated under subsection (b)) and that the Administrator recommends that such premises be constructed in compliance with the model construction standards promulgated under subsection (b) or other construction standards certified as equivalent to such standards under subsection (c)(2), and

"(iii) accurately disclose in writing to the purchaser whether the premises have been, or will be, constructed in compliance with such model construction standards or other construction standards certified as equivalent to such standards under subsection (c)(2).

"(B) The radon warning statement under section 310 included in any contract for purchase and sale of any such new vulnerable premises shall include an acknowledgement signed by the purchaser that the purchaser has—

"(i) received the pamphlet on radon prevention in construction published under paragraph (3) of subsection (c),

"(ii) been informed in writing that the premises are located in a high radon area (or other area designated under subsection (b)) and that the Administrator recommends that such premises be constructed in compliance with the model construction standards promulgated under subsection (b) or other construction standards certified as equivalent to such standards under subsection (c)(2), and

"(iii) received a written disclosure indicating whether the premises has been, or will be, constructed in compliance with such model construction standards or other construction standards certified as equivalent to such standards under subsection (c)(2).

"(2) If the Administrator determines that a State or local authority which regulates construction of new vulnerable premises in a high radon area (or other area designated under subsection (b)) has adopted and is enforcing in such area either the model construction standards promulgated under subsection (b) or other standards for controlling radon levels in new vulnerable premises that are at least as protective of human health and the environment as such model standards, any person who constructs a new vulnerable premises in such area after such determination shall be exempt from the disclosure requirements of paragraph (1). Any State or local authority may submit to the Administrator State or local standards for controlling radon levels in new vulnerable premises. The Administrator shall determine within 60 days after the date of such submission whether such standards are as protective of human health and the environment as the model standards.

"(3) The requirements of this subsection shall take effect on the later of (A) the date 31 months after promulgation of the model construction standards under subsection (b) covering the new vulnerable premises concerned, or (B) the effective date of the requirements under section 310. Six months before the requirements of this subsection take effect in a high radon area (or other area designated under subsection (b)), the Administrator shall provide notice of such requirements to the State in which such area is located.

"(4) Not later than 1 year prior to the effective date established in paragraph (3), the Administrator shall, after notice and opportunity for comment, publish a list of the areas to which the model construction standards concerned are applicable, together with a map of all such areas.

"(5) A violation of this subsection shall be considered a violation of section 310.

"(e) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this subsection, the Administrator shall report to Congress on the extent to which State and local authorities which regulate construction of new vulnerable premises have adopted and are enforcing the model construction standards promulgated under subsection (b), and new vulnerable premises are being constructed in compliance with such standards. Such report shall contain a list of State and local authorities in areas covered by model standards which have adopted and are enforcing such standards and a list of those which have not adopted or are not enforcing such standards. Such report shall identify any obstacles that may exist to—

"(1) adoption and enforcement by such State and local authorities of such model construction standards, and

"(2) construction in compliance with such model construction standards,

and shall make recommendations for overcoming such obstacles.

"(f) GUIDANCE FOR CERTAIN PREMISES.—Not later than 2 years after the enactment of this subsection, the Administrator shall promulgate guidance for measuring and mitigating radon levels in existing vulnerable premises not covered by the proposed model standards published by the Administrator on April 12, 1993 (58 Fed. Reg. 19097).

"(g) OTHER DISCLOSURE REQUIREMENTS.—The Administrator may consolidate the requirements applicable under this section with the disclosure requirements applicable under other authority of law.

"(h) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.".

SEC. 5. AMENDMENTS TO SECTION 306 OF TSCA.

Section 306 of the Toxic Substances Control Act (15 U.S.C. 2666) is amended as follows:

(1) In subsection (e), by striking "In the event that State applications for funds exceed the total funds available in a fiscal year, the" and inserting "The".

(2) By amending subsection (e) to add the following new paragraph at the end thereof:

"(5) The potential for the activity or project to advance the strategy developed under section 316 (relating to strategy to identify and reduce exceptionally high indoor radon levels).".

(3) In subsection (f), strike "in the third year" and insert "thereafter".

(4) In subsection (g) by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Administrator may set aside a percentage of the grants made to States under this section to be paid by such States to local governments in high radon areas. Such amounts shall be used for eligible activities under subsection (c). In the case of any State not receiving a grant under this section, the Administrator may make grants directly to local governments in such State for such purposes. Subsection (f) shall not apply to any grant to a local government described in the preceding sentence or to any portion of a grant to a State under this section which is paid to a local government as provided in this paragraph.".

SEC. 6. PERFORMANCE PROGRAM FOR RADON PRODUCTS AND SERVICES.

Section 309 of the Toxic Substances Control Act (15 U.S.C 2669) is amended to read as follows:

"SEC. 309. PERFORMANCE AND PROFICIENCY PROGRAM FOR RADON PRODUCTS AND SERVICES.

"(a) PERFORMANCE AND PROFICIENCY PROGRAM.—(1) Within one year after the enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall promulgate regulations establishing a program to require each of the following—

"(A) Any product for the measurement of radon shall meet performance criteria that ensure the effectiveness of such product.

"(B) Any person offering a service to the public for the measurement or mitigation of radon shall meet a level of proficiency that ensures the effectiveness of such service.

Effective on the date 2 years after the enactment of the Radon Awareness and Disclosure Act of 1994, no person may introduce into commerce any product for the measurement of radon unless such product meets the performance criteria established under subparagraph (A) and no person may offer a service to the public for the measurement or mitigation of radon unless such person meets the level of proficiency established under subparagraph (B).

"(2) The program established as provided in paragraph (1) shall include each of the following—

"(A) Procedures for ordering the recall of any product introduced in commerce for the measurement of radon which does not meet the performance criteria established under paragraph (1)(A).

"(B) Procedures for ordering the discontinuance of any service offered to the public for the measurement or mitigation of radon which does not meet the levels of proficiency established under paragraph (1)(B).

"(C) Procedures for establishing adequate quality assurance requirements for each radon measurement product introduced into commerce and for each radon measurement or mitigation service offered to the public.

"(b) EFFECTIVENESS OF PRODUCTS; PUBLIC AWARENESS.—The Administrator shall develop and make each of the following available to the public:

"(1) A list of all radon measurement products which meet minimum performance criteria under paragraph (1)(A) of subsection (a).

"(2) A summary of current radon measurement and mitigation methods and products. Such summary shall include information about the accuracy, effectiveness, cost, and resistance to tampering of such products and methods.

"(c) USER FEE.—(1) Within one year after the enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall promulgate rules imposing user fees on persons who manufacture or import any product described in subsection (a)(1)(A) and for persons who offer any service described in subsection (a)(1)(B). The amount of such fees shall be designed to cover the annual operating costs of the Environmental Protection Agency in carrying out the program established under subsection (a), except

that the Administrator may reduce the amount of such fees during the first 3 fiscal years after the promulgation of regulations under subsection (a) in order to promote the availability of radon measurement and mitigation products and services. Such fees shall be structured such that any person's liability for such fees is reasonably based on the proportion of the program's operating costs that relate to such person, and such person's liability for such fees shall not be based on the income of such person.

"(2) The fee established under paragraph (1) shall not apply with respect to persons who are employees of public and nonprofit child care facilities, schools, hospitals, nursing homes, or other care facilities and who are providing services described in subsection (a)(1)(B) at such facilities.

"(d) USE OF FUNDS.—Amounts received for user fees under subsection (c) shall be deposited in a Radon Service Account established in the Treasury of the United States for use by the Administrator, to the extent provided in appropriations Acts, in carrying out the program established under subsection (a).".

SEC. 7. DISCLOSURE OF INFORMATION CONCERNING RADON.

Section 310 of the Toxic Substances Control Act (15 U.S.C. 2670) is amended to read as follows:

"SEC. 310. DISCLOSURE OF INFORMATION CONCERNING RADON.

"(a) DISCLOSURE IN PURCHASE AND SALE OR LEASE.—

"(1) RADON.—Not later than 1 year after the enactment of this section, the Administrator shall promulgate regulations providing for the disclosure of radon in vulnerable premises whenever any such premises is offered for sale or lease. The regulations shall require that, prior to the signing of a sales contract or lease, the seller or lessor shall—

"(A) provide the purchaser or lessee with a radon hazard information pamphlet as prescribed in subsection (b); and

"(B) disclose to the purchaser or lessee the presence of any known radon measurement report prepared for, or received by, the seller or lessor and any known radon mitigation systems in the vulnerable premises concerned.

"(2) CONTRACT FOR PURCHASE AND SALE.—Regulations promulgated under this section shall provide that every contract for the purchase and sale of any vulnerable premises shall include a Radon Warning Statement with an acknowledgement signed by the purchaser that the purchaser has—

"(A) read the Radon Warning Statement;

"(B) received a radon hazard information pamphlet; and

"(C)(i) requested and been provided with the opportunity to conduct a test of the premises for radon, on terms and conditions mutually agreeable to purchaser and seller, or

"(ii) agreed to purchase the premises without further testing of the premises for radon.

The acknowledgement shall identify which option (clause (i) or (ii)) the purchaser has agreed to.

"(3) CONTENTS OF RADON WARNING STATEMENT.—The Radon Warning Statement referred to in this section shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

'The U.S. Surgeon General has determined that prolonged exposure to radon can be a serious health hazard. Testing is available to detect the presence of radon. The seller is required to provide the buyer with any information on radon from tests in the seller's possession and notify the buyer of any radon mitigation systems.'.

"(4) COMPLIANCE ASSURANCE.—Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a vulnerable premises, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

"(b) RADON HAZARD INFORMATION PAMPHLET.—Not later than 1 year after the enactment of this section, and after notice and opportunity for comment, the Administrator shall publish a radon hazard information pamphlet. The pamphlet shall, at a minimum—

"(1) describe the prevalence and risks of radon exposure at different levels;

"(2) provide information evaluating products and services for the measurement and mitigation of radon;

"(3) advise persons as to how to obtain a list of products for the measurement of radon which meet the performance criteria established under section 309(a)(1) and a list of persons providing radon measurement or mitigation services who meet the proficiency levels established under section 309(a)(1);

"(4) explain that a prospective buyer or lessee has a right to negotiate an opportunity to conduct a test of the premises to detect radon; and

"(5) state that the Administrator recommends that buyers and lessees ascertain the radon level of any vulnerable premises to be purchased or leased.

The Administrator shall from time to time review and revise such pamphlet.

"(c) PENALTIES FOR VIOLATIONS.—

"(1) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to the reasonable costs of radon mitigation incurred by such person at the vulnerable premises.

"(2) COSTS.—In any civil action brought for damages pursuant to paragraph (1), the appropriate court may award court costs to any prevailing or substantially prevailing party, together with reasonable attorney fees and any expert witness fees.

"(3) LIMITATION ON PENALTY AMOUNT.—For purposes of applying civil penalties under section 16 in the case of any violation of this section by a seller or lessor, the maximum penalty applicable under section 16 shall be $2,000 in the case of a seller and an amount equal to 2 months rent in the case of a lessor. For purposes of applying such penalties to any such violation, the second sentence of section 16(a)(1) shall not apply.

"(4) EXEMPTION FROM CRIMINAL PENALTIES AND CITIZENS SUITS.—No criminal penalties shall be imposed under section 16(b) for any violation of this section and no action may be brought under section 20(a)(1) for any such violation.

"(d) OTHER DISCLOSURE REQUIREMENTS.—The Administrator may consolidate the requirements applicable under this section with the disclosure requirements applicable under other authority of law.

"(e) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

"(f) SHORT TERM LEASES.—This section shall not apply to any lease which is for a term of one year or less and does not, by its terms, provide for an extension.

"(g) EFFECTIVE DATE.—The regulations under this section shall take effect 2 years after the date of the enactment of this title.".

SEC. 8. AUTHORIZED STATE PROGRAMS.

Section 311 of the Toxic Substances Control Act (15 U.S.C. 2671) is amended to read as follows:

"SEC. 311. AUTHORIZED STATE PROGRAMS.

"(a) APPROVAL.—Any State which seeks to administer and enforce a State program containing the standards, regulations, or other requirements established under section 304(d) (relating to incentives for voluntary compliance), section 309(a)(1)(B)(relating to services for the measurement or mitigation of radon), or 310 (relating to disclosure of information concerning radon), or any combination thereof, may, after notice and opportunity for public comment, develop and submit to the Administrator an application, in such form as the Administrator shall require, for authorization of such a State program. Any such State may also certify to the Administrator at the time of submitting such program that the State program meets the requirements of paragraphs (1) and (2) of subsection (b) of this section. Upon submission of such certification, the State program shall be deemed to be authorized under this section, and shall apply in such State in lieu of the corresponding Federal program under section 304(d), 309(a)(1)(B) or 310, or any combination thereof, as the case may be, until such time as the Administrator disapproves the program or withdraws the authorization.

"(b) APPROVAL OR DISAPPROVAL.—Within 180 days following submission of an application under subsection (a), the Administrator shall approve or disapprove the application. The Administrator shall disapprove the application if, after notice and after opportunity for public hearing, the Administrator finds that—

"(1) the State program is not at least as protective of human health and the environment as the Federal program under section 304(d), 309(a)(1)(B) or 310, or any combination thereof, as the case may be, or

"(2) such State program does not provide adequate enforcement.

Upon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program.

"(c) WITHDRAWAL OF AUTHORIZATION.—If a State is not administering and enforcing a program authorized under this section in compliance with standards, regulations, and other requirements of this title, the Administrator shall so notify the State and, if corrective action is not completed within a reasonable time, not to exceed 180 days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this title.

"(d) MODEL STATE PROGRAM.—Within 12 months after the enactment of this section, the Administrator shall promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program under this section. Such program shall encourage reciprocity among the States.

"(e) OTHER STATE REQUIREMENTS.—Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements which are more stringent than those imposed by this title.

"(f) EXISTING STATE AND LOCAL PROGRAMS.—The regulations under this title shall, to the extent appropriate, encourage States to seek program authorization and to use existing State and local programs and procedures for carrying out such program.

"(g) FEES.—Each State program authorized under this section containing the standards, regulations, or other requirements established under section 309(a)(1)(B) (relating to services for the measurement or mitigation of radon) may include user fees applicable to persons who offer any service described in subsection 309(a)(1)(B) in an amount designed to cover, in whole or in part, the annual operating costs of such program. The user fees under section 309(b) shall not apply to persons subject to user fees under such a State program.".

SEC. 9. ENFORCEMENT AND ADMINISTRATIVE PROCEEDINGS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new sections after section 311:

"SEC. 312. PROHIBITED ACTS.

"It shall be unlawful for any person to fail or refuse to comply with any provision of this title or any rule or order under this title.

"SEC. 313. ADMINISTRATIVE PROCEEDINGS.

"The provisions of section 411 shall apply to regulations issued under this title in the same manner and to the same extent as such provisions apply to regulations issued under title IV.

"SEC. 314. CONTROL OF RADON AT FEDERAL FACILITIES.

"Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for certification, licensing, recordkeeping, or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief) respecting radon in the same manner, and to the same extent as any nongovernmental entity is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines regardless of whether such penalties or fines are punitive or coercive in nature, or whether imposed for isolated, intermittent or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this section include, but are not limited to, fees or charges assessed for certification and licensing, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local radon program. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law relating to radon with respect to any act or omission within the scope of his official duties.

"SEC. 315. REGULATIONS.

"The Administrator is authorized to issue such regulations, including recordkeeping and reporting requirements, as may be necessary to carry out the provisions of this title.".

SEC. 10. STRATEGY TO IDENTIFY AND REDUCE EXCEPTIONALLY HIGH INDOOR RADON LEVELS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 315:

"SEC. 316. STRATEGY TO IDENTIFY AND REDUCE EXCEPTIONALLY HIGH INDOOR RADON LEVELS.

"(a) DEVELOPMENT OF THE STRATEGY.—Within 9 months of the date of enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall, in consultation with other Federal agencies and scientific experts in radon health effects, detection, and mitigation, using relevant and available information, develop and provide to Congress a strategy using the authorities of the Administrator for identifying areas and buildings within the United States with exceptionally high levels of radon and for reducing such radon levels. The Administrator shall revise the strategy as necessary to incorporate additional relevant information.

"(b) IMPLEMENTATION OF THE STRATEGY.—No later than 9 months after the date of enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall begin to implement the provisions of the strategy required under subsection (a).

"(c) REPORT TO CONGRESS.—21 months after the date of enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall report to Congress on the results of Federal, State, and local efforts to implement the strategy developed under subsection (a).".

SEC. 11. MEDICAL COMMUNITY OUTREACH.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 316:

"SEC. 317. MEDICAL COMMUNITY OUTREACH.

"(a) IN GENERAL.—The Administrator, in cooperation with the Secretary of Health and Human Services, shall develop and implement an outreach program to provide information about radon to the medical community.

"(b) INFORMATION.—(1) The Administrator, in consultation with the Secretary of Health and Human Services and the Surgeon General, shall develop informational material concerning radon tailored to doctors in general practice and in specialties related to lung cancer. Such information shall, at a minimum—

"(A) explain the health threats posed by exposure to radon;

"(B) explain the association of radon with smoking and other causes of lung cancer;

"(C) identify appropriate steps to determine exposure to radon in the home; and

"(D) identify sources of additional information.

"(2) Not later than one year after the date of the enactment of this section, the Administrator shall transmit the information developed pursuant to this section to—

"(A) doctors in the United States in general practice;

"(B) doctors in specialties related to lung cancer;

"(C) all doctors employed by the Federal Government;

"(D) all hospital administrators; and

"(E) other physicians and officials determined by the Administrator to be appropriate.

"(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Health and Human Services, shall report to Congress concerning the implementation of this section and recommendations for measures to improve radon information dissemination to the medical community.".

SEC. 12. UNBIASED PRESENTATION OF RISK INFORMATION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 317:

"SEC. 318. UNBIASED PRESENTATION OF RISK INFORMATION.

"The Administrator, in carrying out his or her responsibilities under this title, shall ensure that the presentation of information on the health risks associated with exposure to radon and radon progeny is unbiased and informative. To the extent feasible, documents made available to the general public which describe the degree of risk from exposure to radon and radon progeny shall, at a minimum, characterize the population or populations addressed by any risk estimates; state the expected risk for the specific population; and state the reasonable range of uncertainty.".

SEC. 13. AUTHORIZATION FOR RADON ABATEMENT PROVISIONS OF TOXIC SUBSTANCES CONTROL ACT.

(a) IN GENERAL.—Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 318:

"SEC. 319. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out the provisions of this title (other than section 307) such sums as may be necessary for the fiscal years 1994 through 1997.".

(b) CONFORMING AMENDMENTS.—The following sections of title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) are repealed:

(1) Section 305(f).

(2) Section 306(j).

(3) Section 308(f).

SEC. 14. TECHNICAL AND CONFORMING AMENDMENTS.

The Toxic Substances Control Act (15 U.S.C. 2601 and following) is amended as follows:

(1) In the first sentence of subsection (a) of section 11 strike "mixtures, or products subject to title IV" and insert "mixtures or products subject to title III or title IV".

(2) In paragraph (1) of subsection (b) of section 11, strike "mixtures, or products subject to title IV" and insert "mixtures, or products subject to title III or IV".

(3) In paragraph (1) of section 13(a), strike "6, or title IV" in each place it appears and insert "6, or title III or IV" and strike "7 or title IV" and insert "7 or title III or IV".

(4) In section 16, strike "or 409" and insert ", 312, or 409" each place it appears.

(5) In section 17:

(A) In subsection (a)(1)(A) strike "or 409" and insert ", 312, or 409".

(B) Strike "title IV" in each place it appears in subparagraphs (B) and (D) of subsection (a)(1) and in subsection (b) and insert "title III or title IV".

(6) In section 19 in the first sentence of subsection (a)(1)(A), after "title II" insert ", III,".

(7) In section 20(a)(1) after "title II" insert ", III," in each place it appears.

(8) Subsection (a)(2) of section 305 is amended by striking out "Operation" and inserting "Until a program is in effect under section 309, operation".

(9) Subsection (h)(3) of section 306 is amended by inserting before the period at the end of the first sentence "or, after the date 2 years after the enactment of the Radon Awareness and Disclosure Act of 1994, a proficiency program under section 309".

(10) The table of contents for title III of such Act (contained in section 1 of the Act) is amended as follows:

(A) Amend the item relating to section 304 to read as follows:

"Sec. 304. New construction.".

(B) Strike out the items relating to section 309 through 311 and insert the following:

"Sec. 309. Performance and proficiency program for radon products and services.

"Sec. 310. Disclosure of information concerning radon.

"Sec. 311. Authorized State programs.

"Sec. 312. Prohibited acts.

"Sec. 313. Administrative proceedings.

"Sec. 314. Control of radon at Federal facilities.

"Sec. 315. Regulations.

"Sec. 316. Strategy to identify and reduce exceptionally high indoor radon levels.

"Sec. 317. Medical community outreach.

"Sec. 318. Unbiased presentation of risk information.

"Sec. 319. Authorization of appropriations.".

SEC. 15. ESTABLISHMENT OF PRESIDENT'S COMMISSION ON RADON AWARENESS.

(a) ESTABLISHMENT.—There is established a commission to be known as the President's Commission on Radon Awareness (hereinafter in this Act referred to as the "Commission").

(b) DUTIES.—The Commission shall—

(1) examine public awareness programs in effect on the date of the enactment of this Act which are—

(A) implemented through various segments of mass media; and

(B) intended to raise public awareness of the health threats of radon and the benefits of testing for radon;

(2) act as an administrative and coordinating body for the voluntary donation of resources to assist the implementation of new programs and national strategies for dissemination of information intended to raise awareness of the health threats of radon;

(3) encourage media outlets throughout the country to provide information aimed at increasing radon awareness, including public service announcements and advertisements; and

(4) evaluate the effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

(c) NATIONAL RADON EDUCATION CAMPAIGN.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency, in collaboration with the Commission, shall establish a national education campaign to increase public awareness concerning radon health risks and motivate public action to reduce radon levels. The national education campaign shall include the use of funds for the purchase and production of public educational materials. The Administrator is authorized to enter into cooperative agreements to carry out this section.

(2) RADON AWARENESS WEEK.—As part of the national education campaign, the Administrator may designate an annual national radon awareness week.

(d) MEMBERSHIP AND OPERATION OF COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this Act, and should include representatives of—

(A) advertising agencies;

(B) television, radio, cable communications, and print media;

(C) the health industry;

(D) other segments of the business sector of the United States;

(E) experts in the field of radiation science;

(F) consumer groups;

(G) the radon testing and remediation industry; and

(H) other Federal agencies, as designated by the President.

(2) TERMS.—

(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) A member may serve after the expiration of the member's term until a successor to the member has taken office.

(3) BASIC PAY AND EXPENSES.—(A) Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(B) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government services are allowed travel expenses under section 5703 of title 5, United States Code.

(4) PROCEDURES, MEETINGS, STAFF, ETC.—The Commission shall establish such rules regarding meetings, including rules regarding quorum, voting and procedure, and regarding staff, experts and consultants as the Commission deems appropriate. The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States. The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) REPORT.—The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

(6) TERMINATION.—The Commission shall terminate on a date which is 3 years after the date on which members of the Commission are first appointed, unless the President, by Executive order, extends the authority of the Commission.

The CHAIRMAN. Are there any amendments to the remainder of the bill?

AMENDMENTS OFFERED BY MR. OXLEY

Mr. OXLEY. Madam Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. OXLEY: Page 15, strike line 13 and all that follows down through line 9 on page 17.

Page 17, line 10, strike "(b)" and insert "(a)".

Page 18, line 11, after the period insert: "The Administrator shall implement a program to distribute the pamphlet to high radon areas and shall coordinate with the President's Commission on Radon Awareness established under section 15 of the Radon Awareness and Disclosure Act of 1994 with organizations in the real estate and building construction industry and with State and local governments to achieve the broad dissemination of the pamphlet in such areas and in other areas deemed appropriate by the Administrator.".

Page 18, strike line 12 and all that follows down through line 6 on page 20.

CONFORMING AMENDMENT

Page 9, strike lines 3 and 4 and insert:

"(5) PENALTIES FOR VIOLATIONS.—

"(A) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser in an amount equal to the reasonable costs of radon mitigation incurred by such person at the vulnerable premises.

"(B) COSTS.—In any civil action brought for damages pursuant to subparagraph (A), the appropriate court may award court costs to any prevailing or substantially prevailing party, together with reasonable attorney fees and any expert witness fees.

"(C) LIMITATION ON PENALTY AMOUNT.—For purposes of applying civil penalties under section 16 in the case of any violation of this section by a seller, the maximum penalty applicable under section 16 shall be $2,000. For purposes of applying such penalties to any such violation, the second sentence of section 16(a)(1) shall not apply.

"(D) EXEMPTION FROM CRIMINAL PENALTIES AND CITIZENS SUITS.—No criminal penalties shall be imposed under section 16(b) for any violation of this section and no action may be brought under section 20(a)(1) for any such violation.

Mr. OXLEY (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Madam Chairman, this amendment is to section 7 of the bill, which is the section that requires homeowners and other building owners throughout the United States to provide certain information concerning radon to buyers and lessees at the time of the sale or lease of the property.

I want to begin by discussing what this section of the bill does and does not do. The proponents of the bill have stated that the bill does not require anyone to conduct a radon test. That is correct. But what the bill does do is require sellers and lessors to comply with a number of other requirements, all of which are enforceable by penalties under the Federal Toxic Substances Control Act and can result in a homeowner being sued in Federal court.

Let me discuss just one requirement of the bill. The bill says that before a homeowner can sell his house, he must obtain a "radon hazard information pamphlet" from EPA and provide it to the prospective buyer. This requirement applies not just to homes located in parts of the country with high levels of radon, but everywhere in the United States, to everyone who wants to sell a residential or commercial property.

It seems to me that this provision raises several problems. First of all, how are ordinary homeowners supposed to know about this new Federal requirement? As we all know, ordinary people don't read the Federal Register. Ordinary people are used to looking to State and local law for rules on how real estate is bought and sold. This legislation presents a real problem when it comes to giving ordinary homeowners fair notice about the legal requirements that will apply to them.

And that's not the end of the ordinary homeowner's problems. Assuming that a seller knows about the law, he's got to comply with it. That means getting a copy of the "radon hazard information pamphlet" from EPA and providing it to the prospective purchaser. Let me underscore the impact of this particular section of the bill: If this bill becomes law, virtually no residential or commercial property in the United States can be sold until the seller provides the buyer with a copy of EPA's "radon hazard information pamphlet."

It's worth noting that there are more than 4½ million homes sold every year, and countless more homes and businesses leased. Congressman BLILEY and I wrote to EPA several months ago asking how EPA will ensure that copies of its pamphlets are available everywhere real estate could be either sold or leased. It seems to me that this will be an undertaking not unlike what the IRS has to do to get Federal tax forms out every year, except that EPA will have to ensure that its "radon hazard information pamphlets" are available at all times during the year, not just prior to April 15.

EPA's response to our question was less than satisfying. EPA said that it would work with organizations such as the American Lung Association and the Consumer Federation of America to make sure that its pamphlets are made available throughout the United States. While I don't question the desire and the opportunity of these groups to assist EPA in distributing its pamphlet, I would note that the legal burden is on the homeowner and not on EPA or third-party groups. This puts the homeowner in a difficult position because his ability to comply with the law becomes dependent on someone who has no legal obligation.

There are other requirements in this section of the bill that I will mention only briefly. In addition to providing EPA's pamphlet to a prospective buyer or lessee, the seller or lessor must disclose the results of any radon tests that have been conducted in the dwelling. And finally, the seller must include a special "radon warning statement" in the sales contract, and the buyer must acknowledge in writing that he read the warning statement and received a copy of EPA's pamphlet.

The problem with these requirements—in addition to being complicated and confusing—is that they are enforceable through penalties under the Federal Toxic Substances Control Act and a seller or lessor could be sued in Federal court.

I support the goals of this section of the bill, that is, to provide the public with accurate and useful information on the risks from exposure to radon.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

(By unanimous consent, Mr. OXLEY was allowed to proceed for 2 additional minutes.)

Mr. OXLEY. Madam Chairman, I don't agree that we need to make ordinary homeowners subject to liability under the Federal Toxic Substances Control Act to accomplish this goal.

What this bill does is create a massive pamphlet distribution scheme that's enforceable under Federal law. I don't think that makes sense. I think it makes more sense for EPA to use its resources to work with States to identify areas where radon levels can be reduced. That's what section 10 of the bill does, by requiring EPA to develop a strategy for identifying areas in the United States that have exceptionally high levels of radon and working to reduce those levels. That's where the real health benefits will come from under this legislation.

And that's what my amendment would do. My amendment would eliminate the mandates and penalties and civil liability on homeowners and other property owners and direct EPA to make its pamphlet available in areas where radon levels are known to be high. It would also direct EPA to work with existing third-party groups to achieve the widest possible distribution of information on radon risks among the general public. What we need are more focused, cooperative efforts and less emphasis on mandates and enforcement. I urge the House to adopt my amendment.

Madam Chairman, I would ask that my amendment be adopted because somebody has to stand up for the homeowner, the homeowner who wants to sell his property and is already worried about too much Federal redtape and regulation in the home selling process.

This is an opportunity for the House to speak loud and clear in support of the homeowners of this country who want nothing more than to provide basic information to the buyers but do not want to be involved in more and more Federal redtape and certainly do not want to be involved in the potential liability that this bill would require.

□ 1340

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

(On request of Mr. WAXMAN and by unanimous consent, Mr. OXLEY was allowed to proceed for 2 additional minutes.)

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

Mr. OXLEY. I yield to the gentleman from California.

Mr. WAXMAN. Madam Chairman, I am curious to know why the gentleman thinks it is a burden on a homeowner to simply say to a prospective buyer, to say, "Here is a pamphlet. It warns you about the dangers of radon, a radioactive gas," why that is any bigger problem than what is now in Federal law, that they be given a pamphlet about lead and information about the fact that there can be a test to see if there is lead in the home.

Mr. OXLEY. Madam Chairman, obviously the potential for liability is huge when we are expecting every homeowner in this country to know that he has to provide this pamphlet when he is selling his home.

Madam Chairman, I would suggest to the gentleman from California [Mr. WAXMAN] that he has a lot more faith in people understanding all of the laws that we pass here every day. So many of those people are going to walk blindly into this and face potential liability.

The gentleman from Massachusetts told us this is a voluntary program. I would suggest it is not a voluntary program. If you are a homeowner and you face potential liability under TSCA and potential civil liability in the courts, that to me is an unwanted burden on the homeowner. We can talk all we want about lead and everything else, but the potential liability for the homeowner is great.

Mr. WAXMAN. Madam Chairman, if the gentleman will continue to yield, under the law now the homeowner has to give information about lead, a pamphlet about that. This bill would say give a pamphlet about radon. I expect the two pamphlets would be combined. There is not a tremendous liability on the part of the homeowner, simply a requirement to give out a pamphlet.

Realtors will all know to advise their sellers to do that, but an individual who sells a home now has to comply with the law on the lead pamphlet. They will get a form for a contract and that form on the contract will say that "You have to give information on radon," just as the form now says "You have to give information on lead." It is just not a big burden. There is no great liability involved.

Mr. OXLEY. Madam Chairman, I would suggest to the gentleman from California that he has not been through too many real estate closings lately, because they are very complicated and confusing.

Mr. WAXMAN. I beg to differ with the gentleman, Madam Chairman.

Mr. SWIFT. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio [Mr. OXLEY].

Madam Chairman, the Oxley amendment does a lot more than simply help the individual homeowner who might want to sell their house by themselves. It essentially eliminates from the bill the entire disclosure section. I must say, I am a little puzzled that anyone would consider this provision of the bill anything new or anything radical.

Madam Chairman, I can recall back in the sixties when the big debate was over truth in labeling and truth in packaging. I remember a Member of Congress who was opposed to doing that at that time because they thought it was a terribly radical idea, pointing out the incongruity in the difference in the size between a pound of feathers and a pound of lead. She went on at enormous length about how this was going to cause confusion in the marketplace and so forth and so on.

Madam Chairman, truth in labeling and truth in packaging is so commonly accepted now that consumers use it regularly, and anyone who seriously tried to say that there was some incongruity between a pound of feathers and a pound of lead would be a laughingstock. Yet here we are in 1994, Madam Chairman, hearing on the floor that disclosure of the possible presence of a radioactive gas in a house one is proposing to buy is some strange, exotic, unusual, unwarranted prospect.

What the bill says is that "you will disclose what you know about Radon." What the Oxley amendment does is to strike that provision and says. "You don't have to tell anybody anything that you may know about a radioactive gas that may exist in the house you are

trying to sell to somebody." How can Members vote for that?

In addition, I might point out that the word "liable" has been used kind of like "boo," "liability." Let us examine what the liability is if we violate the disclosure provision. The maximum fine that exists in any ordinary TSCA sanction is $10,000 per day. In this bill, it is $2,000, period.

There are no criminal penalties in this bill, none, no criminal penalties, and compensatory damages for knowing violations are restricted to just the reasonable cost of mitigation. That can run from $1,000 to $2,000.

In the case of a landlord, the minimum fine is even lower, just two months' rent, so it must be clearly understood that this amendment does not simply help Mrs. Murphy, who might want to sell her house without using a real estate agent. It in fact strikes all of the disclosure provisions of the bill.

Madam Chairman, the second thing is that as we hear liability, the liability has been reduced to something that should provide a concern, so that people will not want to knowingly violate this, but on the other hand, is not going to break anybody up in business.

Madam Chairman, one last point that I would like to make, and I think the gentleman from Ohio [Mr. OXLEY] was quite right when he said that buying or selling a house these days is a very complicated business. He says it takes a couple of lawyers, at least, to do it, and I think he is absolutely accurate when he says that.

The idea that we are going to have someone who is going to go out and complete a whole real estate transaction all by themselves is virtually impossible. The idea that they are going to do it without a realtor, without a lawyer, without a standard contract, is preposterous. It will never happen. Any realtor and any lawyer and any standard contract is going to have this language in the contract, so the idea that someone is going to kind of accidentally wander out is impossible.

The CHAIRMAN. The time of the gentleman from Washington [Mr. SWIFT] has expired.

(By unanimous consent, Mr. SWIFT was allowed to proceed for 2 additional minutes.)

Mr. SWIFT. Madam Chairman, the idea that someone is going to accidentally wander out and sell their house without knowledge that these things exist and then somehow get trapped in the liability section is a fantasy. It will never happen, because real estate transactions are complicated, not made complicated by this law, but made complicated by a whole series of State and local and some Federal provisions that already exist, and the requirements that this bill makes with regard to disclosure will be well known by the lawyers, will be well known by the realtors, will be included in all standard contracts, and therefore, the idea that someone is going to innocently become liable is nonsense. It will not happen.

The places we would have to go in order to be able to complete the sale of our homes, no matter how much we tried to do ourselves, will ultimately bring us to someone who has this knowledge and we will be able to comply with the law.

Therefore, Madam Chairman, I urge Members to understand that the Oxley amendment does not just help Mrs. Murphy, it, in fact, strikes the entire disclosure section from the bill, and that the penalties are not massive and onerous, and that compliance with this law is going to happen almost automatically as an individual goes about talking with those professionals one has to deal with in order to sell a home in the modern world.

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

Madam Chairman, I rise in support of the amendment offered by the gentleman from Ohio.

Madam Chairman, when you look at the real estate section of this bill, you have to conclude that all it does is use a Federal penalty as a means to distribute a pamphlet on radon. We simply do not need a new Federal penalty scheme for every public information campaign.

Let me explain how I have come to this conclusion. First, the bill gives a buyer the right to ask for an opportunity to conduct a radon test in a house. But that is something that a buyer can do even without this legislation. We do not need a Federal law to give buyers the right to ask questions about the houses they want to buy.

Second, the bill gives the buyer the right to receive the results of any radon tests that have been done. Telling the buyer whether there is radon in the house is something that a lot of State laws are requiring, including in my own State of Virginia. Again, I do not think we need a Federal law to require sellers to tell the truth to buyers.

So the last thing this legislation would do is require the seller to give the buyer a pamphlet. And to make sure this happens, the bill would impose not only penalties on homeowners under the Toxic Substances Control Act but also make homeowners liable for damages in Federal court. In other words, what we have got with this legislation is an enormous regulatory machine to make sure that people hand out a pamphlet.

That is why I like Mr. OXLEY's amendment. Mr. OXLEY's amendment would accomplish the very same thing that the bill would accomplish—maybe even more—but without all of the costs, and the burdens on ordinary homeowners and the unnecessary litigation. At a time when we are supposedly concerned about the size of Federal Government, and with an administration that supposedly favors local solutions to problems, I am amazed and troubled that we are even having this discussion.

How does H.R. 2448 affect Mrs. Murphy?

Mrs. Murphy must comply with the requirements of the bill if she sells any residential or commercial property.

Mrs. Murphy must comply with the requirements of the bill if she leases residential or commercial property for more than a year—or if the lease, by its terms, can be extended for more than a year.

If Mrs. Murphy is covered by H.R. 2448, what must she do? (1) Give prospective purchasers or lessees a copy of EPA's "radon hazard information pamphlet," (2) disclose any radon test results, and (3) for sellers, include a radon warning statement in the contract.

What are the penalties?

For sales, penalties under the Toxic Substances Control Act of up to 2 months rent and possible liability in Federal court for the costs of mitigation.

For leases, penalties under the Toxic Substances Control Act of up to 2 months rent and possible liability in Federal court for the costs of mitigation.

Madam Chairman, I urge my colleagues to support the Oxley amendment.

□ 1350

Mr. WAXMAN. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the reason I rise in opposition to this amendment is to again focus the Members' attention on what is at stake in dealing with the radon radioactive gas problem. This is a health problem. It is a radioactive substance that is the second leading cause of lung cancer in the United States.

Would not most Americans want to know if there is a problem and be able to do something about it before they make the largest investment they may be making in their lives, purchasing a home? Would not they want to know about it before they move their family into a situation where there may be a danger, especially since the danger can be so easily rectified? Easily rectified by less than $1,000, putting a pipe to ventilate that radon gas so that it does not adversely affect them. The reason that so many people do not take these steps is that they just do not know about the problem. And when they should be informed about it is when they are about to buy that home.

The amendment of the gentleman from Ohio [Mr. OXLEY], it seems to me a very unwise idea. It guts the bill. It goes so far as to say that if a seller knows there is a radon problem in that house, the seller can keep that information quiet. That is what the amendment of the gentleman from Ohio [Mr.

OXLEY] would do. The Oxley amendment strikes the sections that simply provide the opportunity for a prospective buyer to get a pamphlet that talks about the radon problem, informs them of that information, and tells them they could get a test if they want to. If they do not want to, that is their business.

This amendment is anticonsumer. It would assure that buyers are not warned about radioactive gas in the homes they purchase. The sellers already have to hand out pamphlets on lead. All sellers, whether they have a realtor or not, have to comply with laws on back taxes, on termite inspections, on lead, whatever it might be; how to apportion the back taxes. These are things the sellers have to know about. It is not so difficult to know about giving out this pamphlet.

Madam Chairman, I want to point out that the importance of this legislation is such that the groups that might be focused on this issue got tougher and we negotiated with them. The realtors had some concerns, legitimate ones, and we worked those out. The homebuilders had concerns, legitimate ones, and we worked them out. They are all supporting this bill and they are all against the Oxley amendment.

I want to read the list of organizations that urge you to vote against the Oxley amendment and for this legislation.

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

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. OXLEY. Madam Chairman, I am not informed that the realtors or the homeowners or anyone else has come out opposed to my amendment. Does the gentleman have some proof of that?

Mr. WAXMAN. We have been in touch with the realtors. We negotiated this bill with them. In negotiating this bill, they supported the provisions of the legislation. They said they would support the bill and oppose amendments that would gut it. They are against the Oxley amendment if they are for the provisions that we negotiated.

Mr. OXLEY. Does the gentleman have something we could see?

Mr. WAXMAN. I have the list in my hand.

Mr. OXLEY. I understand the gentleman has a list, but I am talking about the amendment itself.

Mr. WAXMAN. I must tell the gentleman I have personally talked to the representatives of the National Association of Realtors. I want to point out, we do have a letter that we will be happy to furnish and to put into the RECORD. But these are the groups that are against the Oxley amendment. These are the groups from all perspectives that say this is a good bill, do not mess with it, do not gut it with the Oxley amendment:

The National Association of Realtors.
The National Association of Homebuilders.
The Mortgage Bankers Association.
The National Apartment Association.
The National Association of Counties.
The Conference of Radiation Control Program Directors.
The Consumer Federation of America.
Citizen Action.
The Sierra Club.
U.S. PIRG.
The American Cancer Society.
The American Lung Association.
The American Public Health Association.
The American Academy of Pediatrics.

Madam Chairman, they all have looked at this from different perspectives. They say it makes sense. It makes sense to protect the people that need to be protected and in order to take steps to deal with the problem, they need to be informed of it. Let us not try to keep information from those that ought to have it.

Madam Chairman, I have in front of me a letter from the National Association of Realtors for the information of the gentleman from Ohio [Mr. OXLEY] dated March 10, 1994, to members of the Committee on Energy and Commerce:

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, March 10, 1994.

TO MEMBERS OF THE ENERGY AND COMMERCE COMMITTEE: The National Association of Realtors (NAR) believes that every American should have the opportunity to live in safe and decent housing where risks to health are minimized. To that end, NAR supports H.R. 2448, the "Radon Awareness and Disclosure Act of 1993". We believe that this is a reasonable compromise and urge its adoption by the House Energy and Commerce Committee.

The legislation would provide homebuyers and renters with important information regarding the potential hazards of radon while minimizing the imposition of burdensome and unnecessary requirements on sales transactions. We note some differences remain between H.R. 2448 and the Senate version of the radon legislation. We look forward to continuing to work with you to resolve these remaining differences in a way amenable to all interested parties.

Sincerely,

ROBERT H. ELROD,
President.

Madam Chairman, they think it makes sense, the public health groups say it makes sense, and I think that we ought to support the bill and defeat the Oxley amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

(At the request of Mr. OXLEY and by unanimous consent, Mr. WAXMAN was allowed to proceed for 2 additional minutes.)

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. OXLEY. I did not hear any mention of the Oxley amendment in the letter. When was that letter dated?

Mr. WAXMAN. If the gentleman will listen again to this. The National Association of Realtors believes that people ought to have this information. "We believe that this is a reasonable compromise," meaning the compromise that is in the bill. And they urge its adoption.

Does the gentleman have any indication that they support his amendment?

Mr. OXLEY. The question was whether they opposed it.

Mr. WAXMAN. Their last statement on the issue is they support the compromise they worked out in developing this legislation.

We went to great lengths to hear their concerns and we dealt with them in a very legitimate way. And they are supporting the bill.

□ 1400

By supporting the bill I would think they would oppose the gentleman's amendment which guts the information that they think ought to be provided to consumers.

Mr. OXLEY. I would simply point out to the gentleman from California that 23 States have mandatory requirements and 13 States have voluntary disclosure. The gentleman's State, the State of Massachusetts, the State of Ohio, and the State of Washington all have mandatory requirements.

What the gentleman is trying to do is put a mandate on all of the States and all of the homeowners when indeed this kind of issue should remain at the State level.

Mr. WAXMAN. If I can reclaim my time, we are doing what is existing law for the lead information, and we are doing it in a way where the National Association of Counties, which are the local level, thinks it makes sense. We allow the States to adopt their own program, to supersede any Federal program, and it is one where it will be effective. We are proposing something effective because the General Accounting Office says notwithstanding all of the information in the press, only 10 percent of the homeowners have bothered to get tested, primarily because they do not even know of the danger.

Mr. SCHAEFER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Oxley amendment.

The bill, as currently written, will require the Environmental Protection Agency to regulate every real estate transaction in the United States, even lease agreements. We are talking about 4.5 million sales of homes and about 12 million lease agreements every year. I have a difficult time believing that the EPA has either the resources or the desire to undertake this task.

Radon is a serious health consideration—as my own constituents in Colorado know all too well—and there are many positive steps this bill takes to strengthen radon awareness. But H.R. 2448 seriously oversteps these bounds

with its heavy-handed disclosure requirements and extreme civil penalties. These provisions are so expansive, so burdensome, that they are unenforceable in the real world. Contrary to what some have said here, this provision is not good for the American consumer, and it is not good Government policy. While headed for the right goal, this bill definitely takes a wrong turn.

The Oxley amendment would simply remove a number of these regressive requirements and penalties and replace them with a more balanced policy of education and awareness. By eliminating the EPA's proposed new role of real estate policeman, the agency will have the resources to focus on more constructive avenues for achieving radon awareness and disclosure. It will also ensure that American taxpayers are not subjected to the threat of Federal penalties every time a buyer closes on a new house for a renter signs a lease This amendment simply gets the bill headed back in the right direction.

Radon is a significant problem across much of our country. The Oxley amendment will be a major benefit for the millions of those Americans whose homes are affected by radon contamination. I urge your support for this helpful and thoughtful addition.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Oxley amendment.

Again, reference was made to Mrs. Murphy in an earlier part of this debate by a proponent of this amendment. I know Mrs. Murphy. Mrs. Murphy is a friend of mine. Mrs. Murphy lives in my district, and I know that when Mrs. Murphy is purchasing a home, maybe the only home she will ever purchase, after having scoured every exit off of every highway in order to inspect every single home that she might decide that she would live in with her children, for the rest of her life, that this is probably the most important decision, the major purchase which she is going to make in her life. It seems to me that if it is possible legally for a seller of a home to withhold the fact that the seller knows that there is an exposure to radon greater than a uranium mine on the premises, and does not disclose it to Mrs. Murphy, then Mrs. Murphy has taken the life savings of that family and put it into a home which they are going to live in forever, regretting having put the children in that kind of a circumstance.

It seems to me that the minimum that Mrs. Murphy is entitled to, and every Mrs. Murphy across the country is that when they make that most important decision that they will ever make where they are going to buy a home for their children to grow up in, next to the schools that they want to be nearby, that they would know their children will be safe inside of that home. That is all this bill requires, and that is all the gentleman's amendment seeks to eliminate, to just take away from Mrs. Murphy that very fundamental information. It seems to me if we are going to give that information for lead, and we have States that recognize the inherent rights of purchasers of homes to have certain fundamental information, if we know that realtors will just hand over the information to the seller as they are getting the contract to sell the home so that they will include it in any packet that is being handed out to the purchaser, then that is very minimal, it seems to me, to shoulder if Mrs. Murphy will have the information she needs to determine whether she wants to put her children, where she wants to put her family for the rest of their lives. I would hope that the Oxley amendment would be resoundingly rejected.

The National Association of Realtors and of Home Builders and the National Cancer Institute all have rejected anything more than the compromise which we bring out here on the floor. They have accepted this compromise that Mrs. Murphy should get this information, and it would be a terrible legislative mistake for this body to then reject that compromise, which the home builders, the realtors have accepted, and to move to a point where Mrs. Murphy has no information to protect her family.

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

Mr. MARKEY. I am glad to yield to the gentleman from Ohio.

Mr. OXLEY. Madam Chairman, I appreciate my friend from Massachusetts yielding.

Mrs. Murphy, who is residing in Medford I am sure would be glad to know that the Massachusetts statute already provides for her protection in mandatory requirements of notification. So the gentleman's apocryphal Mrs. Murphy is indeed already covered under Massachusetts statute, which is the appropriate forum, it seems to me, to provide that kind of protection.

By the way, someday Mrs. Murphy might want to sell that house, and I would suggest to the gentleman from Medford that perhaps the shoe would be on the other foot in that regard, and that she may not have a capability of getting the pamphlet, and would indeed be subject to up to a $2,000 fine. I am sure that the gentleman from Medford would not like that.

Mr. MARKEY. If I may reclaim my time, again the legislation protects all of the Mrs. Murphys of the United States of America, not just those that live in Medford and my district. Moreover, the bill does more than that. It creates performance standards for radon testing and services, requires the disclosure of a radon hazard in residences, creates model State programs and radon programs for grants for States and localities, and it also establishes a Presidential Commission on Radon Awareness, so it does a lot more than anything that any individual State, including Massachusetts, had done thus far, toward the goal of ensuring that all of those Mrs. Murphys purchasing homes have the information they need, and conversely, that when Mrs. Murphy is selling her home if she knows that there is a problem, and she is selling it to another woman, another family and knows that radon there could in fact endanger the children moving into that home, that she has no right to keep that information from the new woman, the new family moving into that home.

Reject the Oxley amendment.

Mr. MOORHEAD. Madam Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Ohio.

Madam Chairman, I think it is a very good thing that most of the Mrs. Murphys around the country are now protected under the State laws of the larger States of the Union so that most of the people reside in States that are protected. In my State of California we have very fine disclosure laws which I strongly support. I have been helped by those disclosure laws on occasion. I think it is important that we let the people know when they buy a house from us about any kind of defect that there is in the house, including radon or any other defect that might be present there.

□ 1410

I do have a great deal of concern, however, that this section treats every part of the United States in the same way. I come from southern California where radon is not a serious problem. I should note that there are a few areas of the State that may have elevated levels of radon, but the State geologists have done a good job of identifying those areas and making people aware of the problem.

In my part of the country, the real problems are earthquakes and fires and even floods and other things of that sort. What this bill would do is make my constituents in southern California spend their time and attention on what the Federal Government thinks is important, not on what my constituents really know is important. I cannot in good conscience vote for a provision that treats every property owner in the United States whether they have a problem with a particular area or not in exactly the same way.

The States can do this job. They know what the problems are in their States, and they are taking pretty darn good care of the problems that are within their States.

The other concern I have with the real estate disclosure provisions of this

bill is the impact those provisions would have on the number of lawsuits filed in State and Federal courts. I think everyone in this room knows if you file in Federal court you are going to spend an awful lot of money. There are nowhere near the number of lawyers that traditionally practice in the Federal courts. The price you are going to pay for those legal suits is going to be far more than it would be if you filed in the municipal court or in the State court of a State. This bill is going to push those cases up into the higher courts where you have much longer delays, much more expense. Why can they not sue in the State court where it will do the most good if they need to, where it will take the least amount of time and the least amount of money?

This bill says that if a homeowner fails to comply with the complicated and confusing disclosure requirements of the bill, he or she can be sued in the Federal court for the costs of mitigating whatever radon problem there will be.

This can be, if the amount would be relatively small, be a rather ridiculous situation.

I think that the civil liability provision will attract an enormous number of lawsuits. There are probably millions of disputes that arise every year from real estate transactions. I am quite sure that lawyers will find ways to use the new Federal cause of action created by this bill to litigate more than just disputes related to radon.

Madam Chairman, laws and regulations concerning real estate transactions are best administered at the State and local level. That is where virtually all the real estate laws are at the present time. The States control the transactions within their States.

There is no reason for us to think that State and local governments are not equally concerned about, and equally capable of, responding to the legitimate health and safety concerns of our citizens. These penalty provisions would interfere with the local government's ability to address these concerns.

You know, we have heard this talk about this pamphlet. I do not care whether they distribute a pamphlet or not, if they want to. I do not think 1 person out of 100 would read the pamphlet, but if they wanted to distribute the pamphlet, go ahead and distribute it. It is the other problems that are corelated that give me the most difficulty.

I think we have a good bill without this provision. I think we are moving forward. I do not think this guts the bill, because if all the bill is is passing a pamphlet out and if all the bill is is letting people go to Federal courts instead of State courts, then we do not have much of a bill here.

I urge my colleagues to support the Oxley amendment.

Mr. OXLEY'S amendment would correct these problems and encourage EPA to work to distribute public information as widely as possible.

Mr. FIELDS of Texas. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of the Oxley amendment. This amendment would strike the Federal penalties and other liability provisions of section 7 and would simply direct the EPA to work with interested organizations to achieve the broadest possible distribution of information on radon.

According to the EPA, 6 percent of homes in the United States are anticipated to have radon levels above the EPA's action level of four picocuries per liter. Most of these high levels are located in identifiable geological regions, such as areas up the east coast and throughout the Midwest. Other parts of the county in the South and in my home State of Texas, contain very small amounts of radon. It does not make sense to require homeowners and other property owners in these parts of the country to spend the same time and effort disclosing information concerning radon.

Texas has already taken action in this arena by requiring mandatory disclosure of radon by law. The seller's disclosure notice by the Texas Association of Realtors has radon listed with a variety of other environmental conditions which must be reported. If the seller misrepresents the condition of the property, then the buyer is entitled to a remedy through the rescission of the sales contract. H.R. 2448 authorizes States to administer their own program, but only if their program provides adequate enforcement. This language could mean that States would have to adopt and enforce all the penalties included in this bill, including penalties on individual homeowners.

Real estate is typically regulated at the State and local level and I strongly believe that it should stay that way. The Federal Government should not be directly regulating real estate transactions.

Madam Chairman, I am not opposed to the intent of this legislation to promote awareness and provide as much information as possible of the potential risks of exposure to radon to prospective purchasers of real estate. We do need to strike this section imposing Federal penalties on ordinary homeowners. I strongly urge my colleagues to support the Oxley amendment.

Mr. CANADY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of my friend, Mr. OXLEY'S amendment to the Radon Awareness and Disclosure Act. Let me begin by congratulating the chairman and all those on the Energy and Commerce Committee whose hard work removed many troublesome provisions from this bill.

However, the issue of real estate transaction disclosure requirements remains unresolved. I believe the requirements outlined in section 11 of this bill are unworkable and inappropriate. And I question whether the benefit to the public from these requirements justifies the cost of compliance. I am opposed to the language in the committee-reported bill for several reasons.

First, I see this action as yet another Federal Government intrusion into an issue that has traditionally been within the realm of the States and local governments. Real estate and the requirements of disclosure are often tailored by the individual State legislatures and local entities to suit their individual needs.

Given the geographic differences from State to State and even locality to locality, it is imperative that we retain the necessary flexibility of the current system. This allows local planners to appropriately respond to the level of radon risk in their communities. To introduce the heavy hand of the Federal Government into this problem and impose a one-size-fits-all solution to radon disclosure requirements is clearly not the best way to respond to the radon problem.

To find an example of this, look no further than my State of Florida. Our State government has been aggressive in attempting to mitigate randon levels found around the State. It has already adopted a number of point-of-sale disclosure requirements which are the subject of some controversy among builders in my district. These disclosure requirements are already written into our State's real estate transaction procedures.

To add the EPA and more burdensome Federal requirements to the mix would, in my opinion, be confusing and costly to the homeowner and would serve no real educational benefit to the homebuyer.

Additionally, Madam Chairman, I am very concerned about the provision in this section which makes individual homeowners subject to Federal penalties under the Toxic Substances Control Act. Is it reasonable to expect that every individual homeowner who sells or leases property in the United States will be familiar with the detailed requirements of this complex law?

While I understand progress has been made in committee on reducing the penalties under this legislation, I object to the whole premise. There is only so much we can expect from the homeowner. Is it fair to hold him responsible under threat of Federal penalties for yet another set of point-of-sale disclosures? I don't think so.

The amendment offered by the gentleman from Ohio, in my opinion, is a reasonable approach to this problem. It

strikes the federally enforceable disclosure requirements in the bill and encourages EPA to work with the States and other interested parties to ensure that public information materials on radon achieve maximum distribution to homeowners and homebuyers.

Madam Chairman, this bill has come a long way since it was introduced last year. And for that I congratulate my colleagues on Energy and Commerce. The improvements made by the Oxley amendment, however, ensure that the bill will be true to its intent. I thank him for his efforts and urge my colleagues to support passage of the amendment.

□ 1420

Mr. PAXON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of the amendment offered by my colleague, the gentleman from Ohio [Mr. OXLEY].

As a member of the Committee on Energy and Commerce, I have had the opportunity to work on H.R. 2448, the Radon Awareness and Disclosure Act in two subcommittees and in the full committee.

During committee consideration, this bill has been greatly improved and many problems have been worked out. Unfortunately, this legislation in its present form is still unacceptable due to the provisions of section 7.

Section 7 of this bill requires homeowners to distribute information on radon and disclose the results of any prior radon test during a real estate transaction, or be faced with Federal penalties under the Toxic Substances Control Act and possible civil action in Federal court.

I would like to make it very clear to all Members—under this bill, every American who sells or leases their home is opening themselves up to a $2,000 fine by EPA and the possibility of being sued in Federal court by the purchaser.

It is my opinion that the creation of homeowner liability for failure to provide the proper information or disclosure, will actually discourage individuals from testing their homes for radon. Under this bill, the only sure way to be free of all liability would be to avoid radon testing altogether.

Do not misunderstand what I am saying. In some parts of this country high levels of radon gas can be a health hazard. However, the goal of radon awareness legislation should be to inform the public and encourage radon testing in high radon areas.

Unfortunately, H.R. 2448 does not accomplish this goal. Instead of educating the public, this legislation discourage and even punishes homeowners.

For these reasons, I urge my colleagues to support Mr. OXLEY's amendment to strike the real estate disclosure and liability provisions and instead direct EPA to work with interested groups to widely disseminate information on radon to homeowners.

Mr. WAXMAN. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I think we are ready to vote on this bill and this amendment, but I would like to point out, in light of the comments of the previous speaker when he suggested we get interested groups together and work out a way to inform the consumers about the dangers of radon, that that is exactly what we have done in this legislation, and that is why the realtors, the homebuilders and others, consumers and environmentalists, public health people, support the idea that we make the information available.

There is no requirement for a test, and what the Oxley amendment would do would be to strike giving the information to consumers. In fact, the Oxley amendment would strike the requirement that if a seller knows about a problem, that he give that information to the consumer as well.

Madam Chairman, I urge support for the legislation and urge opposition to the Oxley amendment.

The CHAIRMAN. Is there further debate on the amendment offered by the gentleman from Ohio [Mr. OXLEY]?

Mr. OXLEY. Madam Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. OXLEY] is recognized.

There was no objection.

Mr. OXLEY. I thank the Chair. I will not take all 5 minutes. I appreciate the debate on this issue.

Madam Chairman, this has come down to a real question of special interests versus the public interest. If you want the special interests to determine what legislation passes and they all sign off after they have cut their deals, that is fine, support the legislation without the Oxley amendment. But if you believe in the right of the homeowner to have some degree of ability to sell his home without the tentacles of the EPA and the Federal Government and the potential for fines from the Federal Government involved, then I would suggest that you support the Oxley amendment to give the real interested party here—that is, the homeowner—the ability to sell his house without this kind of legislation hanging around his neck.

Madam Chairman, we went through this same concept, really, with the acid rain debate. If you will recall, back when we debated the clean air bill, we passed the clean air bill before the NAPAP report came out. After the NAPAP report came out, it was clear that most of the wailing about acid rain and most of the scare tactics about acid rain turned out to be fraudulent. In fact, we passed a multibillion-dollar acid rain provision that penalizes my area of the country for no good reason. We are paying that price now.

Now the sponsors of this legislation want to foist this kind of responsibility and potential liability on the homeowner. I say enough is enough.

If you are tired of bureaucracy, if you are tired of the involvement of the Federal bureaucracy in an arrangement to be able to sell your home, you will support the Oxley amendment. If you believe that it is impossible for people in rural areas, Alaska, and other places to get the ability to get that pamphlet or to have the knowledge about the pamphlet, then you will support the Oxley amendment.

If you believe that the lead legislation that we passed which creates criminal penalties for the first time without giving that kind of information out was a good idea, then you will oppose the Oxley amendment. I happen to think the lead provision was a major mistake that is going to come back and haunt this Congress.

We have an opportunity this time to stand up for the homeowners of this country, say enough is enough, support the Oxley amendment, and then we can pass the legislation the way it should have been passed in the first place.

The CHAIRMAN. There being no further debate, the question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OXLEY. Madam Chairman, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to clause 2, rule XXIII, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 359]

Abercrombie	Bacchus (FL)	Barrett (NE)
Ackerman	Bachus (AL)	Barrett (WI)
Allard	Baesler	Bartlett
Andrews (ME)	Baker (CA)	Barton
Andrews (NJ)	Baker (LA)	Bateman
Andrews (TX)	Ballenger	Becerra
Applegate	Barca	Beilenson
Archer	Barcia	Bentley
Armey	Barlow	Bereuter

Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff
Zimmer

□ 1446

The CHAIRMAN. Four hundred and fifteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio [Mr. OXLEY] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 193, noes 227, not voting 19, as follows:

[Roll No. 360]

AYES—193

Allard
Applegate
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
Danner
DeLay
Derrick
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Duncan
Emerson
Everett
Ewing
Fields (TX)
Fowler
Franks (NJ)
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Hunter
Hutchinson
Hutto
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Kanjorski
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lancaster
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Machtley
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Murphy
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Underwood (GU)
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Young (AK)
Zeliff
Zimmer

NOES—227

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Cooper
Coppersmith
Costello
Coyne
Cramer
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastert
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Huffington
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays

Shepherd
Skaggs
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—19

Bachus (AL)
Carr
Conyers
Dreier
Fish
Gilchrest
Hayes
Hilliard
Inhofe
Laughlin
Margolies-Mezvinsky
McDade
Michel
Slattery
Sundquist
Washington
Wheat
Whitten
Young (FL)

□ 1456

Mr. TANNER changed his vote from "no" to "aye."

Mr. SHAYS, and Mrs. ROUKEMA changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1500

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 section:

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 head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

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 objection.

Mr. TRAFICANT. Madam Chairman, there is going to be gas on this bill. It might as well be American gas.

Mr. WAXMAN. Madam Chairman, I rise in support of the amendment. The amendment offered by the gentleman from Ohio [Mr. TRAFICANT] is a bipartisan amendment. We have no objection, and urge Members to vote for it.

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

Madam Chairman, I have no objection to the amendment. I still stand opposed to the bill, however.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WISE) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes, pursuant to House Resolution 491, 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 the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the Committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. WAXMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 164, not voting 15, as follows:

[Roll No. 361]

AYES—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Barca
Barcia
Barrett (WI)
Becerra
Bellenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Huffington
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velázquez
Vento
Visclosky
Waters
Watt
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—164

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Conyers
Cox
Crane
Crapo
Cunningham
Danner
Deal
DeLay
Dickey
Doolittle
Dornan
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallo
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Hughes
Hunter
Hutchinson
Hyde
Inglis
Istook

Johnson, Sam	Molinari	Sisisky
Kasich	Moorhead	Skeen
Kim	Myers	Skelton
King	Orton	Smith (IA)
Kingston	Oxley	Smith (MI)
Klug	Packard	Smith (OR)
Knollenberg	Paxon	Smith (TX)
Kolbe	Penny	Solomon
Kyl	Petri	Spence
Lancaster	Pickett	Stearns
Levy	Pombo	Stenholm
Lewis (CA)	Portman	Stump
Lewis (FL)	Pryce (OH)	Talent
Lewis (KY)	Quillen	Tanner
Lightfoot	Quinn	Taylor (MS)
Linder	Ravenel	Taylor (NC)
Livingston	Regula	Thomas (CA)
Long	Roberts	Thomas (WY)
Lucas	Rogers	Torkildsen
Manzullo	Rohrabacher	Valentine
McCandless	Roth	Volkmer
McCollum	Royce	Vucanovich
McCrery	Santorum	Walker
McDade	Sarpalius	Walsh
McHugh	Saxton	Weldon
McInnis	Schaefer	Wolf
McKeon	Schiff	Young (AK)
McMillan	Sensenbrenner	Zeliff
Mica	Shaw	Zimmer
Miller (FL)	Shuster	

NOT VOTING—15

Carr	Margolies-Mezvinsky	Washington
Dreier	Michel	Wheat
Fish	Serrano	Whitten
Hayes	Slattery	Young (FL)
Inhofe	Sundquist	
Laughlin		

□ 1520

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2448, the bill just passed.

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

There was no objection.

NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1994

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 492, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 492

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution. Each section of the committee amendment in the nature of a substitute, as modified, shall be considered as read. Points of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 5(a) of rule XXI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 492 is the rule providing for the consideration of S. 208, the National Park Service Concessions Policy Reform Act of 1994.

This is an open rule. It provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources.

Section 302(f) of the Congressional Budget Act is waived against consideration of the bill. That section of the Budget Act prohibits consideration of measures that would cause the appropriate subcommittee level or program-level ceiling to be exceeded.

This is in this case a technical waiver since the rule itself includes an amendment that modifies the base text to correct the budget problem caused by the bill.

The rule makes in order the Natural Resources Committee amendment in the nature of a substitute now printed in the bill—as modified by the amendment correcting the budget problem and printed in the report accompanying the rule—as original text for the purpose of amendment. The substitute shall be considered as read.

The rule also waives clause 5(a) of rule XXI, prohibiting appropriations in a legislative bill, against the committee substitute.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, S. 208 would improve the way the National Park Service awards and manages concession contracts for the provision of goods and services to park visitors. The main purpose of the bill is to open up the concessions industry by instituting a new set of regulations that are designed to spur competition.

As one who believes strongly in the need to support the National Park Service and improve its operations, I commend the gentleman from Minnesota [Mr. VENTO] for his work on updating the 30-year-old statute governing concession contracts. He has made changes in a way that will benefit park visitors and the taxpayers who are the owners of the parks, as well as the businesses that wish to bid on the contracts.

Mr. Speaker, to repeat, this is an open rule. The waivers contained in the rule are technical in nature and have been accepted by the minority on the Rules Committee and have also been approved by the Appropriations and Budget Committees.

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

Mr. Speaker, this bill raises many legitimate issues—and I expect my colleagues from both sides of the aisle to engage in vigorous debate as discussion of S. 208 proceeds. In reviewing the commentary from the bill's proponents and opponents, it is clear that there remain significant differences of opinion among Members about the trade-off between competition among park concession contracts and the important issues of continuity of service and possessory interest. Clearly, our national parks require the most careful oversight we can afford them—but we must also continue to ensure that they are available and accessible for all Americans to enjoy.

That is why I am pleased that we have an open rule for consideration of S. 208, allowing Members with an interest in this bill unfettered opportunity to discuss their concerns and propose ways to improve this legislation. I commend Chairman MILLER and ranking member YOUNG—as well as my Rules Committee colleagues—for granting this open rule. I am aware the rule now provides a technical fix to the Budget Act problems we found in the original text of the bill. I understand there is some controversy about the fix. Otherwise, I have no opposition to this rule.

Mr. Speaker, I include for the RECORD data on open rules versus restrictive rules in the 95th Congress, as follows:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.—Continued

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	80	21	26	59	74

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through July 28, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20, R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401; National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Farmington, UT [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I rise in strong opposition to the actions of the Rules Committee on S. 208. I appreciate Chairman MILLER'S request for an open rule and the opportunity we will have to offer amendments on the floor. However, the problem here is that this legislation has been amended by the Rules Committee in order to overcome the Budget Act violations of S. 208.

It seems that many Members of this body are misinformed as to the fiscal effects of S. 208. According to the Congressional Budget Office and apparently the Rules and the Budget Committees, S. 208 will not raise the revenues promised by its proponents but will actually result in direct spending. The Chairman may disagree with me but if this bill does actually raise revenues as promised, why was it necessary for the Chairman of the Subcommittee to offer an amendment to the Rules Committee that would circumvent the Budget Act.

The truth of the matter is that the National Parks and Conservation Association [NPCA] has continually claimed that S. 208 would raise $40 million dollars in revenues for the parks. However, I have made numerous requests of the NPCA to substantiate this $40 million figure and they cannot provide any information or evidence that any new revenue will be generated. The CBO says that S. 208 will actually cost money and apparently Mr. VENTO agrees or he would not have offered the amendment in Rules Committee without the knowledge of the minority.

My Republican colleagues received in the mail this morning a dear colleague that was signed by the Citizens Against Government Waste and the National Taxpayers Union. Although I am one of the most fiscally conservative members on this side of the aisle, these groups are simply misinformed on this issue. I fully respect the opinions of the Gentlelady from Kansas but I am afraid that the NPCA has mislead members on both sides of the aisle regarding the fiscal impacts of S. 208. The $40 million cannot be substantiated and I challenge any Member of this body to do so. This is a number pulled out of the air by the NPCA and the lies have to stop now.

Rather than create any new money for the parks, Chairman VENTO'S amendment in Rules Committee will now require that the first $22.6 million that will supposedly be collected must first go to the treasury and not to the parks. The entire emphasis behind concession reform has been to return more money to the parks and now we are taking that money away.

S. 208 is bad legislation that fails to raise new revenues, does not increase competition on 80 percent of the contracts and drives visitor services out of the parks. I thank the Rules Committee for the open rule but the Rules Committee should not be in the habit of amending legislation outside the purview of the authorizing committee. I urge my colleagues to look closely at the committee report and CBO's estimates and to oppose this legislation.

Mr. Speaker, I appreciate the gentleman yielding me the time.

□ 1530

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

Mr. HANSEN. I yield to the gentleman from Minnesota.

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

I want to answer his question if I can. Obviously we have a difference of opinion about the legislation, but we should not differ about the fiscal impact of the $22.6 million that he referred to as to those dollars. That is the current, or the projected, CBO estimate of the amount of money that will come from concession contracts in fiscal year 1995, and if you look further, you will find that there is a slight increase in that amount over the 5-year budget cycle that we are required to respond to with regard to the Committee on the Budget.

In order to satisfy the concerns of the Committee on the Budget, because as you know in this legislation the dollars accrued from the increase or what we anticipate will be an increase in concession fees will be used to extinguish something, the property rights, of current concessioners in the park, but in order to satisfy the Budget Act, we had to specify that the amounts that are anticipated under the present policy path would go to the Treasury as they are going there today based on the projected budget amounts that CBO had projected as if there had been no change in policy.

So, indeed, those dollars, the increased number of dollars that are reflected there, is the current policy that we are talking about.

The increased dollars, if any, and my colleague and I have may have differing views with regard to that, would be used by and large for the extinguishing of the possessory interests within the parks and for other purposes, for the franchise fees, and the other dollars would stay in the park, as I think most of us would like to occur. But we had to deal with that baseline, and we will have to do that in similar measures that raise revenues in parks.

I thank my colleague very much for yielding and permitting me to explain that.

Mr. HANSEN. My friend from Minnesota, if I am reading him right, made a statement which is absolutely true, as he normally would, a very distinguished Member of this group, but let me say this: How we should interpret it is this way, prior to going to the Committee on Rules, most Members of this body were of the opinion that the money would flow back to the parks. The parks that are falling apart, that cannot take care of their infrastructures would have dollars given to them so they could build their infrastructure.

We are now saying, well, that is not entirely so, and that is why my friend from Minnesota had to put this amendment in to satisfy the CBO. Is that not correct?

Mr. VENTO. If the gentleman will yield further, I think the money is, when it comes to the Treasury, is not exactly going into a black hole that is lost. The appropriators can appropriate it back out.

Mr. HANSEN. May I say respectfully that is where we would disagree.

Mr. VENTO. I would like to, and I think the gentleman would like to, see all the revenue raised from the parks remain in the parks without having to go through the OMB or go through the Committee on Appropriations; we are saying the policy changes, which I believe will enhance revenue, and the gentleman has spoken a different view with regard to that, will stay in the parks, and our preference would be for all the dollars to stay there from dollar one, whether they are the existing concession franchise fees or whatever improvements and enhancements take place through this legislation, but that in order to satisfy the CBO and the Committee on the Budget and the Office of Management and Budget, we had to deal with the CBO projection, and so that is why it has been modified, and for only that reason.

Mr. HANSEN. I appreciate the comment from my friend from Minnesota.

I do think that people should realize that the idea of reinvigorating the parks, of money flowing into the parks, of the infrastructure of the parks, of what this will do as far as visitation which we will talk about later, I really feel this is a bad piece of legislation, and I would ask my colleagues to vote against it.

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

I believe what we have in front of us is a rule where the Committee on Rules has done its best to make a fix. We have not done it apparently as cleanly as we hoped we would. We do have an open rule. It is clear we have got a lot of points to debate. We should get on with that.

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

Mr. BEILENSON. Mr. Speaker, I urge my colleagues to accept this open rule so we may proceed to consideration of the bill.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 492 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 208.

□ 1536

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes, with Mr. MCNULTY in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

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

Mr. VENTO. Mr. Chairman, I yield myself 5 minutes.

I, of course, rise in strong support of S. 208, a measure for concession reforms that is supported by, and part of the product of, Vice President GORE's Task Force on Reinventing Government. This measure is supported by the Clinton administration. This measure is strongly supported by the Secretary of the Interior, Bruce Babbitt. This measure is supported by the National Park Director, Roger Kennedy. It is supported by the conservation organizations throughout the Nation, and it has been led by the National Parks and Conservation Association itself. This measure is supported by the Taxpayers' Association and Citizens Against Government Waste.

I might say that this measure, which provides for an entrepreneurial effort to in fact try and invigorate our parks, to use the strength of the free enterprise system and competition which have served this Nation, are long due in terms of this measure.

There was a time, Mr. Chairman, when our parks and some parks today are not able to sustain or attract the private sector in terms of maintaining services to the guests and to the individuals who frequent our national parks. But today many of these concessions, and some of our outstanding crown jewels, our national parks, are big business. They, in fact, have become the trading chips on Wall Street, the trading material between international companies and firms.

Some of these concession contracts are multi-million-dollar, 100-million-dollar, very, very valuable contracts, as there is an effort to try and provide these services, and in essence to cash in on the people's parks, the national parks.

The parks in this Nation were created for the enjoyment of the public. They have been preserved. They are being conserved and rehabilitated. They are not there as profit centers solely for those that would take advantage of a system of regulation that no longer serves the American people or these parks.

The efforts made in the mid-1960's were landmark efforts in terms of policy, but they are not serving us today. In fact, they are a disservice to these parks, and that is why this lineup of conservation, taxpayer groups and this administration and the past administration, led by Secretary Lujan that set much of the foundations for the progressive policy that has been passed by the Senate, is largely endorsed in this bill with some changes.

The fact of the matter is, Mr. Chairman, that people need the concessions that are sometimes in the parks, and these services in order to enjoy them. We have come to realize there are many drawbacks to existing law. Existing law does not foster competition. It thwarts competition, and the existing law provides an absolute right, preferential renewal for someone that has a contract, irrespective, and by and large of how they have conducted themselves, simply by meeting the price of a bidder.

The existing law permits the buildup of a very valuable possessory interest which is based on current value of some investment made; in other words, this is completely at odds with the types of leases and concessions that exist across this country for ballparks, State parks, shopping centers, and for a variety of other things.

□ 1540

It is unique to the Park Service. As I said, at one time when we had mom-and-pop operations in the parks, when it was difficult to attract people to come to those parks, it probably was necessary. Today when these are the bargaining chips on Wall Street in terms of takeovers and mergers, multi-million-dollar value, billion-dollar values represented, it is time we update the law and make it current to what the present situation is.

The possessory interest, buildup of an interest in these parks, makes it absolutely impossible for an individual to buy out that possessory interest and to really compete. So we need to change that, change the law. That is what we are about.

This bill changes the situation to make it workable, to deal with the barriers that exist. This bill recognizes very importantly that when facilities and services can be provided outside a park, that should be the preferable option. This particular legislation does not throw any concessioners out of the park. This legislation does put that concessioner in the free enterprise system in competition.

I know there are a lot of speeches given on this floor in terms of individuals who favor free enterprise, they like to give speeches, but sometimes we find that those who give the loudest speeches and those that proclaim the virtues of free enterprise simply do not want to practice free enterprise.

This bill, as far as it can, attempts to inject some competition into the free enterprise.

We know there has been a sad history out there with regard to service provided in these parks to constituents. We know that has to be improved, that they cannot just be profit centers. We have to look to the preservation of service to people and our communities.

Mr. Chairman, I rise in strong support of S. 208, the National Park Service Concessions Policy Reform Act. This is an important reform bill. The legislation has been a long time coming, and represents a broad, bipartisan consensus. To a large extent, it would give permanent, statutory effect to changes in National Park Service policies that were prompted by our former colleague and former Secretary of the Interior Manuel Lujan, and also reflects important suggestions from the General Accounting Office, the Interior Department's inspector general, and other experts.

Mr. Chairman, the relevant background to this bill, as well as its detailed provisions, are discussed at length in the Natural Resources Committee's report on this bill. Therefore, I will only summarize a number of major points that members should be aware of concerning this measure.

National Park Service concessions contracts are now primarily governed by a 1965 act known as the National Park Service Concessions Policy Act. That 1965 act, developed by our former colleague and distinguished chairman, Mo Udall, and other members of our committee, was a very sound measure for its day and age.

For example, the 1965 act established the policy that park facilities and services "shall be limited to those that are necessary and appropriate for the public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas." That is an important standard and one that is retained in this bill.

However, some parts of the 1965 act have become outmoded, as improvements in transportation and an increasingly mobile population have made the parks less isolated and less remote.

A prime example is section 6 of the 1965 act, which enables concessioners who acquire or construct structures, fixtures, or improvements on Federal lands within a park to obtain a possessory interest that can be assigned, transferred, or encumbered.

In addition, the 1965 act gives all national park concessioners a preferential right of renewal of their concession contracts so long as

they have performed in a satisfactory manner, and allows present concessioners to receive preferential rights to provide new or additional accommodations, facilities, or services in the same National Park System unit.

While these and other provisions of the 1965 act may have been desirable when there was a perceived need to entice firms to seek concession contracts, they now represent very significant and effective obstacles to competition. They substantially undercut the willingness and ability of firms not already holding concession contracts to seek to win such contracts.

The central thrust of S. 208 is to put more reliance on competition in the selection of concessioners—for the benefit of park visitors and also of the taxpayers.

At the same time, the bill retains the provision of existing law that consideration of Federal revenues is to be subordinate to the objectives of proper protection of park resources and provision of necessary and appropriate facilities and services to park visitors at reasonable rates.

In order to increase competition for concession contracts, the bill would do away with the special provisions of current law that enable national park concessioners to amass possessory interests in park facilities.

The current law's "possessory interest" provision is unique to the National Park System. It is not used in our national forests and public lands nor by State park systems, or in typical commercial leasing arrangements. It represents a barrier to market entry by firms that would be interested in seeking concession contracts if they did not have to be prepared to pay the sometimes-substantial initial costs of purchasing these possessory interests.

The bill also would revise the current law's requirement that all national park concessioners have a preferential right to renewal of their contracts. This is also an important step to increase competition. At the same time, the bill would continue these renewal rights for small businesses concession contracts—those grossing less than a half-million dollars annually.

The Natural Resources Committee considered but rejected amendments that would have continued the ability of concessioners to obtain possessory interests in park facilities, and that would have extended the preferential rights of renewal of one class of concessioners—guides, river runners, and outfitters—regardless of the size of their operations.

I think that rejection of these amendments was an appropriate action by the committee and I would urge the House to reject these and similar weakening amendments if they are offered on the floor.

In conclusion, Mr. Chairman, I want to express my appreciation for able efforts of the many Members on both sides of the aisle who have assisted in making it possible for us to bring this important bill to the floor of the House today.

In particular, I want to thank the gentlewoman from Kansas [Mrs. MEYERS] and the gentleman from Florida [Mr. STEARNS] for their leadership on this matter, and also to note the important contributions of the gentleman from Oklahoma [Mr. SYNAR].

Thanks to their efforts and those of the chairman and other members of our committee, we have an opportunity today to significantly increase competition for concession contracts, for the benefit of all the visitors to the National Park System and for the benefit of the American people who own the priceless treasures of our national parks.

I urge the House to pass this measure without any weakening amendments.

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

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the issue of concessions reform has been thoroughly analyzed and debated by Congress for a number of years. While there are numerous areas of disagreement regarding the extent and nature of any necessary reform, throughout the years of discussion and debate, it has been the clear and uncontested testimony of numerous witnesses that the concession program has provided a great public service in parks at a reasonable cost. In that regard, the existing law has been an unqualified success. However, it has also become clear that two aspects of the present law need to be addressed: increased competition and increased return to the Federal Government.

Even discounting the exaggerated reports by the GAO and Interior IG, it is clear in the record that the Federal Government could be receiving greater revenues from the concession program. However, I would hasten to point out that is not an artifact of existing law, but a result of discretionary decisions by Department of the Interior officials. Similarly, only a tiny fraction of contracts in recent years have been awarded to other than current concessionaires on the basis of competition.

Proponents of S. 208 claim that the issues of increased competition and increased revenue to the Federal Government are addressed in this bill. Mr. Chairman, that is totally inaccurate. Under the version of S. 208 we are considering today, there will be no increased competition for over 80 percent of existing concession contracts. Similarly, according to CBO, S. 208 will generate no new funds for the National Park Service. In fact, under an amendment made in order as part of the rule, the amount of money which will be available to parks from concession operations under this bill will be less than it is today.

Mr. Chairman, the real impacts of this bill will be reduced and more expensive visitor services and accommodations. Proponents of this legislation are fond of citing how concessionaires in State parks pay higher franchise fees for the privilege of doing business. Hearst Castle State Park in California is one of the often cited examples where the concessionaire pays a 26-percent franchise fee on food sales.

It so happens that this same concessionaire operates at Muir Woods National Park about 150 miles north, where they pay a smaller franchise fee to the Federal Government. The simple difference between the two operations is that prices for the same items cost 40 to 60 percent more at the State park. The hot dog which sells for $1.85 at Muir Woods costs visitors to the state park $2.85.

Proponents of this legislation have also frequently compared concessionaires in parks to tenants at shopping malls. Again, the analogy is completely faulty. There are two types of tenants in malls, anchor tenants and renters. Anchor tenants typically either own their stores outright or have 50- to 99-year, renewable leases. Renters typically have low costs and are not requested to make major capitol improvements. Neither of these models fit the situation of a park concessionaire, asked to invest heavily on someone else's land, with no guarantee of the continued opportunity to remain in business.

The net effect of this legislation will surely be increased costs for the park visitors and decreased private sector investments in our parks.

Mr. Chairman, it is easy to see why environmental groups which have fought against concession development and services in Grand Canyon, Zion, Bryce, Carlsbad Caverns, Yosemite, Sequoia, and so forth have put so much energy into this legislation. It goes a long way toward their goal of locking up parks and closing off visitor access. Their goals are fundamentally inconsistent with basic law establishing the National Park Service and the desires of the American public. That position never could have prevailed if it had been debated on its merits.

I hope the House can today adopt important amendments which fix the many problems with this bill which jeopardize the quality of the visitor experience of millions of persons annually at our National parks.

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

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. I thank the chairman of the subcommittee for yielding this time to me.

Mr. Chairman, I have served for 17 years with the gentleman from Minnesota [Mr. VENTO] on the Parks Subcommittee. He has done a very diligent, masterful job in addressing a subject that I think periodically Congress should address, the concessions and the facilities in our national parks.

I particularly agree with the gentleman from Minnesota in one of his opening remarks where he stated that America's national parks are for America's families.

I therefore am on the floor today to propose two family-friendly amendments to my good colleague from Minnesota. I have taken numerous vacations for many, many years with numerous children and numerous grandchildren, totalling approximately 30 today.

I know that when I take my children and grandchildren on vacations to national or State parks or other areas, I know what they are looking for. They are looking for fun items, they are looking for excitement, they are looking to swim, yes, they are looking to hike, they are looking for a soft drink or ice cream, they are looking for a hot dog.

These are things America's families are expecting in their recreational parks.

My amendments, which I will address later, are those which I call family-friendly. They will provide more services in the national parks than this bill provides.

In the closing days of the markup in the full committee, not in subcommittee but in full committee, the chairman inserted a provision which would very drastically restrict those family facilities in our national parks.

My amendment will be brought forth to hopefully cure that. I will address that later.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the gentleman from Wyoming [Mr. THOMAS.]

Mr. THOMAS of Wyoming. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the bill as it is before us today.

Mr. Chairman, I have spent a good deal of time visiting with outfitters, guides, and concessionaires across Wyoming who are extremely concerned about this legislation. If it is approved, it seems to me we run a very grave risk of changing the very way that concessions have been developed through the years and are administered currently on Federal lands and on parks.

Let me make clear that I am not opposed to making changes. There need to be changes.

My notion, however, is that most of those changes, if not all, can be made under the present law. The administration has not made them, this administration, nor previous administrations. Those that administer the program are not willing to take the steps to do that.

The primary objective of the National Park Service concession program is to insure protection of the resources first, to provide the quality service to the public, and to enable a reasonable return. The return is not the first function of these kinds of things. We need to have an incentive that allows people to continue to make the investment, in some cases very large investment, such as at Yellowstone National Park.

Mr. Chairman, this is not an easy thing to do, to have hundreds of millions of dollars from a private investor who is out there without some sort of hoped-for continuation of their good services. Just recently the park at Yellowstone turned the campground over to a concessionaire because there was not enough money in the budget to keep them up. Only in this way could it be done, and they are doing that.

□ 1550

Through the years the system has worked well. If there are problems, they could be fixed the way they are. I think we bring a size 10 solution here to about a size 3 problem, and that is beginning to be sort of the issue that we are faced with on these Federal projects throughout the country.

One of them, of course, is the idea of eliminating possessory interests where there is an opportunity here, with a great deal of investment, that, rather than take it at the market price, should this concessionaire leave, we have a straight line depreciation which may or may not reflect the kind of investment that is there.

But I am especially concerned about the effects of this measure on outfitters and guides across the Nation. The bill encourages a revolving door in this instance and where there is relatively little investment, but a great deal of expertise, and these outfitters of various sizes, most of them are very small, and, by the way, one of the difficulties is the variation in concessionaires. There is a great deal of difference between a TW that had hundreds and millions of dollars invested and the family ranch operator in Teton National Park. This bill puts them all together in the same kind of operation.

Mr. Chairman, I think that we could make some concessions; we tried to do that in committee, that would recognize these small investors, that would recognize these outfitters, and I urge that we do consider that before this bill is passed. This measure is ill conceived as it is and will not help our parks, will not provide additional revenues. The current system is basically sound, and adjustments need to be made there.

Mr. Chairman, I urge Members to vote against this legislation as it now exists.

Mr. VENTO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR], chairman of the subcommittee of the Committee on Government Operations that has worked hard on this measure, and the gentleman is the principal sponsor of one of the initiatives.

Mr. SYNAR. Mr. Chairman, I rise today in strong and enthusiastic support of S. 208, as reported, a bill to make major reforms in the concessions policy of the Park Service. Over the last 5 years, the Government Operations Subcommittee on Environment, Energy and Natural Resources, which I have the honor to chair has held 3 days of oversight hearings and commissioned four separate General Accounting Office studies on government concessions policies and practices. As a result of that work I sponsored H.R. 743 in the last session, a reform bill similar in virtually all major respects to S. 208.

Mr. Chairman, I have waited a long time for this moment I applaud Chairman VENTO and our colleagues on the Natural Resources Committee for bringing this measure before us today. It's good for the taxpayers, it's good for competition, and it's good for the parks.

The current Park Service concession policy is a money loser, which returns to the Treasury just a small fraction of concessioners' hundreds of millions of dollars in gross receipts. The taxpayers have never received a fair share of these often lucrative operations on public lands; it's time we made sure the taxpayers get the break they deserve.

The current policy is also a competition buster which discourages new businesses from entering the market and competing to provide better goods and services to tourists at our Nation's magnificent national parks. Current law restricts competition in several ways.

Remarkably, under the current policy, existing concessioners have a perpetual, preferential right of renewal for their contracts—which may have terms up to 30 years. This preferential right of renewal has stifled competition, especially for the larger, more lucrative concessions, and that guarantee of future business must be repealed for all but the smaller concessioners. In this respect, the bill before us quite properly retains the preferential right of renewal for small operations which are expected to gross less than $500,000 a year.

Under current policy, concessioners also are guaranteed a possessory interest in improvements they make to structures on park property—interests which, under the current scheme, only increase in value over time and must be bought out at inflated prices by a new contractor. We will address this issue of possessory interest buyouts during consideration of the Murphy amendment, which seeks to protect the concessioners' possessory interest in perpetuity. In the meantime, though, let me make a point in response to the argument the concessioners have always made about the "equity" of their current possessory interest protection. The concessioners would have us believe that they make these investments because they just love the parks, and they just love the park visitors.

Well, Mr. Chairman, I think we all know that concessioners don't make these investments out of the goodness

of their hearts, because they just love our parks. No, indeed. By and large, they make these investments in order to increase their revenues. It's that simple. And believe me, they have reaped the financial rewards of those investments for many, many years now—without ever having to return a fair share of their revenues to the taxpayers who own these parks.

To my knowledge, the National Park Service is the only Federal agency which still guarantees such unnecessarily generous possessory interest buyouts, and it's time for a change.

These existing policies are a throwback to the days when the Government actually had to offer inducements to concessioners to open up commercial operations in our national parks. Mr. Chairman, those days are long gone, and it is long past time for Congress to insist on drastic reform of this system.

Almost 10 years ago, President Reagan's cost-cutting Grace Commission singled out concessions reform as a target for increased fees and improved services; a decade ago, that Commission called for the end of preferential treatment for existing concessioners and a new system of competition for these lucrative contracts.

But a decade later, as my own subcommittee's oversight hearings showed, the Department of the Interior still does not have a national—or rational—system for managing park concessioners. In some cases, even the most basic information about concession agreements and operations had never been assembled.

The General Accounting Office estimates that there are more than 1,500 concession agreements at national park sites. Many of these concession arrangements have not been reviewed for years; indeed, for many, the Service didn't even know how much they were generating in revenues. Thus, it is not surprising that GAO and the Department's Inspector General both have concluded that the taxpayers are losing tens of millions of dollars every year through inequitable fee schedules and lax oversight.

Overall gross receipts by National Park Service concessioners in 1990 reached almost $600 million; it may be substantially more now. Yet park concessioners, who earn their revenues through the privilege of operating on public lands, return less than 3 percent of their gross receipts to the owners of those lands—the taxpayers.

Maybe that disgracefully low rate of return is the reason the concessioners have never been anxious for the public to know how much money they make off of these public lands. In fact, I would remind my colleagues, several years ago the concession industry actually filed a lawsuit to keep the Interior Department's Inspector General from issuing a report that disclosed how much in revenues were generated by these various concession operations, and how much they paid to the Government in fees. Well, it's not a secret that many of these operations generate tens of millions of dollars a year in revenues; it's also not a secret that those same concession operations may pay only a few thousand dollars in fees.

Compare the national park concessioners' average returns to the taxpayers with fees paid by concessioners at some of the Nation's most popular State parks, or with private and Federal entertainment attractions such as the Meadowlands Sport Complex in New Jersey, the Hearst San Simeon Historical Monument in California, or the Cove Palisades Park in Oregon.

Concessioner fees at these sites range from 10 percent of gross receipts for State park boat rentals, to as high as 65 percent on some merchandize sold at the Meadowlands. And concessioners pay these higher fees without the inducement of long contract terms and preferential rights of renewal.

Mr. Chairman, it's time for a change.

As long ago as 1976, our Committee on Government Operations issued a joint oversight report with the Committee on Small Business which found that National Park Service policies discourage competition and give concessioners too great a voice in concession management. Here's what our predecessors said about the need for Park Service concession reform almost 20 years ago:

> The hearings and investigation of the subcommittees demonstrated that the National Park Service administration of concessions has been inadequate and ineffective; that the concessioners have, in effect, been allowed to do business with little overall control or supervision by the NPS; that concessioners have undue influence over NPS concessions management and policies; that concession contracts are vague, ambiguous, and generally do not adequately protect the Government's interest; that the 1965 concession statute discourages competition for concessions and encourages large corporations to take over an increasing number of concessions operations at the more profitable areas of the National Park System, to the detriment of small business; and that the general public is rarely consulted concerning the management of Park Service concessions.

Mr. Chairman, those criticisms are as true today as they were almost 20 years ago, and that's why we need the reforms embodied in S. 208, as reported by the Natural Resources Committee.

This legislation would cure the defects in the existing concession policy, by requiring real competition for contracts, by weaning concessioners from their unjustified subsidies and buyouts, and by getting a better and fairer return for the taxpayers and directing concession fees back into the parks where they are needed.

Only a strong concession reform bill will ensure that these significant, long overdue changes are made. I urge all my colleagues to support S. 208 and to firmly reject the weakening amendments being advocated by the concession industry.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield for a question, please?

Mr. SYNAR. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, I just wonder if the gentleman would help me compare the Meadowlands with Teton National Park in terms of the length of the season, in terms of the intensity in terms of the market that is available.

My point is there is a substantial difference between those two, it seems to me, in terms of the volume year round.

Mr. SYNAR. Mr. Chairman, there is a substantial difference. Let us take the Meadowlands, for example. I used in my example that 65 percent of some concessions, we are returned 65 percent, compared to the Yosemite concession services where we get 0.75. That does not seem like we are doing a very good job getting the type of royalty and returns that even private and State parks get.

Mr. MURPHY. Mr. Chairman, will the gentleman yield?

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

Mr. MURPHY. Mr. Chairman, Yosemite was 7.5 before the National Park Service used the new procedure that is outlined in this bill, and now I understand it is zero. There is no income from the current concessionaire because other concessions have been made to him under these very rules and regulations my colleagues are trying to put in law today.

Mr. SYNAR. Mr. Chairman, let me correct the gentleman's understanding of the Yosemite contract. Under the new consideration of government the franchise fee eliminated was in lieu of capital fund of 4.5 to 5 percent and the elimination of the possessory interest which was very important for us to get control back over to the park.

Mr. HANSEN. Mr. Chairman, I yield 6 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in strong support of S. 208, the National Park Service Concessions Policy Reform Act. As some of my colleagues may know, I introduced virtually identical legislation, H.R. 1493, in the House last year.

Today, we have an opportunity to make substantial improvements to National Park Service concession contracting procedures. S. 208 opens Park Service concession contracts to competition, provides American taxpayers an adequate return from Park Service concessionaires, and dedicates more funding to our parks. At the same time. S. 208 also protects existing contracts and related property values.

S. 208 is protaxpayer and propark. It ensures that the National Park Service

will award its valuable concession contracts in a fair manner, through open competition. The bill establishes a floor—or a minimum franchise fee—for new contracts, or those being renewed. After this floor is established by the Secretary of Interior, bidding would be allowed above the minimum.

Currently, no bids are received when a contract is being renewed because the current holder can retain his contract by meeting the highest bid. Consequently, no other prospective bidders are willing to take the time—and money—in an effort to win a contract only to have the current concessionaire meet the best competing bid because of a preferential right to renew.

A recent report by the Interior Department's inspector general found that, of 29 Park Service contract offerings, 28 incumbent concessionaires had no competing offer. It is clear the current law stifles open competition.

Under the current system, when contracts are renewed without competition, franchise fees remain low while concessionaire profits increase. In 1992, concessionaires generated more than $650 million in gross revenue. As a group, concessionaires returned to the Federal Government just 2.6 percent of that $650 million, none of which went to the parks.

In the rare instances that an incumbent concessionaire leaves a park, competition is tremendous. This happened at Yosemite National Park. Since no incumbent concessionaire was in the running, six interested parties submitted a bid to offer services at Yosemite. The winning bid returns to Yosemite the equivalent of a 20-percent franchise fee. In contrast, the previous franchise fee was three-fourths of 1 percent.

Another important provision in S. 208 is the establishment of park improvement funds into which franchise fees collected from the gross revenues from concessionaires are deposited. The bill includes a much needed directive to the Park Service requiring that half of the fees generated in a park be reinvested back into its operating budget of the park. The remaining half is directed to reducing the $2 billion backlog of infrastructure repair in the Park System. It is estimated that $40 million annually will be returned back to the parks.

This is one of the key recommendations that has been made many times by various commissions on reforms for the Park Service, including the Grace Commission. This provision is common sense since many popular parks are being loved to death by the public and are in desperate need of infrastructure repair and upkeep.

S. 208 also changes the policy which grants possessory interest in structures built on Park System land by concessionaires. The current law values these structures at their replacement cost, which increases over time, giving concessionaires a real estate bonanza. As you can guess, estimates of possessory interest are very high because the structures are located in the Park System with a very captive market.

Under S. 208, structures will be valued by the straight-line depreciation method—which is the method used in the GAAP—Generally Accepted Accounting Principles—and in similar real estate transactions. This is the manner in which other concessions are contracted by State parks, in private land development agreements, and is fair to taxpayers and to the concessionaire.

Knowing that there are small "Mom and Pop" concessions that have been in some national parks for many years, the bill exempts these small concessions that gross less than $500,000. These family-operated concessions are very different than the lucrative multimillion dollar concession contracts that are awarded for popular national parks.

It is imperative that the House act on S. 208 because a sizable number of Park Service concession contracts have or will soon be expiring. Without action, contracts will be renewed without competition and the practice of the awarding contracts with anemic franchise fees will continue.

Mr. Chairman, because of preferential right of renewal and possessory interest, we do not have open bidding for the concessions in the Park System. Consequently, we receive less than 3 percent of gross receipts from concessionaires. However, State government parks and others offering concession contracts receive more than 10 percent of gross receipts.

S. 208 and our House bill have received the endorsements of the National Parks and Conservation Association, Citizens Against Government Waste, and the National Taxpayers Union. These two taxpayer watchdog groups have indicated that they will be scoring this vote as a protaxpayer vote.

I do want to make it clear that I am not questioning the good service concessionaires are giving to park visitors. The policies in the 1965 concessions law may have been necessary then to get people into parks, but now they are not prudent. Our national parks are visited by 275 million people annually, and these numbers are expected to increase to ½ billion in 5 years.

Mr. Chairman, this is a bipartisan bill that opens competition, helps our parks, and rewards the taxpayer. I urge my colleagues to vote "yes" on S. 208.

□ 1600

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I would be remiss in my responsibility if I did not take this opportunity to commend the gentlewoman from Kansas [Mrs. MEYERS] for her outstanding service and leadership in this area. As I said in my opening remarks, I feel like the legislation I have introduced in the last session is virtually identical to what we are doing. But I think it is very safe to say that the gentlewoman's leadership on her legislation, that she has introduced, is very similar also.

The gentlewoman ended her speech with what I think we need to remember here: This is a bipartisan effort, that is very responsible, that goes to the heart of what I think many of our taxpayers and constituents have told us, which is to try to run Government a little bit more like a government.

I wanted to take this opportunity to give special recognition to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, if the gentleman will yield, I appreciate the remarks of the gentleman from Oklahoma.

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, just briefly, I would like to point out the essence of the legislation comes to us because of, as the gentleman from Oklahoma [Mr. SYNAR] said, a series of General Accounting Office reports that held this up to the light of day.

What served well in 1965 has not served well today. In fact, it has been headlines in the paper with regard to the amount of franchise fees and the dollars that were coming back to the Treasury, and the exorbitant type of benefits that were flowing to some concessionaires. Not to all. I think by and large the concessionaires in our national parks, some of them were in these locations before they were parks, so they have been an important part in meeting the needs of the American public in terms of enjoyment and really stewardship of those parks. That work with those concessionaires is important.

What the GAO reports pointed out is some very, very bad examples of what was happening, and, I might say, an inspector general's report commissioned by then-Secretary Lujan is what really started him down the path. He tackled the Yosemite contract with the help of the Congress, and I think we really have some continuity here with Secretary Babbitt and others proceeding to bring this to a conclusion.

The concerns are that there has been no record of what was going on, because every individual superintendent had a policy unto himself in the individual park where there were concessionaires. Not all of our parks have concessions. There was no record, no information, no continuity, and the end result was that we had buildings that were publicly owned that were being rented for a pittance. We had no revenues coming back in. We had individuals acquiring a possessory interest

in lieu of franchise fees. Not only were they making the profits, but then taking the franchise fees they were supposed to pay to the Park Service and acquiring a possessory interest, and today we have to buy them back. That is the case. There are no records of what occurred.

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

Mr. HANSEN. Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER], the chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Chairman, I rise in strong support of legislation that will bring much needed reform to policies governing concessions contracts at our national parks.

Current policy is nearly 30 years old and reflects the priorities of a much different time. The changes contemplated by S. 208 will encourage greater competition that we expect will raise more revenue that, under the bill, can be retained directly by the parks to support badly underfunded maintenance and construction needs.

S. 208 passed the Senate by a vote of 90 to 9. Rarely has reform of any policy in the natural resources arena won such a ringing endorsement from the other body. I think this is a reflection of the broad consensus that several years of congressional examination of these issues has produced.

Today, contracts for goods and services in our national parks are awarded in ways that differ significantly not only from accepted practices in the private sector and State and local park systems, but also from contracting methods on lands managed by the U.S. Forest Service and the Bureau of Land Management. This may have made sense at a time when our parks were underdeveloped and undervisited and it was deemed necessary to dangle generous terms in front of prospective concessioners to encourage investment, construction, and visitor services.

In 1994, few would argue that our parks are underdeveloped and undervisited. As visitation throughout the Park System has grown geometrically business opportunities and profits at the parks have risen handsomely. But neither the taxpayers nor the parks themselves have benefited because old policies lock in contracts when length is up to 30 years with franchise fees that average a puny 2.6 percent of gross, smother competition for these lucrative contracts, and then funnel what revenues are generated into the black hole of the general fund. Today, Park Service concessions contracts generate only about $16 million a year for the Treasury. We can do better by our national parks and our citizens who love and visit them.

One of the major culprits in this situation is a system called possessory interest. In national parks, unlike State parks, other Federal lands, or even shopping malls and other private sector developments, the operator of a concession can invest in an improvement to a facility he does not own and claim an appreciating, fair-market value property right for that investment. Nobody else does this. A similar improvement elsewhere earns you a right to the value of the investment itself properly depreciated over time and nothing more.

The result in our parks is that many concessioners have accrued millions of dollars in possessory interest portfolios that pose very high barriers to real competition at contract renewal time. That is because a competitor not only has to offer better service at a better price and a better return to the taxpayer, he or she has to do so while buying out the possessory interest of the existing concessioner.

S. 208 sensibly eliminates this practice, while protecting the rights and property accrued under the existing system.

The bill also allows parks to keep the revenues generated by concession contracts in funds at those parks for use in meeting construction and maintenance needs. We have heard repeatedly on the floor of this House stories detailing the dire straits of the basic infrastructure of the parks. And while I believe that some of the multibillion estimates of the so-called backlog of park construction needs are highly misleading, nevertheless it is incumbent upon Congress to do everything it can to help park superintendents provide for the health and safety of visitors and to protect the natural, cultural, and historic resources for which the parks were established in the first place.

For all those Members who have bemoaned the lack of adequate financial resources to take care of what we have in the National Park System, here is their chance to make a positive contribution to alleviating that problem.

Mr. Chairman, we have a good bill, a long overdue bill that is supported by the administration, by many conservation and environmental groups, and by an exceedingly broad, bipartisan majority in the Senate.

This legislation will reduce the need for more appropriated funds to address park needs, increase revenues for park purposes, and improve our ability to be good stewards of the national heritage our Park System so proudly represents.

□ 1610

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE], a member of the committee.

Mr. ABERCROMBIE. Mr. Chairman, when Congress last addressed this issue in 1965, the parks were remote outposts, poorly served by transportation links, and visited by a small fraction of today's. Thirty years ago it made sense to offer incentives to attract businesses to the parks. However, it is now 1994, and park visitation rates exceed a quarter of a billion people per year.

In addition, Federal investments in roads and other programs in the past 30 years have made parks even more accessible, and they are now have attractive business opportunities.

So in my estimation, and in my experience with our National Park System in Hawaii, where we have visitors from all over the world, let alone the United States and Hawaii itself, S. 208 makes a series of very prudent reforms.

It eliminates the concessioner's preferential right to renew contracts if they have gross annual revenues in excess of $500,000 and it reforms the method of calculating the concessioner's possessory interest in order for a more accurate value to be assessed.

I believe that this will protect the liability to the taxpayer.

This measure will return the revenues generated by concessionaires to the National Park System. This will not solve all our problems, but it is certainly a step, a major step in a direction towards addressing the Park System's unmet needs.

The bill, as has been noted, is supported by Government antiwaste groups like the National Taxpayers Union and Citizens Against Government Waste, park groups themselves, propark groups like the National Parks and Conservation Association, as well as, of course, the National Park Service.

It does recognize, and I want to note for the record, the area in which I have some knowledge, and I think it should be something that should go on the record.

I want it noted from the act that "there are established Federal contracting authorities, aside from the 1965 Act, that this bill would repeal and replace, that the National Park Service can use in conjunction with the authority provided by the bill as reported. For example, the Randolph-Sheppard Act allows a Federal agency to 'sole-source' a concession contract or authorize to a State which in turn assigns it to a blind operator. The Committee understands that this authority has been successfully utilized at the U.S.S. *Arizona* memorial," a particular area, Mr. Chairman, which is visited by literally millions of people, "at Pearl Harbor, Hawaii. Repeal of the 1965 Act will not affect such other contracting authorities, and the Committee expects that the National Park Service will continue to utilize them in appropriate cases."

I think that S. 208, as presented by the chairman and the committee, gives every adequate opportunity to take unique circumstances into account.

Mr. GEJDENSON. Mr. Chairman, I rise in support of S. 208, the National Service Concessions Policy Reform Act. I want to commend Chairman BRUCE VENTO and Chairman GEORGE MILLER for all their hard work on this issue. I would also like to acknowledge the gentleman from Oklahoma [Mr. SYNAR] for his efforts to bring reform to park concessions.

Mr. Chairman, when the Concessions Policy Act was enacted in 1965 there was a legitimate need for some of its provisions, including preferential right of renewal and minimal lease payments. Many of the parks attracted few visitors and the Federal Government took steps to attract businesses to develop hotels and restaurants and to provide services to the public. In the mid-1960's, it wasn't profitable to operate concessions in many parks so incentives had to be provided. Circumstances are completely different today.

Our national parks are some of the most heavily visited sites in the world. In 1992, nearly 275 million people visited sites managed by the National Park Service [NPS]. In fact, so many people are visiting major parks, such as Yellowstone, Yosemite, and Smokey Mountain, that park managers are considering reducing visitor numbers in an effort to protect fragile natural resources.

But now, operating concessions in the national parks is a very profitable business. In 1992, concessioners earned $650 million in gross revenue, but paid merely 2.6 percent of that to the Federal Government in the form of franchise fees. If one does the math, this amounts to $17 million, which in my opinion, is a ridiculously low amount when one considers how lucrative these concessions are to those lucky enough to have a monopoly. This is a great deal for concessioners, but not for the American people. I believe reform is long overdue.

Mr. Chairman, with that in mind, I strongly support S. 208 as reported by the Natural Resources Committee. This bill makes important reforms which will benefit the American people without compromising services in our national parks. For the first time, the bill establishes a truly competitive process for bidding for concession contracts by abolishing the right of preferential renewal. This procedure stifled competition because the current contract holder was always allowed to match the lowest bid. The bill does preserve this right of those with contracts which gross less than $500,000 per year. Many people were concerned that eliminating preferential right of renewal would adversely affect river runners and guides which provides specialized services. During consideration of the bill in committee, Chairman VENTO made it clear that only about 23 of the more than 220 concessioners specializing in river running grossed more than $500,000. Therefore, the vast majority of small businesses would be protected under this legislation.

Importantly, the bill requires the Secretary of the Interior to set minimum bids for each contract which guarantees a fair return for the American people. While a fair return is important, it is critical that concession contracts not be awarded to companies which cannot demonstrate that they will be able to operate in such a way as to protect natural resources in the park. This bill makes it clear that in awarding a contract, the Secretary's ultimate responsibility is to ensure that park resources are protected. While generating revenue is important, safeguarding nationally significant historic, cultural and natural resources is paramount and all other goals should be considered subsequently.

As many of my colleagues know, the Park Service has a massive maintenance backlog which must be addressed. Some have estimated the backlog to be in the billions of dollars. Furthermore, tight budgetary circumstances make substantial increases in appropriations impossible. This legislation seeks to provide the Park Service with additional financial resources to address this pressing issue. The bill creates a special fund in the Treasury where franchise fees will be deposited. Fifty percent of the fees will be distributed to the individual parks in proportion to the amount collected in that park and 50 percent will be distributed to the parks based on need. In addition, the legislation authorizes the creation of Park Improvement Funds in certain parks. Under this provision, concessioners would deposit all franchise fees collected in a specific park and expend them on projects designated by the Secretary. These provisions will provide park managers with a valuable new source of revenue to address mounting maintenance problems.

Finally, the bill eliminates concessioners' possessory interest in structures. Possessory interest is a costly relic of the past and has no place in the park system today. While existing contracts which include possessory interests will be honored, new contractors will not receive this special treatment, one that I would note is not afforded to those who operate concessions in ballparks for example. This will bring policy into line with common commercial leases and reduce costs substantially.

Mr. Chairman, this is a well-balanced bill which will ensure that the American people continue to receive the highest level of service in our parks. At the same time, taxpayers will begin to receive a fair return on lucrative contracts held by park concessioners. Most importantly, this legislation requires that natural resource protection and stewardship remain paramount in awarding contracts. I urge my colleagues to support this landmark bill.

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

The CHAIRMAN. All time for general debate has now expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute now printed in the bill, modified by the amendment printed in House Report 103-623, is considered as an original bill for the purpose of amendment and each section is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

S. 208

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 "National Park Service Concessions Policy Reform Act of 1994".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2-4), which directs the Secretary of the Interior to administer areas of the National Park System in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services within such areas as the Secretary, in accordance with this Act, determines necessary and appropriate—

(1) should be provided only under carefully controlled safeguards against unregulated and indiscriminate use so that visitation will not unduly impair park resources and values; and

(2) should be limited to locations and designs consistent to the highest practicable degree with the preservation and conservation of park resources and values.

(b) POLICY.—It is the policy of the Congress that—

(1) development on Federal lands within a park shall be limited to those facilities that the Secretary determines are necessary and appropriate for public use and enjoyment of the park in which such facilities and services are located;

(2) development within a park should be consistent to the highest practicable degree with the preservation and conservation of the park's resources and values;

(3) park facilities and services the Secretary determines suitable to be provided by parties other than the Secretary should be provided by private persons, corporations, or other entities, except when no private interest is qualified and willing to provide such facilities and services;

(4) if the Secretary determines that development should occur within a park, such development shall be designed, located, and operated in a manner that is consistent with the purposes for which such park was established;

(5) the right to provide such services and to develop or utilize facilities should be awarded to the person, corporation, or entity submitting the best proposal through a competitive selection process;

(6) such facilities or services should be provided to the public at reasonable rates; and

(7) if adequate facilities to serve the needs of park visitors exist outside a park's boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded within the park.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "concessioner" means a person, corporation, or other entity to whom a concession contract has been awarded;

(2) the term "concession contract" means a contract, or permit, (but not an authorization issued pursuant to section 5(b) of this Act) to provide facilities or services, or both, at a park;

(3) the term "facilities" means improvements to real property within parks used to provide accommodations, facilities, or services to park visitors;

(4) the term "park" means a unit of the National Park System;

(5) the term "proposal" means the complete proposal for a concession contract offered by a potential or existing concessioner in response to the minimum requirements for the contract established by the Secretary;

(6) the term "Secretary" means the Secretary of the Interior; and

(7) the term "franchise fee" means the fee required by a concession contract to be paid to the United States in consideration for the privileges afforded by such contract to the holder thereof,

which may be expressed as a percentage of revenues derived by the contract holder from activities authorized by the contract, and which shall be in addition to fees required to be paid to the United States for the use of federally-owned buildings or other facilities.

SEC. 4. REPEAL OF CONCESSIONS POLICY ACT OF 1965.

The Act of October 9, 1965, Public Law 89–249 (79 Stat. 969, 16 U.S.C. 20–20g), entitled "An Act relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes", is hereby repealed. The repeal of such Act shall not affect the validity of any contract entered into under such Act, but the provisions of this Act shall apply to any such contract except to the extent such provisions are inconsistent with the express terms and conditions of the contract. Nothing in this Act that is inconsistent with a prospectus issued before April 1, 1994, shall apply to the contract with respect to which such prospectus was issued. The Secretary is authorized to award a concession contract prior to promulgation of new regulations to implement this Act if the Secretary determines that protection of public health and safety warrant such action, provided that such contract is consistent with this Act.

SEC. 5. CONCESSION CONTRACTS AND OTHER AUTHORIZATIONS.

(a) CONCESSIONS.—(1) Subject to the findings and policy stated in section 2 of this Act and the provisions of this section, the Secretary may award concession contracts that authorize private persons, corporations, or other entities to provide services to park visitors and to utilize facilities if the Secretary determines that such award is the appropriate means for such authorization.

(2) Concession contracts shall be awarded only to the extent that the Secretary finds that the services to be provided and the facilities to be utilized pursuant to each such contract are necessary and appropriate for the accommodation of visitors to a park.

(3) The provision of services and the utilization of facilities pursuant to concession contracts shall be consistent with all applicable requirements of law, including laws relating generally to the administration and management of units of the National Park Service, and with the general management plan, concessions plan, and other relevant plans developed by the Secretary for the relevant park.

(b) OTHER AUTHORIZATIONS.—(1) To the extent specified in this subsection, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to park visitors otherwise than by award of a concession contract.

(2)(A) The authority of this subsection may be used only to authorize provision of services to park visitors that the Secretary determines have minimal impact on park resources and values and will be consistent with the purposes for which the relevant park was established and with all applicable management plans for such park.

(B) The Secretary—

(i) shall require payment of a reasonable fee for issuance of an authorization under this subsection;

(ii) shall require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of park resources and values;

(iii) shall take appropriate steps to limit the liability of the United States arising from the provision of services under such an authorization; and

(iv) shall have no authority under this subsection to issue more authorizations than are consistent with the preservation and proper management of park resources and values, and shall establish such other conditions for issuance of such an authorization as the Secretary determines appropriate for protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the National Park System.

(3) An entity seeking or obtaining an authorization pursuant to this subsection shall not be precluded from also submitting proposals for concession contracts.

SEC. 6. COMPETITIVE SELECTION PROCESS.

(a) IN GENERAL.—(1) Except as provided in subsection (b), and consistent with the provisions of subsection (g), any concession contract entered into pursuant to this Act shall be awarded to the person submitting the best proposal, as determined by the Secretary through the competitive selection process specified in this section.

(2) Within 180 days after the date of enactment of this Act, the Secretary shall promulgate appropriate regulations establishing a process to implement this section. The regulations shall include provisions for establishing a method or procedure for the resolution of disputes between the Secretary and a concessioner in those instances where the Secretary has been unable to meet conditions or requirements or provide such services, if any, as set forth in a prospectus pursuant to sections 6(c)(2) (D) and (E).

(b) TEMPORARY CONTRACT.—Notwithstanding the provisions of subsection (a), the Secretary may award on a noncompetitive basis a temporary concession contract if the Secretary determines such an award to be necessary in order to avoid interruption of services to the public at a park. Prior to making such a determination, the Secretary shall take all reasonable and appropriate steps to consider alternative actions to avoid such interruptions.

(c) PROSPECTUS.—(1) Prior to soliciting proposals for a concession contract at a park, the Secretary shall prepare a prospectus soliciting proposals, shall publish a notice of its availability at least once in such local or national newspapers or trade publications as the Secretary determines appropriate, and shall make such prospectus available upon request to all interested parties.

(2) The prospectus shall include, but need not be limited to, the following information:

(A) The minimum requirements for such contract, as set forth in subsection (d).

(B) The terms and conditions of the existing concession contract awarded for such park, if any, including all fees and other forms of compensation provided to the United States by the concessioner, and all information available to the Secretary with regard to the wages, hours, and conditions of employment of the workforce engaged by the concessioner to fulfill the requirements of such existing concession contract.

(C) Other authorized facilities or services which may be included in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including but not limited to, public access, utilities, and buildings.

(E) The services to park visitors intended to be offered within a park by the Secretary, including but not limited to, interpretive programs, campsites, and visitor centers.

(F) Such other information related to the proposed concessions operation which is not privileged or otherwise exempt from disclosure under Federal law as the Secretary determines is necessary to allow for the submission of competitive proposals.

(d) MINIMUM PROPOSAL REQUIREMENTS.—(1) No proposal shall be considered which fails to meet the minimum requirements included in the relevant prospectus. Such minimum requirements shall include payment to the United States of a franchise fee and shall also include, but need not be limited to, the following:

(A) The minimum acceptable franchise fee, fees for use of any Federal buildings or other facilities, and any other fees to be paid to the United States.

(B) The duration of the contract.

(C) Any facilities, services, or capital investments required to be provided by the concessioner.

(D) Measures that will be required in order to ensure the protection and preservation of park resources and values.

(2) The Secretary may reject any proposal, notwithstanding the amount of franchise fee offered, if the Secretary determines that the person, corporation, or entity making such proposal is not qualified, is likely to provide unsatisfactory service, or that the proposal is not sufficiently responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(3) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(e) SELECTION OF BEST PROPOSAL.—(1) In selecting the best proposal, the Secretary shall consider the following principal factors:

(A) The responsiveness of the proposal to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(B) The experience, expertise, and related background of the person, corporation, or other entity submitting the proposal, including whether the submitter is the holder of a previous concession contract for similar services at the same park and has established a record of outstanding performance in executing that contract, the submitter's history of satisfactory performance under any other concession contract, and the submitter's compliance with applicable labor law and existing standards regarding wages, hours, and conditions of employment and provision of a safe and healthful workplace in connection with any concession contract.

(C) The financial capability of the person, corporation, or entity submitting the proposal.

(D) The proposed franchise fee: Provided, That consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park resources including cultural resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(2) The Secretary may also consider such secondary factors as the Secretary deems appropriate. In developing regulations to implement this Act, the Secretary shall consider the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of concession contracts should be identified as a factor in the selection of a best offer under this section.

(f) CONGRESSIONAL NOTIFICATION.—(1) The Secretary shall submit any proposed concession contract with anticipated annual gross receipts in excess of $1,000,000 (indexed to 1993 constant dollars) or a duration in excess of ten years 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.

(2) The Secretary shall not award any such proposed contract until at least 60 days subsequent to the submission thereof to both Committees.

(g) NO PREFERENTIAL RIGHT OF RENEWAL.—(1) Except as provided in paragraph (2), the Secretary shall not grant a preferential right to a concessioner to renew a concession contract executed pursuant to this Act.

(2)(A)(i) Notwithstanding the provisions of paragraph (1), the Secretary shall include a preferential right of renewal in a concession contract covered by this paragraph, but exercise of such right shall be subject to the requirements of this paragraph.

(ii) As used in this paragraph, the term "preferential right of renewal" means a provision in a concession contract allowing a concessioner satisfying the requirements of this paragraph to have the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best offer for a new concession contract for provision of the same services as were authorized by the concession contract that included the preferential right of renewal.

(B) The provisions of this paragraph shall apply only to concession contracts which the Secretary estimates will result in annual gross receipts of no more than $500,000 in any year during the term of the contract.

(C) A preferential right of renewal may be exercised by a concessioner only when such right is included in a concession contract and only where the Secretary has determined both—

(i) that the concessioner has operated satisfactorily during the term of such contract, and

(ii) that the concessioner has submitted a responsive proposal for a new contract which satisfies the minimum requirements established by the Secretary pursuant to section 6 of this Act.

(D) A concessioner who exercises a preferential right of renewal in accordance with the requirements of this paragraph shall be entitled to award of the new concession contract with respect to which such right is exercised.

(h) NO PREFERENTIAL RIGHT TO ADDITIONAL SERVICES.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services at a park, but may agree to changes in concession contracts that would allow the holders thereof to provide services incidental to or closely related to the services authorized by such contracts, if the Secretary determines that such changes would enhance the safety or enjoyment of park visitors or the protection of park resources and values and would not unduly restrict competition for award of concession contracts.

SEC. 7. FRANCHISE FEES.

Franchise fees, however stated, shall not be less than the minimum franchise fee established by the Secretary for each contract. The minimum franchise fee shall be determined in a manner that will provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed.

SEC. 8. USE OF FRANCHISE FEES.

(a) SPECIAL ACCOUNT.—Except as provided in subsection (b), all receipts collected pursuant to this Act shall be covered into a special account established in the Treasury of the United States. Amounts covered into such account in a fiscal year shall be available for expenditure, subject to appropriation, solely as follows:

(1) 50 percent shall be allocated among the units of the National Park System in the same proportion as franchise fees collected from a specific unit bears to the total amount covered into the account for each fiscal year, to be used for resource management and protection, maintenance activities, interpretation, and research.

(2) 50 percent shall be allocated among the units of the National Park System on the basis of need, in a manner to be determined by the Secretary, to be used for resource management and protection, maintenance activities, interpretation, and research.

(b) PARK IMPROVEMENT FUNDS.—(1) The Secretary shall, where the Secretary determines it to be desirable, establish a Park Improvement Fund (hereinafter in this section referred to as the "fund"), in which, for each fiscal year after fiscal year 1994, the Secretary may deposit some or all of the receipts collected from concessioners to the extent that such receipts exceed the amounts specified in the following table:

"Fiscal year:

	Amount
1995	$22,600,000
1996	25,500,000
1997	27,500,000
1998	30,900,000
After 1998	35,700,000".

(2) The Secretary shall maintain the fund separately from any other funds or accounts and shall not commingle the monies in the fund with any other monies. The Secretary may establish such other terms, conditions, or requirements as the Secretary determines to be necessary to ensure the financial integrity of such fund.

(3)(A) Monies from the fund shall be expended solely for activities and projects within the park which are consistent with the park's general management plan, concessions plan, and other applicable plans, and which the Secretary determines will enhance public use, safety, and enjoyment of the park, including but not limited to projects which directly or indirectly support concession facilities or services required by the concession contract, but no expenditure from the fund shall have the effect of creating or increasing any compensable interest of any concessioner in any such facilities. A concessioner shall not be allowed to make any advances or credits to the fund.

(B) To the extent consistent with the need to respond to urgent requirements and with priorities established as part of a park's general management plan or concessions management plan, the Secretary shall direct that monies from the fund be utilized in coordination with funds provided by other sources, including donations from the National Park Foundation or other groups associated with one or more units of the National Park System.

(4) A concessioner shall not be granted any interest in improvements made from fund expenditures, including any interest granted pursuant to section 11(b) of this Act.

(5) Nothing in this subsection shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

(6) The Secretary shall maintain proper records for all expenditures made from the fund. Such records shall include, but not be limited to invoices, bank statements, canceled checks, and such other information as the Secretary may require.

(7) A fund established pursuant to this subsection may not be used for any capital expenditure exceeding $2,500,000 in any fiscal year unless such expenditure from a fund has been authorized in advance by Act of Congress. The Secretary shall annually inform the Congress concerning the actual and projected use of moneys in each fund established pursuant to this subsection.

SEC. 9. DURATION OF CONTRACT.

(a) MAXIMUM TERM.—A concession contract entered into pursuant to this Act shall be awarded for a term not to exceed ten years: Provided, however, That the Secretary may award a contract for a term not to exceed twenty years if the Secretary determines that a longer term is a necessary component of the overall contract in order to reduce the costs to the United States of acquiring possessory interests or to carry out the policies of this Act and other laws applicable to the National Park System.

(b) TEMPORARY CONTRACT.—A temporary concession contract awarded on a non-competitive basis pursuant to section 6(b) of this Act shall be for a term not to exceed two years.

SEC. 10. TRANSFER OF CONTRACT.

(a) IN GENERAL.—(1) No concession contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner without prior written notification to, and approval of the Secretary.

(2) The Secretary shall not unreasonably withhold approval of a transfer, assignment, sale, or conveyance of a concession contract, but shall not approve the transfer of a concession contract to any individual, corporation or other entity if the Secretary determines that—

(A) such individual, corporation or entity is, or is likely to be, unable to completely satisfy all of the requirements, terms, and conditions of the contract;

(B) such transfer, assignment, sale or conveyance is not consistent with the objectives of protecting and preserving park resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates; or

(C) the terms of the transfer, assignment, sale, or conveyance directly or indirectly attribute a significant value to intangible assets or otherwise may so reduce the opportunity for a reasonable profit over the remaining term of the contract that the United States would be required to make substantial additional expenditures in order to avoid interruption of services to park visitors.

(b) CONGRESSIONAL NOTIFICATION.—Within thirty days after receiving a request to approve a transfer, assignment, sale, or other conveyance of a concession contract, the Secretary shall notify 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 of such proposal. Approval of such proposal, if granted by the Secretary, shall not take effect until sixty days after the date of notification of both Committees.

SEC. 11. PROTECTION OF CONCESSIONER INVESTMENT.

(a) EXISTING STRUCTURES.—(1) A concessioner who, pursuant to a concession contract, before the date of enactment of this Act acquired or constructed, or as of such date was required by such a contract to commence acquisition or construction, of any structure, fixture, or improvement upon land owned by the United States within a park, shall have a possessory interest therein, to the extent provided by such contract.

(2) The provisions of this subsection shall not apply to a concessioner whose contract in effect on the date of enactment of this Act does not include recognition of a possessory interest.

(3)(A) Except as provided in subparagraph (B), with respect to a concession contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) shall apply to any existing structure, fixture, or improvement as defined in paragraph (1), except that the value of the possessory interest as of the termination date of the first contract expiring after the date of enactment of this Act shall be used as the basis for depreciation, in lieu of the actual original cost of such structure, fixture, or improvement.

(B)(i) If the Secretary determines during the competitive selection process that all proposals submitted either fail to meet the minimum requirements or are rejected (as provided in section 6), the Secretary may, solely with respect to a structure, fixture, or improvement covered under this paragraph, suspend the depreciation provisions of subsection (b)(1) for the duration of the contract: Provided, That the Secretary

may suspend such depreciation provisions only if the Secretary determines that the establishment of other new minimum contract requirements is not likely to result in the submission of satisfactory proposals, and that the suspension of the depreciation provisions is likely to result in the submission of satisfactory proposals.

(ii) If the Secretary suspends the depreciation provisions of subsection (b)(1) pursuant to this subparagraph, the Secretary may include in the relevant concession contract, as an obligation of the United States, a compensatory interest in any structure, fixture, or improvement with respect to which such depreciation provisions were suspended in an amount not to exceed the fair market value of such structure, fixture, or improvement.

(b) NEW STRUCTURES.—(1) On or after the date of enactment of this Act, a concessioner who constructs or acquires a new, additional, or replacement structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concession contract, shall have an interest in such structure, fixture, or improvement equivalent to the actual original cost of acquiring or constructing such structure, fixture, or improvement, less straight line depreciation over the estimated useful life of the asset according to Generally Accepted Accounting Principles: Provided, That in no event shall the estimated useful life of such asset exceed the depreciation period used for such asset for Federal income tax purposes.

(2) In the event that the contract expires or is terminated prior to the estimated useful life of an asset described in paragraph (1), the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the value of the concessioner's interest in such structure, fixture, or improvement. A successor concessioner may not revalue the interest in such structure, fixture, or improvement, the method of depreciation, or the estimated useful life of the asset.

(3) Title to any such structure, fixture, or improvement shall be vested in the United States.

(c) INSURANCE, MAINTENANCE AND REPAIR.—Nothing in this section shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

SEC. 12. RATES AND CHARGES TO PUBLIC.

The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the prospectus and contract, be judged primarily by comparison with those rates and charges for facilities and services of comparable character charged by parties in reasonable proximity to the relevant park and operating under similar conditions, with due consideration for length of season, seasonal variance, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

SEC. 13. CONCESSIONER PERFORMANCE EVALUATION.

(a) REGULATIONS.—Within one hundred and eighty days after the date of enactment of this Act, the Secretary, after an appropriate period for public comment, shall publish regulations establishing standards and criteria for evaluating the performance of concessioners operating within parks.

(b) PERIODIC EVALUATION.—(1) The Secretary shall periodically conduct an evaluation of each concessioner operating under a concession contract pursuant to this Act to determine whether such concessioner has performed satisfactorily. In evaluating a concessioner's performance, the Secretary shall seek and consider applicable reports and comments from appropriate Federal, State, and local regulatory agencies, and shall seek and consider the views of park visitors and concession customers. If the Secretary's performance evaluation results in an unsatisfactory rating of the concessioner's overall operation, the Secretary shall so notify the concessioner in writing, and shall provide the concessioner with a list of the minimum requirements necessary for the operation to be rated satisfactory.

(2) The Secretary may terminate a concession contract if the concessioner fails to meet the minimum operational requirements identified by the Secretary within the time limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner.

(3) If the Secretary terminates a concession contract pursuant to this section, the Secretary shall solicit proposals for a new contract consistent with the provisions of this Act.

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify 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 of each unsatisfactory rating and of each concession contract terminated pursuant to this section.

SEC. 14. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been and are being faithfully performed, and the Secretary, the Inspector General of the Department of the Interior, or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary and the Inspector General deem necessary.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of five calendar years after the close of the business year for each concessioner, have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the contracts or contracts involved, including those related to any Park Improvement Funds established pursuant to section 8(b).

SEC. 15. EXEMPTION FROM CERTAIN LEASE REQUIREMENTS.

The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this Act.

SEC. 16. NO EFFECT ON ANILCA PROVISIONS.

Nothing in this Act shall be construed to amend, supersede, or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 17. IMPLEMENTATION.

(a) AUDIT REQUIREMENT.—Beginning with fiscal year 1997, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Secretary's implementation of this Act and the award and management of concession contracts and authorizations described in section 5(b).

(b) BIENNIAL REPORTS.—Beginning on June 1, 1997, and biannually thereafter the Secretary and the Inspector General of the Department of the Interior shall submit a report 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 on the implementation of this Act and the effect of such implementation on facilities operated and services provided pursuant to concession contracts.

(c) INFORMATION FROM SECRETARY.—In each report required by this section, the Secretary shall—

(1) identify any concession contracts which have been renewed, renegotiated, terminated, or transferred during the 2 years prior to the submission of the report and identify any significant changes in the terms of the new contract;

(2) state the amount of franchise fees, the rates which would be charged for services, and the level of other services required to be provided by the concessioner in comparison to that required in any previous concession contract for the same facilities or services at the same park;

(3) assess the degree to which facilities are being maintained, using the condition of such facilities on the date of enactment of this Act as a baseline;

(4) indicate whether competition has been increased or decreased with respect to the awarding of concession contracts;

(5) set forth the total amount of revenues received and financial obligations incurred or reduced by the Federal Government as a result of enactment of this Act for the reporting period and in comparison with previous reporting periods and the baseline year of 1993, including the costs, if any, associated with the acquisition of possessory interests; and

(6) include information concerning any park improvement funds established pursuant to section 8(b) of this Act, including—

(A) the total amount of funds deposited into and expended from each such fund during the preceding 2-year period; and

(B) the purposes for which expenditures from such funds during such period were used.

(d) INFORMATION FROM INSPECTOR GENERAL.—In each report required by this section, the Inspector General of the Department of the Interior shall include information as to the results of the audit required by subsection (a), including—

(1) the status of the Secretary's implementation of this Act;

(2) the extent to which such implementation has furthered the policies of this Act, as set forth in section 2, and has led to an increase or decrease in competition for concession contracts;

(3) the adequacy of recordkeeping and other requirements imposed on establishment and use of park improvement funds established pursuant to section 8(b); and

(4) any recommendations the Inspector General may find appropriate in order to further the purposes of this Act and other laws applicable to the National Park System or to assure that park improvement funds established pursuant to section 8(b) are maintained and expenditures therefrom are used in accordance with this Act and sound business practices.

AMENDMENTS OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. VENTO: Page 16, line 3, after "all receipts" insert "including fees for use of Federally-owned buildings or other facilities".

Page 21, line 9, strike the period and insert the following: ", the value of such possessory interest to be determined for all purposes on the basis of applicable laws and contracts in effect on the day before such date of enactment.".

Page 25, line 21, after "unsatisfactory" insert "overall annual".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, these amendments are essentially technical. They have been discussed with the minority, and I believe they are not controversial.

The amendments would revise the bill to clarify several points, including the treatment of building-use and other fees, the continued applicability of existing provisions of law, and the scope of required reports to the Congress.

These technical amendments are minor, but they will make the bill more clear in several important respects. I urge their adoption.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding to me. These are excellent technical amendments, and I agree with the gentleman wholeheartedly.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota [Mr. VENTO].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY: Page 3, strike line 24, and all that follows down through line 3 on page 4 (section 2(b), paragraph (7)).

Page 3, line 23, strike "and" and insert a period.

Page 3, line 21, insert "and" after the semicolon.

Mr. MURPHY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. VENTO. Mr. Chairman, I reserve all points of order against the amendment.

The CHAIRMAN. Points of order are reserved at the request of the gentleman from Minnesota.

Mr. MURPHY. Mr. Chairman, my first amendment proposes to delete section 7 of the bill. Let me just briefly read that section. It is only four lines.

If adequate facilities to serve the needs of park visitors exist outside park boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded within the park.

□ 1620

Mr. Chairman, there was not in the original bill, neither the House bill, nor was it in the bill of the gentleman from Oklahoma [Mr. SYNAR], we held no hearings on this particular paragraph. Let me point out that the words "adequate facilities," and "needs of park visitors," and "outside of park boundaries," how far outside? "Can feasibly developed," what is considered "feasibly?"

Mr. Chairman, what American families want when they go to our national parks is lodging, food, camping, boating, swimming, hiking, rafting, horseback riding, the things that we have been gradually improving in our park services to facilitate the visits of American families, which is what we now have in place.

Mr. Chairman, I fear if this clause is left in this bill, first, we will wind up with a batch of lawsuits against the Park Service, because every time the Park Service in the future wants to make some development within the park perimeters, some group, some person will then file an injunction against the Park Service and say it could feasibly be developed outside the park, it could do this, it could do that. It does not meet the needs of the park visitors. We would just wind up with endless lawsuits.

Next, Mr. Chairman, we would, if we had them immediately outside the park, wind up with a junk yard of facilities lining the entrance into our national parks with no quality control. Any time any facility is built within the Park Service, we have quality control. We tell them what may be built, what may not be built; what may be used, what may not be used; what trail may be followed, what trail may not be followed. We would have no such control when we force all of these facilities outside the park. We could not control them.

Next, Mr. Chairman, what about the facilities? People go into a national park comprised of many, many square miles. What do they have to do when they want to get refreshment or their kids want to take a swim or they want to go camping? Do they then have to journey clear back outside the park every day, go outside and find some facilities where they are now provided in the Park Service?

The distances from the park entrance to desired areas, Mr. Chairman, I have been to Yosemite, Yellowstone, many of the parks, the Grand Canyon, where the park entrance is miles and miles from the facilities we go to. We would have to, therefore, traverse all the way back to the park entrance for any facilities whatsoever.

Mr. Chairman, I am afraid that this amendment is accomplishing what Secretary Babbitt said he would do.

I quote: "On my watch, the Park Service will not build additional lodging facilities within parks * * * On my watch, the Park Service will not be in the road building business," and so forth and so on.

Mr. Chairman, if this amendment passes, the Park Service will no longer be able to provide the American families with what they expect to find when they go to a national park. They will force us totally out of the park system. We talk about losing money for the Park Service. We are going to make a lot of money for concessionaires on the outside. There will not be a dime paid to the Park Service. All the facilities will be built on the outside. There will be no money for the Federal Government.

Mr. Chairman, I think what this will eventually wind up doing is creating inaccessible wilderness areas for only those people who are physically able, who want to endure long hikes and dangerous escapades like climbing mountains and so forth. Yes, they will continue to go in, but the American families will not be able to go in because what their kids want will not be within the parks, they will be outside the park somewhere, some far distance, and we know not where.

Mr. Chairman, I urge my colleagues to seriously consider what this last minute inclusion into the bill did before full committee. It was never put in prior to that. It was not in the Senate bill. No hearings have been held. This was put in, and the only thing I can say, it would be totally antifamily. We would not be able to take our kids to the national parks the way we have been in the past 40 years.

Mr. VENTO. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The point of order is withdrawn.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania.

Mr. Chairman, the amendment we are presenting will ensure that facilities and services will continue to exist within our national parks so that the American people can enjoy our national treasures.

Mr. Chairman, during the subcommittee markup, the chairman added language that states:

If adequate facilities to serve the needs of park visitors exist outside a park's boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded with the park.

What this language will do is prevent any further replacement, expansion, or construction of new facilities within any of our national parks. Our amendment will strike the Vento language to ensure that park visitors are provided the services and accommodations necessary to enjoy the parks.

How many of us remember in Yellowstone Park, just a few short years ago, we had more coverage than the O.J. Simpson trial, and everyone could see the place burning up there. There was a question of letting it burn.

If Members have been to Yellowstone, Mr. Chairman, instead of those beautiful pine trees, you see toothpicks sticking up. What happened when the Park Service got there? The superintendent of the park, all the people

that surrounded Yellowstone, they went to the Old Faithful Lodge and the park superintendent said, "Of all the things we don't want to lose, it is this beautiful lodge that we've got. People come from all over America to see this lodge."

What did they do? They brought the trucks and the workers and they put their hoses up on the roof and they kept them there to protect the lodge. The trees will come back, Mr. Chairman, but the lodge will never come back, built many years ago. Mr. Chairman, everyone who goes there thrills at that beautiful lodge. However, under the Vento amendment, that lodge could not be replaced.

If we go over to Lake Lodge, where people stand there and look at the beautiful Yellowstone Lake, full of cutthroat trout, they go there by the hundreds and it is a beautiful, beautiful lodge. Americans, Europeans, Orientals, come to see that lodge.

Under the Vento amendment, they could not be replaced. Where would they go? They would go outside, as the gentleman from Pennsylvania [Mr. MURPHY] said. We will have no control. How about a Motel 6 right next to it? How about a golden arches to feed them? How about a junk yard for their cars? All of that would be right outside the lodge that they cannot take care of.

Mr. Chairman, let us go down to one of nature's most beautiful things there is on the face of the Earth, 281 miles of the Grand Canyon. We stand there and our hearts are moved as we look at that beautiful thing. Out there years and years ago they built this, and we hang out over the north rim, standing there, thrilled as we look at it. It burned down in the 1930's. If it burned down after this goes through, we would never replace it. Never could we stand on the north rim with our families. We would have to drive all the way from Jacob's Lake to get up to there, which is 42 miles.

Mr. Chairman, I would say to the Members in their offices, please do not let this go through. It is not just the bugs and bunnies and pine trees, but they want to walk in and see these facilities. they want to eat dinner there. They want to buy a few things. They want to rent those lodge rooms. Why would anyone want to go with this language?

Mr. Chairman, our national parks are not wilderness parks, they represent our national treasures, designed to showcase to visitors all of the natural and historic wonders of this country. The Park Service Organic Act of 1916 specifically directs the Secretary of the Interior to provide for the enjoyment of all, the enjoyment of all, not just a few, to see these parks. People come to these parks to engage themselves in parks, to get a hands-on experience. People do not go to parks to stand at the border and look, like it was some kind of museum.

Mr. Chairman, our parks were created for people and their families to educate, to enjoy, and to be involved in what each park has to offer. Park Service statistics clearly show people who visit parks take advantage of the amenities that our concessionaires have provided within the parks. In fact, most of them even go for that reason. Not many people in this world have the time, money, or health to strap on a 50-pound backpack to hike through a park, and that is not what our parks are for.

The administration is clearly trying to turn our parks into wilderness areas, inaccessible to the American public. S. 208 alone will drive many of our concessionaires out of the parks, and the language added by my friend, the gentleman from Minnesota [Mr. VENTO], will also force all of the facilities out of the parks.

Mr. Chairman, if this Congress wants to continue to provide visitor services and amenities within the parks, we must adopt this extremely important amendment. Our national parks are designed to be enjoyed and have access by the citizens of this country, and the passage of this amendment will guarantee that access.

Mr. Chairman, I urge my colleagues to support the amendment of the gentleman from Pennsylvania [Mr. MURPHY]. I surely would disagree about what was said by Mr. Babbitt when he said, "On my watch, the Park Service will not build additional lodging facilities within parks. * * * On my watch, the Park Service will not be in the road building business. Roads are the enemies of national parks * * * ."

On his watch, the parks are going to hell in a handbasket.

□ 1630

Mr. SYNAR. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think this is going to be an interesting debate because for the very first time I have heard from my Republican colleagues that they do not think the private sector can do as good a job as the Government, which is usually the opposite position that they take. In the time that I have, I would like to make five arguments on why the gentleman from Pennsylvania's arguments and amendment may not be in the best interest of running our national parks.

First, it is already park policy, if one looks at the 1965 Concessions Policy Act and the Concession Management Guidelines of the National Park Service–48, Let me read that language:

"If adequate facilities exist or can feasibly be developed by private enterprise to serve park visitors' needs for commercial services outside park boundaries, such facilities will not be expanded or developed within parks."

So it has been part of our National Park Service for a long time.

The second reason I think the gentleman's amendment is not necessarily in the best interest is that it flies in the face of what we are trying to do with reinventing government. We are trying to move to further development into the private sector through sound policy and that is exactly what this amendment would not allow us to do.

A third reason the gentleman's amendment may be shortsighted is that it would create unfair competition. One of the things this bill is trying to do is to level the playing field so that competitors for those kinds of concessions, particularly those in the private sector, can feel like they are not at an unfair competitive disadvantage from subsidized government concessionaires.

Fourth is that it will give us an opportunity to do something which all of us agree needs to be done and that is to protect our park resources, particularly controlling visitors and development and the impacts that they have.

Fifth, and most important, something I thought my Republican colleagues would embrace, is it will stimulate local rule economies by creating new jobs and new revenues for those communities that surround and are most impacted by our national parks.

So for these five reasons, that it is already park policy, it is reinventing government, it would be unfair competition, it would help us protect our park services and finally stimulate local economies, I ask the House to reject this amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

The amendment would delete from the bill one of the statements of policy that are intended to guide the National Park Service in connection with the award and management of concession contracts.

The policy statement in question, set forth in section 2(B)(7) of the bill, says that "if adequate facilities to serve the needs of park visitors exist outside a park's boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded within the park."

Members should be aware, Mr. Chairman, that this is a nearly word-for-word reiteration of an existing National Park Service policy. It is not a new, radical departure. It has been part of the National Park Service's management policies since the 1970's. Instead, the bill's language is merely a formal recognition that the parks are no longer nearly so isolated, so remote, as once was the case, and that as a result it is less necessary for new or expanded facilities to be built within the parks, because it is more likely than it once

was that facilities such as hotels, motels, restaurants, and the like can be developed outside park boundaries that will do an equally good job of meeting visitor needs and desires.

Let me stress, Mr. Chairman, that this policy statement relates only to new or expanded facilities. It does not affect existing facilities and it does not prevent the development of new or expanded facilities within the parks. It merely says that before we build such new or expanded facilities within the parks, we should see whether private enterprise, operating outside the park boundaries, can do the job just as well or maybe better.

Mr. Chairman, the part of the bill that this amendment would strike enjoys widespread support. We have received letters strongly endorsing its retention in the bill from a number of firms and groups, including the Small Business Legislative Council, the National Association of RV Parks and Campgrounds, and the Minnesota Association of Campground Operators, to name only a few.

They recognize that while this part of the bill is just a reiteration of existing policy, it is sound and deserving of congressional approval. They recognize that this policy statement should stay in the bill. I agree with them, and therefore I urge the rejection of this amendment.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is another one of those issues which means that the Congress is going to micromanage the national parks in America.

One national park is not like another and that is part of the beauty and the uniqueness of our National Park System. The facts are that 92 percent of all parks in America are already managed as wilderness. That leaves a very small margin, 8 percent, for people, for concessions, for amenities, for others who are not as robust and are as able as many of us to use the outdoors and to enjoy our National Park System. It certainly means that the parks are not overbuilt, surely. It does mean that there is a very small amount left should the Park Service decide that there should be concessions left for people.

It seems to me that by not passing this amendment, we have struck a bargain which provides inflexibility for the National Park Service that should not be there.

We talk about investment of private entrepreneurs and this bill without the other Murphy amendment will absolutely eliminate many small investors in our parks in this country. Certainly there is no money left in the Park Service for further construction or acquisition or operations. They are behind some $5 billion in construction, $2 billion in land acquisition, and $400 million in park operations.

If we want any kind of improvement in our parks throughout the country, we have to rely upon private entrepreneurs and to encourage them to build on public land, which they must have a possessory interest if they are going to be encouraged to do that.

Therefore, this all boils down again, in my opinion, to overmanaging by a group of people here in the Congress who cannot have the flexibility of knowing the difference between Crater Lake and Yellowstone National Park. But the Park Service ought to have the flexibility to manage its business. I suggest that we pass the Murphy amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment by the gentleman from Pennsylvania.

Mr. Chairman, clearly the House should reject this amendment. This amendment tries to destroy what has been current policy now for the past 20 years endorsed by the previous administrations, carried out under the previous administrations and carried out under the current administrations, and, that is, that we ought to seek some balance, that we ought to take a look at what resources are available to us when we provide accommodations or any services within the national parks. If those services are readily available outside the park, we ought to let the private sector go ahead and develop those services, develop those accommodations and not step on their business opportunities with the heavy hand, or heavy foot, I guess I would step on their opportunities with, with the heavy foot of the Federal Government. If it is inconvenient, if it does not meet the needs of the visitors of the park, then we ought to go ahead and try to develop those services and accommodations in the park as we have.

This policy again that is current policy that the gentleman from Pennsylvania [Mr. MURPHY] seeks to strike also allows us to rearrange what is going on into the parks now. In Yosemite, we cannot accommodate the number of people because of the number of the facilities that are there. We think that warehousing, that truck repair, that shop repair could be better done outside of that park.

□ 1640

We ought to seek that warehouse space outside of the park. We think that some of the housing can be combined with different types of housing in the park and housing outside of the park for employees and others.

That is what this policy lets us do. It lets the private sector, in some cases, develop housing for Park Service employees. I thought that was what the other side of the aisle and the gentleman over there are always yelling about, the Federal Government limiting the private sector's opportunities. This allows us to balance that.

We know that the economies around the national parks, whether it is Everglades, or Yellowstone, or Yosemite, that these are some of the fastest growing areas in our country because of the visitation, because of the revenues that they generate. The people in the West at Yellowstone have a community, they have an economy, and we ought not to break that down by insisting that all of the development take place in the parks.

Obviously we also have the ability to enhance the experience of the visitors to these parks if we can balance the development inside of the park and the development outside of the park. There is nothing in the language of this bill, there is nothing in the current policy that says it has to be one way or the other. The National Park Service, the district people, the park superintendents will take it all into consideration and try to make a decision. In Yosemite we are simply better off, if the development is going to take place, that it now take place outside of the park. It is no great distance. It is no great distance if you are going to enjoy the value of the park to go to one of the entrances. But we can no longer sustain new development in the valley of that park.

I think this also gives us an array of services to be presented to American families that they can afford. If we are just going to maintain accommodations available in those parks that are rather expensive, unique hotels that many of the parks have, then we are excluding many people from the economic ability to enjoy the parks. That array of services, that array of accommodations in many instances can be provided easier, less expensively on the outside by the Park Service.

So, I do not quite understand this, because as pointed out by the chairman of the subcommittee, this is current policy. This is not a surprise, this is not something we are trying new. This is an effort to manage the parks by the Park Service, not by the Congress, this was not developed by us, in an orderly fashion with the balance between the private sector and the public sector, and I would hope that we would reject this amendment and we would make sure that our parks are compatible with the communities and the economies that are around them, and that we not expend Federal resources where we close out opportunities for the private sector, or we close out the opportunities for the visitors to the park, or we continue to have resources that we do not have for all of the parks by using them up to build unnecessary accommodations and provide services that can be provided by the private sector.

I urge opposition to the amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is my understanding that the findings and policy provisions in S. 208 do not remove existing concessions from any park, nor does the bill prohibit the Secretary from expanding existing concessions, or adding new ones in parks if such facilities are needed and the services are not available outside the park. The feasibility language in S. 208 is almost identical, in fact, to the National Park Service management policy manual right now.

By removing the feasibility language it will restrict the Secretary of Interior's flexibility to balance commercial development inside the parks while protecting the natural and cultural resources. The amendment may indeed impact local economies that are interested in developing park visitor services outside the boundaries, outside of a park.

I urge my colleagues to oppose the amendment.

Mr. HANSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentlewoman yielding.

Mr. Chairman, we just have a terrible inconsistency here. The general inconsistency goes this way: "On May 23, 1994, Mr. Babbitt said, on my watch, the Park Service will not build additional lodging facilities within parks." I agree with what was stated, they are not going to take those out, but we are not going to replace them is the issue we are missing here. They are not going to be replaced. So if all of these beautiful facilities go down, they do not come back.

We are not talking about little parks in the East. We are talking about huge parks in the West.

What is interesting to note is in a letter that Michael Finley the Superintendent of Yosemite wrote in answer to the gentleman from California [Mr. DOOLITTLE], he said,

> The Secretary of the Interior, Bruce Babbitt, has also reviewed the letter and is supportive of the National Park Service position.

Now what is the position of the National Park Service? Here is what they say, and here is the biggest paradox I have seen all day. Here it comes out and here is the position:

> It is not our intent to adversely affect local economies. Rather, it is to inform you that the National Park Service is no longer seeking development of outside accommodations to support park visitors.

On the one hand they say we want them in the park, we do not want them out of the park; in other words, we do not want them to see the park. It is terribly confusing about this, and this logic flies in the face of everything my colleagues have said.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentlewoman for yielding and for her leadership in this role.

The language says, "Such facilities should not be developed or expanded within the park." We are talking about new facilities. In the event of a damaged facility, obviously decisions would need to be made.

But the point is every park, as the chairman was pointing out to me, is absolutely unique in terms of the distance, the accommodations that surround it, the feasibility. At one time there were no utilities around the parks, there was no water or other processes, but the fact is today these could be substantial businesses. In fact, the fact that you have facilities in parks and expanding facilities sometimes in parks means that it precludes the opportunity for some development, because there is no critical area or mass taking place outside.

So the fact is this is not Babbitt's policy. This was put into the bill by the gentlewoman from Kansas [Mrs. MEYERS]. This was put into the introduction of the bill that DALE BUMPERS, the Senator, introduced, and this was put in the bill by me in full committee. I do not know what Babbitt's position is on this, but this is existing policy of the Park Service, and I thank the gentlewoman for yielding.

Mr. HANSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentlewoman yielding. The problem is no one knows what the administration position is. In the printed page we have two different things.

I ask my friend from Minnesota, if Yellowstone Lodge burned down, under his amendment would we replace it?

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think it would cost obviously a lot because it is a historic structure. But certainly they could replace some facility for lodging in the area. Would it be a historic structure like Yellowstone Lodge or Ahwanee or some of the expensive facilities that even our per diem will not permit us to stay at, I do not think so.

Mr. HANSEN. If the gentlewoman will yield, it seems obviously this is the whole basis of this discussion. If we lose these historic structures, they are lost forever.

It also seems obvious that the intent and purpose behind it is to get them out of there. The administration is absolutely blah. On one hand they say we do not want them in the parks; on the other hand, he comes right out and says, "And we don't want them building outside the parks."

I agree with Chairman MILLER. We should have the warehouses outside of the parks.

The CHAIRMAN. The time of the gentlewoman from Kansas [Mrs. MEYERS] has expired.

(On request of Mr. MURPHY and by unanimous consent, Mrs. MEYERS of Kansas was allowed to proceed for 2 additional minutes.)

Mr. MURPHY. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Pennsylvania.

Mr. MURPHY. Mr. Chairman, I thank the gentlewoman for yielding.

I would like to make this perfectly clear in answer to my chairman's accusation that I intend to repeal the existing park policy. The management park policy of the park clearly states what the Park Service may do. What this bill is doing is taking that park policy, putting it into law and giving any person in the United States who does not like what the Park Service is doing at that given moment the right to go to Federal court, using this section of the law and say it is feasible to do this. The needs of the park visitors are already met, there are adequate facilities. They can go into court and tie it up forever, and every case will go in that way. That is the hidden agenda in this particular clause.

Leave it in the park management policy. I urge Members to leave it in the park management policy and leave it there where it is now. It will be utilized by the Secretary of the Interior, and the Director of the Park Service. But it will not be utilized by every person in the world, in the United States who wants to come and tie us up in Federal court.

□ 1650

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from California.

Mr. MILLER of California. The fact is every person in the United States or an interested party has the ability to do that today under the existing policy.

The actions of the Park Service will still be compared to the policy, and if somebody thinks it is not feasible or is feasible or it serves or does not serve, they have a right today to come in and sue. The gentlewoman is quite correct. It does not create any new additional rights or responsibilities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURPHY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HANSEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 274, answered "present" 1, not voting 16, as follows:

[Roll No. 362]

AYES—148

Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Hancock
Hansen
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Johnson (SD)
Johnson, Sam
Kasich
Kim
King
Kingston
Kolbe
Kyl
LaFalce
Lancaster
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McDade
McHugh
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Murtha
Myers
Orton
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Roberts
Rohrabacher
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shuster
Sisisky
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Williams
Wolf
Young (AK)
Zeliff

NOES—274

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bartlett
Barton
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blute
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Hutto
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Knollenberg
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Roemer
Rogers
Romero-Barceló (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Weldon
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

English

NOT VOTING—16

Blackwell
Carr
Clay
Frost
Gallo
Hayes
Inhofe
Laughlin
Margolies-Mezvinsky
Nadler
Reynolds
Slattery
Sundquist
Washington
Wheat
Young (FL)

□ 1715

Mr. FRANK of Massachusetts, Miss COLLINS of Michigan, Mr. BARTLETT of Maryland, and Mr. INGLIS of South Carolina changed their vote from "aye" to "no."

Mr. McCOLLUM, Ms. MOLINARI and Messrs. TAYLOR of Mississippi, TAUZIN, and STENHOLM changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 12, after line 23, insert:

(E) Giving preference to American concessioners.

Mr. TRAFICANT. Mr. Chairman, this is a five-word amendment, gives preference to American concessionaires.

Mr. Chairman, people save up their money, go on vacation. When they get to one of our national parks, if there is going to be a chicken special, hopefully it might be Kentucky Fried.

Think about that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have no objection to the amendment offered by the gentleman from Ohio [Mr. TRAFFICANT].

This would require, as I understand, that the domestic U.S. concessionaires would be considered to get preference, all of the factors being equal, and I have no objection to that, and I accept the amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, this is a good amendment. We support it on this side.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. HASTINGS). The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS of Wyoming: Page 13, strike line 22 and all that follows down through line 4 on page 15 and insert the following:

(2)(A) Notwithstanding paragraph (1), the Secretary shall grant a preferential right of renewal to a concessioner for a concessions contract which the Secretary estimates will have annual gross revenues of no more than $500,000 or which—

(i) solely authorizes a concessioner to provide outfitting, guide, river running, or other similar services within a park; and

(ii) does not grant the concessioner any interest in any structure, fixture, or improvement pursuant to section 11 of this Act.

(B) Subparagraph (A) shall apply only where the Secretary determines that the concessioner—

(i) has operated satisfactorily during the term of the previous contract; and

(ii) submits a responsive proposal for the new contract which satisfies the minimum requirements established by the Secretary.

(C) For the purposes of subparagraph (A), the term "preferential right of renewal" means that the Secretary shall allow a concessioner satisfying the requirements of this paragraph the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best offer.

Mr. THOMAS of Wyoming (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. THOMAS of Wyoming. Mr. Chairman, I intend to withdraw this amendment. I only introduced it so that I can reemphasize again the difference between the concessionaires that we talk about. The concessionaires that my amendment dealt with are basically river runners or outfitters, folks that do not have facilities inside the park, but I think, and I understand, and I appreciate the effort the leadership is making in the committee to deal with these unique aspects.

Mr. Chairman, I rise to offer an amendment at the desk.

As this bill currently stands, it will devastate many small outfitters and guides across the West. I have heard from outfitters and guides throughout the country that are very concerned about this bill.

Outfitters and guides are not like other concessionaires. They have unique skills and knowledge about the specific areas where they work and do not gain possessory interest in their contracts. In addition, they have extremely short permits lasting only 5 years.

What my amendment would do is grant a preferential right of renewal to those concessionaires who provide outfitting, guide, river running or other similar services within a park and do not have interests in any structure, fixture or improvement in the park. It is similar to language included in the Senate-passed version of this bill.

Under the current language in this bill, only those concessionaires that gross less than $500,000 annually are given a preferential right of renewal.

For over 75 years, the option to renew a contract, based on an outfitters performance, has been the incentive for these individuals to provide high levels of service. This preferential right to renew a contract has been the basis for the entire partnership between the Government and outfitters.

The incentive for operating an outfitting business in the parks, which is extremely high-risk, has always been based on the belief that if you continued to perform good service, you would be allowed to stay in business and have a right to renew your contract with the park.

This bill would completely change this situation and will harm outfitters across the Nation. If this legislation is approved, and bidding for short-term permits is implemented, many outfitters who have special skills and knowledge of their particular areas will be hurt.

A revolving door of new outfitters in a region will be detrimental to safety, service, and overall resource stewardship in the parks.

Destroying the current system and basing it solely on monetary bids will not benefit the public and will hurt the overall quality of service. In addition, it could jeopardize the health and safety of visitors to our parks.

Finally, let me say that I understand the need for competition in the outfitting and guide industry. However, there is currently plenty of competition among these individuals because there are no exclusive contracts. Outfitters and guides already compete with one another on most public lands.

Mr. Chairman, our Nation's outfitters and guides have provided the public with high-quality service for many years. We should not change that policy now.

Mr. Chairman, I withdraw the amendment and ask that this matter be considered as this bill goes to conference.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to commend the gentleman from Wyoming [Mr. THOMAS] for his concern with regards to this, and we are struggling to try and find a combination. As my colleagues know, the Senate measure is different in this regard, so it is something that we will be working on. I look to the gentleman's guidance and counsel with regards to finding a formulation that will work for outfitters. They are different than some of the other concessioners serving the park. They play an integral role, and I commend him for his concern and that of his colleague, the gentleman from Idaho [Mr. LAROCCO] and others, the gentleman from Oregon [Mr. DEFAZIO] who shares a similar concern, and I thank him for not pursuing this amendment here as it was defeated in the committee.

□ 1720

Mr. THOMAS of Wyoming. Mr. Chairman, I withdraw my amendment.

The CHAIRMAN pro tempore. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY: Page 21, line 8, (section 11(a)(1)) after the word "therein" strike "to the extent provided by such contract" and insert: "defined as fair market value. Such interest shall not be diminished nor changed by terms of new or amended contracts relating to existing structures, fixtures, and improvements.".

Mr. MURPHY. Mr. Chairman, I offer this amendment calling the Members' attention that what the bill will do is deprive those persons who have been in partnership with the National Park Service for a number of years, since the 1965 act, in partnership in building facilities, boat docks, horse stables, lodges, and camping areas, and this will now deprive them of any possessory interest they may have in those facilities.

The only thing that has kept private investors from putting money into our national parks is the very fact that when they finish those facilities, they do not own the ground, but at least they own a possessory interest in the facility. Later on, when their contract expires or they are outbid by someone else, they at least recover their fair market value.

All I propose to do is amend this to define what possessory interest is as the fair market value.

We have had this provision in the act. Mo Udall was one of the sponsors and movers of that in 1965 when he created this type of possessory interest in the developers of our national parks. What it will do, and it will be a problem for future Congresses, when we destroy the partnership between the private investors and the National Park Service, you, the Members of Congress, will be called upon to come up with the dollars it takes to rebuild or provide those facilities that American families want when they go to our national parks.

Now, if you are willing, if you can possibly succeed in coming years with the austerity that has been imposed upon us by ourselves and our Budget Acts most recently, you will not find those dollars. The partnership will be gone, the private investors, without a possessory interest in recovering some of their investment, they would have to be a pretty darn foolish investor to go in and spend millions of dollars knowing that in 15 years they are gone.

So we will succeed in destroying that partnership. When that happens, you will be called upon to replace those facilities, and my prediction is you will not do it, because you will not be able to financially do it. The National Park System will start to go downhill insofar as the use by American families.

Mr. Chairman, they talk about they write them off. Tax write-offs, let me say before they raise that objection, yes, you build a building that you rent or use, and you can write it off over a period of 15 to 30 years. But in those tax write-offs you only recover 15 to 38 percent of your investment, because that is all you save. If you write something off in your taxes, a house you may rent, you only recover 15 percent of that. Eighty-five percent was your dollars. Now, that means we are asking the developers to throw away 85 cents on the dollar. I again submit, they are just not going to do it.

Now, under the previous Secretary of the Interior, they tried one of these. Here is what they did. In Yosemite National Park they finally pressured the former developers and owners to sell out to somebody else. What they did, we used to get three-fourths of a percent income on the gross take of all the concessions in that park. Now they made a new deal, we get nothing.

They will say oh, well, we get investment. They promised to invest 4 percent. We will see. That contract is less than 1 year old. I would urge the Members, let that contract ripen. Let us see what happens in Yosemite. If it works, then maybe this provision has something to say for it. But if it does not work, 15 years down the line we will have no developers, no users, the partnership will be gone, and the facilities

for American families in our National Park System, you better either be a mountain climber, backpack hiker, because there will be nothing left in between.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

This amendment strikes at a vital part of the bill and its adoption would gut the legislation. It would in effect postpone indefinitely the elimination of one of the most significant barriers that now exists to real, open competition for national park concession contracts.

It would do that by allowing those concessioners who now have possessory interests in the parks to retain those interests indefinitely, meaning that any competitors who might want to win the contracts for those concessions would be severely handicapped in making a bid.

As I noted in general debate, these possessory interests are unique to the National Park System. They are creatures of the 1965 act that we are seeking to replace through enactment of this reform bill.

One of the most important parts of the bill is the requirement that in the future, improvements in a park be depreciated and that no possessory interests be created.

The bill recognizes that existing possessory interests are a form of property, and it explicitly protects the right of those now having possessory interests to receive the full value of those interests upon the expiration of their current contracts. That is necessary, and that is fair. It combines the move to a new law, and new rules, with protection of the concessioners who have operated under the old rules.

But if we adopt this amendment, we will be saying that for the current concessioners, the old rules will not change.

It says that these barriers to competition will remain, unless and until those who have the benefit of their protection decide to take the barriers down—and there is no guarantee that the barriers will in fact come down soon or ever.

In fact, if this continues, the monopoly of concessionaires that are now in the park will continue into the future indefinitely. This is not the way concessions operate in numerous State parks, in the stadiums and ballparks around this country, in shopping centers, and it certainly is not necessary for the national parks.

The fact of the matter is, Mr. Chairman, that if we persist in this, yesterday we were talking about the backlogs in the parks. One of the backlogs is going to be that these concessions will continue to grow in value. Even as we are trying to purchase lands in parks that are not now parks or deal with backlogs, we will be selling out the national parks to the concessionaires. We will be forever indentured in terms of billions of dollars of development in the parks that will be of private interest in our public parks, in our crown jewels, in the legacy and inheritance of future generations.

Mr. Chairman, this amendment richly deserves to be defeated. I urge the Members to defeat it. It undercuts and eliminates the major tenet of competition in this bill.

Mr. Chairman, the gentleman from Pennsylvania offered a similar amendment in committee and it was wisely rejected. The amendment would have retained the old rules for everyone, and nothing would change. We do not need business as usual. We need a new reform policy. We need to defeat this Murphy amendment, Mr. Chairman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURPHY].

The amendment was rejected.

AMENDMENT OFFERED BY MR. LANCASTER

Mr. LANCASTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LANCASTER: On page 14, line 14, strike $500,000" and insert in lieu thereof "$3,000,000".

□ 1730

Mr. LANCASTER. Mr. Chairman, there certainly are reforms needed in the way our national parks enter into concessions contracts. There are too many deals in the Western parks where large corporate concessionaires have contracts that do not return a fair value to the Government.

However, I am troubled that smaller concessionaires who have always given valuable services to the public and a fair return to the Government may be put at a disadvantage by this bill. I refer particularly to the changes in renewal rights for contracts.

In North Carolina, several small companies have concessions at our two national seashores. They ferry visitors to Cape Lookout National Seashore, they provide ocean piers at Cape Hatteras National Seashore, and they offer overflights of the Outer Banks from the airstrip at the Wright Brothers National Historic Site.

The bill today grants a preferential right of renewal to concessionaires with gross receipts of no greater than $500,000 annually. This will apply to several of the North Carolina concessionaires.

Unfortunately, it will not apply to the operator of the Oregon Inlet Fishing Center at Cape Hatteras National Seashore. The annual gross receipts for this operation exceed the cut-off established in the bill.

The Oregon Inlet Fishing Center is the base for a substantial fleet of recreational fishing vessels available to the public for fishing in the Atlantic Ocean and the adjoining coastal sounds. In a unique arrangement, the fishing captains and owners of the vessels have formed a corporation that in turn has the concession for operating the Fishing Center. Thus, while the entity holding the concession has revenues exceeding the bill's cut-off, if we look at the situations of the individual boat captains and owners individually, I think they are deserving of a preferential right of renewal. They are local residents, many of them from families who have lived on the Outer Banks for generations.

The Oregon Inlet Fishing Center and its operators have provided great service to the citizens of this country who visit the Cape Hatteras National Seashore. I believe that this concessionaire, and ones similar to it, should retain a preferential right of renewal. My amendment will ensure this, by establishing that concessionaires with annual gross receipts of up to $3 million have such a right.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment. I appreciate that my colleague and friend from North Carolina has a problem in terms of a cooperative group that breaks the threshold, but his solution to this is one that is very troublesome. We have in the bill the right of preferential right of renewal for contracts under $500,000.

What the gentleman suggests is that he wants to raise that ceiling and his amendment raises it to $3 million for everyone, not just for this particular instance.

Furthermore, Mr. Chairman, I am willing to look at the gentleman's concern insofar as this corporation or cooperative is unique and attempt to try to work with him. But to do it through this method would basically undercut fairness in the bill to the other concessionaires and to serving the park in terms of preferential right of renewal. We would basically be extending the preferential right of renewal.

The preferential right of renewal and the possessory interest issues are the two basic tenets in the bill and the two impediments today in the current system to competition. If we want that competition, then we cannot take the Lancaster amendment. That is why I am asking my colleagues to strongly reject this particular amendment.

Mr. HANSEN. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I think the gentleman has offered a very fine amendment and one that makes a lot of sense. All he is basically doing is raising it from one-half million to 3 million.

Now, the Small Business Administration classifies a small concessionaire as one with gross receipts of less than $5 million. The Lancaster amendment will simply raise the level of protection and include more of the small concessionaires.

For some reason there seems to be a feeling around here that there is some big huge organization, some big corporate giant that is doing all these things, when in effect most of them in these areas are just mom and pop organizations. Some guy starts a river running thing and he does it on the weekends. It gets better and better. Before long he has five boats, then he has ten boats. Then he is a full timer. All these people will come under this thing.

I think it makes a lot of sense in this particular time to help these small concessionaires and go with the amendment of the gentleman from North Carolina [Mr. LANCASTER].

I urge the body to support this very fine amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

I think this would take virtually everyone out from under the reforms that are provided for in the bill and would render the bill essentially meaningless. I would be forced to oppose the amendment by the gentleman.

The CHAIRMAN pro tempore (Mr. HASTINGS). Is there further debate on this amendment?

The question is on the amendment offered by the gentleman from North Carolina [Mr. LANCASTER].

The amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. HASTINGS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes, pursuant to House Resolution 492, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as modified, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate 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 Senate bill.

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

Mr. VENTO. 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 386, nays 30, answered "present" 1, not voting 17, as follows:

[Roll No. 363]

YEAS—386

Abercrombie	de la Garza	Hoagland
Ackerman	Deal	Hobson
Allard	DeFazio	Hochbrueckner
Andrews (ME)	DeLauro	Hoekstra
Andrews (NJ)	Dellums	Hoke
Andrews (TX)	Derrick	Holden
Applegate	Deutsch	Horn
Archer	Diaz-Balart	Houghton
Armey	Dickey	Hoyer
Bacchus (FL)	Dicks	Huffington
Baesler	Dingell	Hughes
Baker (LA)	Dixon	Hutchinson
Ballenger	Dooley	Hyde
Barca	Doolittle	Inglis
Barcia	Dornan	Inslee
Barlow	Dreier	Istook
Barrett (NE)	Duncan	Jacobs
Barrett (WI)	Dunn	Jefferson
Bartlett	Durbin	Johnson (CT)
Barton	Edwards (CA)	Johnson (GA)
Bateman	Edwards (TX)	Johnson (SD)
Becerra	Ehlers	Johnson, E.B.
Beilenson	Engel	Johnson, Sam
Bentley	Eshoo	Johnston
Bereuter	Evans	Kanjorski
Berman	Everett	Kaptur
Bevill	Ewing	Kasich
Bilbray	Farr	Kennedy
Bilirakis	Fawell	Kennelly
Bishop	Fazio	Kildee
Bliley	Fields (LA)	Kim
Blute	Filner	King
Boehlert	Fingerhut	Kingston
Boehner	Fish	Kleczka
Bonilla	Flake	Klein
Bonior	Foglietta	Klink
Borski	Ford (MI)	Klug
Boucher	Ford (TN)	Knollenberg
Brewster	Fowler	Kolbe
Brooks	Frank (MA)	Kopetski
Browder	Franks (CT)	Kreidler
Brown (CA)	Franks (NJ)	Kyl
Brown (FL)	Frost	LaFalce
Brown (OH)	Furse	Lambert
Bryant	Gallegly	Lancaster
Burton	Gejdenson	Lantos
Buyer	Gekas	LaRocco
Byrne	Gephardt	Lazio
Calvert	Geren	Leach
Camp	Gibbons	Lehman
Canady	Gilchrest	Levin
Cantwell	Gillmor	Levy
Cardin	Gilman	Lewis (FL)
Castle	Gingrich	Lewis (GA)
Chapman	Glickman	Lewis (KY)
Clayton	Gonzalez	Linder
Clement	Goodlatte	Lipinski
Clinger	Goodling	Livingston
Clyburn	Gordon	Lloyd
Coble	Goss	Long
Coleman	Grams	Lowey
Collins (GA)	Grandy	Lucas
Collins (IL)	Green	Machtley
Collins (MI)	Greenwood	Maloney
Condit	Gunderson	Mann
Conyers	Gutierrez	Manton
Cooper	Hall (OH)	Manzullo
Coppersmith	Hall (TX)	Markey
Costello	Hamburg	Martinez
Cox	Hamilton	Matsui
Coyne	Harman	Mazzoli
Cramer	Hastert	McCloskey
Crane	Hastings	McCollum
Cunningham	Hefner	McCrery
Danner	Hilliard	McCurdy
Darden	Hinchey	McDermott
McHale	Poshard	Snowe
McHugh	Price (NC)	Solomon
McInnis	Pryce (OH)	Spence
McKinney	Quillen	Spratt
McMillan	Quinn	Stark
McNulty	Rahall	Stearns
Meehan	Ramstad	Stenholm
Meek	Rangel	Stokes
Menendez	Ravenel	Strickland
Meyers	Reed	Studds
Mfume	Regula	Stupak
Mica	Richardson	Swett
Michel	Ridge	Swift
Miller (CA)	Roberts	Synar
Miller (FL)	Roemer	Talent
Mineta	Rohrabacher	Tanner
Minge	Ros-Lehtinen	Tauzin
Mink	Rose	Taylor (MS)
Moakley	Rostenkowski	Tejeda
Molinari	Roth	Thomas (CA)
Mollohan	Roukema	Thompson
Montgomery	Rowland	Thornton
Moorhead	Roybal-Allard	Thurman
Moran	Royce	Torkildsen
Morella	Rush	Torres
Murtha	Sabo	Torricelli
Nadler	Sanders	Towns
Neal (MA)	Sangmeister	Traficant
Neal (NC)	Santorum	Tucker
Nussle	Sarpalius	Unsoeld
Oberstar	Sawyer	Upton
Obey	Saxton	Valentine
Olver	Schaefer	Velázquez
Ortiz	Schenk	Vento
Orton	Schiff	Visclosky
Owens	Schroeder	Volkmer
Pallone	Schumer	Walker
Parker	Scott	Walsh
Pastor	Sensenbrenner	Waters
Paxon	Serrano	Watt
Payne (NJ)	Sharp	Waxman
Payne (VA)	Shaw	Weldon
Pelosi	Shays	Williams
Penny	Shepherd	Wilson
Peterson (FL)	Shuster	Wise
Peterson (MN)	Sisisky	Wolf
Petri	Skaggs	Woolsey
Pickett	Skelton	Wyden
Pickle	Slaughter	Wynn
Pombo	Smith (IA)	Yates
Pomeroy	Smith (MI)	Zeliff
Porter	Smith (NJ)	Zimmer
Portman	Smith (TX)	

NAYS—30

Bachus (AL)	Hansen	Oxley
Baker (CA)	Hefley	Packard
Bunning	Herger	Rogers
Callahan	Hunter	Skeen
Combest	Lewis (CA)	Smith (OR)
Crapo	Lightfoot	Stump
DeLay	McCandless	Taylor (NC)
Emerson	McKeon	Thomas (WY)
Fields (TX)	Murphy	Vucanovich
Hancock	Myers	Young (AK)

ANSWERED "PRESENT"—1

English

NOT VOTING—17

Blackwell	Inhofe	Slattery
Carr	Laughlin	Sundquist
Clay	Margolies-Mezvinsky	Washington
Gallo	McDade	Wheat
Hayes	Reynolds	Whitten
Hutto		Young (FL)

□ 1801

Messrs. HUNTER, McCANDLESS, LIGHTFOOT, and HERGER changed their vote from "yea" to "nay."

Messrs. EVERETT, ARMEY, and DOOLITTLE changed their vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ENGLISH of Arizona. Mr. Speaker, because my husband's business is a concession operation at Grand Canyon National Park and operates pursuant to permits issued by the National Park Service as required by the Concessions Policy Act, I have officially recused myself from consideration of the National Park Service Concessions Policy Reform Act, S. 208, as required by House rules. Accordingly, I have and will vote present on all votes pertaining to this legislation.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on S. 208, the Senate bill just passed.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4801, SMALL BUSINESS REAUTHORIZATION ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–627) on the resolution (H. Res. 494), providing for consideration of the bill (H.R. 4801) to amend the Small Business Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION WAIVING THE REQUIREMENT OF THE LEGISLATIVE REORGANIZATION ACT FOR ADJOURNMENT SINE DIE OF THE CONGRESS NOT LATER THAN JULY 31

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–628) on the resolution (H. Res. 495) providing for consideration of a concurrent resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4497

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4497.

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

There was no objection.

COMMUNICATION FROM THE HONORABLE MAC COLLINS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MAC COLLINS, Member of Congress:

HOUSE OF REPRESENTATIVES,
July 28, 1994.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the Northern District of Georgia.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

MAC COLLINS.

WYOMING BUFFALO SOLDIERS

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

Mr. THOMAS of Wyoming. Mr. Speaker, 128 years ago today—July 28, 1866—Congress passed an act, the General Order 56, which allowed a distinguished group of people to participate in war and changed military history forever. I would like to recognize these veterans, who throughout the 1800's, played a key role in settling the American West. These brave soldiers were stationed at Fort D.A. Russell, which today is F.E. Warren Air Force Base in Cheyenne, WY. They participated in everything from protecting the boundaries of Wyoming to escorting President Roosevelt when he, and two of his Cabinet members, visited Cheyenne for a city parade in the early 1900's. It is with great honor that we remember and pay tribute to the American buffalo soldier; also known to the Cheyenne Indians at Ta'Tunka.

Most of these men who were newly freed slaves, fought in both the Indian and Spanish American Wars, assisted in building miles of roads in my State and across the West and explored many areas of the untamed western frontier. They were often issued old equipment and fought in the coldest weather the West had to offer, with integrity, dignity, and commitment to this new country.

When Wyoming became a State in 1890, buffalo soldiers played and marched in parades that took place in Cheyenne. In addition, during the early years of the Cheyenne frontier days—the biggest rodeo event in Wyoming—buffalo soldiers raced chariots to the thrill of spectators. Benjamin O. Davis, Sr., one of the soldiers that escorted President Roosevelt, later went on to become the Nation's first African-American general and Gen. John J. Pershing served with a distinguished buffalo soldier unit during his career.

These veterans played an important part in the history of Wyoming and the West and there are over 21 buffalo soldiers' remains at the base cemetery in Cheyenne. To honor their commitment and sacrifices, there will be a bugler's tribute of taps played today in Cheyenne. I rise today to pay tribute to all of the buffalo soldiers who gave their lives for freedom and expansion in the American West.

Mr. Speaker, I include an article on the Wyoming buffalo soldiers, as follows:

THE BUFFALO SOLDIER AT FORT RUSSELL

(By MSgt. Cornelius "Doc" Settles)

July 28, 1866, the Congress met and passed an act, General Order 56, which changed the history of the U.S. military forever. The troops affected by this act, the buffalo soldiers, went into battle and wrote untold pages of history for freedom. These troops, through the course of their historic journey, were mistreated, ill-equipped, soldiers who proudly patrolled Wyoming during the worst weather conditions the frontier had to offer.

The Native American Cheyenne Indians called them Ta'Tunka. All of them were either sons of or newly freed slaves themselves. Their motto was ready and forward throughout the 1800s. During the Indian Wars, one out of every five soldiers in Texas was a buffalo soldier.

In early Cheyenne Frontier Days celebrations before there were chuck wagon races, these troops, stationed at Fort D.A. Russell, raced chariots to entertain the crowds. One troop, Moses Reeder, even won the CFD bronco contest. When Wyoming became a state in 1890, the buffalo soldiers were on hand to play and march in the parade through downtown Cheyenne. When Teddy Roosevelt, along with two of his cabinet members, came to visit Cheyenne in the early 1900s these troops were his personal escort through the city parade. One of the troopers in that escort later became the nation's first African-American general.

Sgt. Maj. Edward L. Baker, a Laramie County buffalo soldier, left cover under fire and rescued a wounded comrade from drowning during the Spanish-American War in Cuba, July 1, 1898. Pvt. James Settlers, a buffalo soldier from Wyoming, was cited for saving his commanding officer at Wind River, Wyoming.

Three regiments of buffalo soldiers served at Fort D.A. Russell between 1887 and 1916. The 9th and 10th Cavalry Regiments and 24th Infantry Regiment all came here to Cheyenne. Gen. John J. Pershing served with the buffalo soldier units and was given the nickname "Black Jack."

There are over 21 buffalo soldiers' remains in the base cemetery. These soldiers will be acknowledged by a bugler's tribute of taps Thursday.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

NEW INFORMATION ON HAITI

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

Mr. GOSS. Mr. Speaker, we have new information on what is going on in Haiti which I think is very important for this body to understand. The administration is bent on what can only end up being a long and hazardous and expensive approach to the situation going on down there. And I might point out that it is a particularly harmful approach for Haitians, and it is an approach that is not yielding any results right now.

What has happened recently is we are now actively seeking the authorization of a new U.N. peacekeeping operation for Haiti. That is somewhat remarkable, but what is more remarkable is that we are also in the process of going to the Security Council and setting up a peacemaking operation. That is a euphemism for an invasion of Haiti under the color of some type of a multinational flag. But basically it will be a United States effort, United States paid for, with United States men and women in the armed services leading the charge and doing the dirty work.

Where do Members of Congress fit into this debate?

That is a very curious question. Members notice we are here in special orders and we are discussing the subject. Why are we not discussing it in the legislative process we normally do of due deliberation? I suspect it may be because the administration really does not want us to be talking much about what is going on down there. I am not sure they are particularly proud of the way they have been handling it.

I think it is time we were notified of what is going on with the United Nations. We are talking about our leadership at the White House consulting with the United Nations while the Congress of the United States, who represents the people of the United States of America, are being pretty well shut out of the debate. There is more dialogue going on with foreigners in the White House about this subject than there is with Members of Congress who represent the people of the United States of America. I suspect that should not go on too much longer because it probably makes as many Americans as mad as it obviously makes me.

Let us talk about what is finally starting to come about regarding this military mission, what they are talking about in the U.N. Security Council. Actually it is a little scary. We have phase 1 and this is going to last for a couple of months. That is 12,000 to 15,000 troops that are going to go down and disarm and pacify the population in Haiti.

Let me say there has been a problem in Haiti for 200 years and in a few months we are going to send 15,000 American troops down there and they are going to solve this problem?

We do not have any commitments, to my knowledge, from any other countries that are going to participate, although we are told there will be some. Nor do we know what the troop strengths of these countries will be. But probably they will be limited.

We are told that the funding for this, because it will be a multinational force, will come from the Department of Defense, not from the Department of State or any of our other peacekeeping funds we have. This will be a special charge against DOD and will further erode the cuts we have already made against DOD this year. As many know, we are concerned about the hollow force we are developing in our country by underfunding the Department of Defense.

□ 1810

This is going to be 1 billion dollars' worth taken away from DOD before we get through.

Then comes phase 2. Phase 2 lasts until January 1996 at least. This will be an officially sanctioned U.N. peacekeeping effort. That means that we can pay for it through the State Department rather than the Defense Department. We will still get the bill. It will be about $200 million a year. That is not including the humanitarian aid. That is just to have the 6,000 or so troops be down there in Haiti trying to preserve the stability which has eluded them for some 200 years in that nation.

I would point out that while we are going to take that on, we presently have 13 ongoing peacekeeping missions right now in the world. The United Nations has 17. I think we know who is paying for most of that and the costs are not insignificant here. Not only are we going to be charged another $200 million a year for just the Haiti project, we are already well in arrears, I think as many know, on our obligations to the United Nations. And some of these peacekeeping efforts are not working very well, regrettably.

I guess the theory is that once the U.N. Security Council has sanctioned this peacemaking force, that the administration is then free to do what they want; they do not have to come to Congress. Specifically they made it a point that they do not have to come to the Congress of the United States of America and suggest what they would like to do or review the plan or discuss, debate or deliberate, because they have already got the might assembled, and all they are waiting for is the green light from the United Nations.

Now, how can we be standing here in Washington, DC, as duly elected representatives of the people of this country, suggesting that it is a good idea for the White House to get a green light to invade a neighboring friendly country, but we are not going to consult with the U.S. Congress? That just does not add up, and I do not think it is something that makes much sense to most Americans.

I see my time is about up. This is an issue that is not going to go away. We will pursue it again.

I will end on the note by saying the four friends of Haiti traditionally working with us, none want to invade Haiti. Invading Haiti is a very bad idea, whether the United Nations thinks it is a good idea or not.

EXPRESSING EXTREME CONCERN OVER RUMORS OF AN AMERICAN INVASION OF HAITI

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

Mr. WELDON. Mr. Speaker, I rise this evening again as a member of the Committee on Armed Services to express my extreme concern over the rumors that are circulating rampantly inside the beltway about the possibility of an American invasion of Haiti within the next several weeks. Much of this speculation is fueled by internal memos that have been obtained from officials of the United Nations in a recent briefing that was held in Congressman JACK FIELDS' office. JACK is the ranking member on the Committee on Merchant Marine and Fisheries, which oversees the Coast Guard.

A group of us asked the Coast Guard a number of questions about their operation in support of the current efforts around Haiti, and a representative of the National Security Council was also in attendance at that meeting. I asked him very specifically what the White House response was to the Dante Caputo memo, and Dante Caputo is the U.N. special envoy to Haiti; Members of this body obtained a copy of an internal memo that he circulated to the Secretary General of the United Nations.

The response of the National Security Council is that the White House has no comment on the U.N. internal document, and the reports of meetings that have occurred with the Secretary General.

This evening I asked unanimous consent to enter into the RECORD the entire memo, the transcripts of the meeting, and the internal working documents of the U.N. officials which describe in great detail what the United Nations thinks is going to be the United States response in terms of Haiti. I asked unanimous consent for that, Mr. Speaker, because it is time the American people listen not to the rhetoric of either political party nor to gross exaggerations, but look at what the U.N. special envoy is saying to his boss in terms of what our objectives are and what our real thrust is in terms of Haiti.

It scares me, as a Member of Congress, sitting on the Committee on Armed Services. On page 5 of the internal memo, as Dante Caputo is describing what the opinion of the United States advisers is in terms of Haiti, it says that the United States advisers are of the opinion that the option of the military strategy is not just the lesser evil but it is politically desirable, politically desirable. It goes on to say that the Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decisionmaking capability and the firmness of leadership in international political matters.

Mr. Speaker, this is not what our military is about, sending our troops into harm's way to make political statements. And yet that is what this memo, in fact, states.

It goes on to document meetings that say that America cannot wait until beyond the month of August to take action because of the criticism of their foreign policy on the domestic front, and I quote, "They want to do something. They are going to try to intervene militarily, and they are going to do it before the end of August." He goes on to talk about what would happen if this operation took place, but then what is most troubling to me is on page 2 of an internal document, or an internal meeting, where the Secretary General was questioning Mr. Caputo in response to a question about the existence of other alternatives other than a military intervention.

Dante Caputo replies, and I quote, "that the United States acted as a brake to a diplomatic solution, creating a situation where the intervention became nearly inevitable." So here we have the U.N. special envoy to Haiti telling the U.N. Secretary General that we, this country, headed by our President, actually put a brake on a diplomatic solution in Haiti, because we want to create a situation where we have to intervene militarily.

Mr. Speaker, that is outrageous, and to all the moms and dads and uncles and aunts that have kids in our military, I say to them that this is not the way we should be conducting foreign policy. This is not the way that we should be attempting to exert our influence around the world.

I would urge all of my colleagues and every American citizen concerned about Haiti to read the CONGRESSIONAL RECORD tomorrow, because the entire document that I have referred to will be printed in its entirety for all of America to see.

CONFIDENTIAL

Attention: The Secretary General.

From: Dante Caputo, RSSC.

Over the past fifteen days, I had the pleasure of meeting several times with U.S. Talbott and other officials of the American State Department. I also had some meetings in Paris with M. Alain Juppé, Minister of Foreign Affairs and in Ottawa with Mr. André Quellert, Minister of Foreign Affairs. Moreover, I was able to have some informal conversations with other areas of American political life.

The conclusions that I am drawing today are as follows:

1. The U.S. administration considers that an invasion of Haiti is its best option.

2. The principal objection to this type of action comes from the fact that "if it is easy to initiate this type of action, it is more difficult to exit from it".

3. In order to resolve this dilemma, the U.S. administration will seek to act in the following manner:

a) set up a unilateral action, a surgical action, with the eventual participation of several countries in the region so as to give it a certain legitimacy;

b) put President Aristide back in power;

c) it will seek a quick replacement of the armed intervention forces by the [illegible] whose mandate and structure will have been redefined beforehand.

4. This strategy would allow it to capitalize on the experience with such an operation, transferring the political cost on the UN.

5. In the same fashion, the President of the United States's main advisers, are of the opinion that not only does this option constitute the lesser evil, but that is politically desirable. Thus we think that the current opposition of public opinion to an armed intervention will change radically, once it will have taken place. The Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decision making capability and the firmness of leadership in international political matters.

6. The position of the friendly countries vis a vis this strategy is the following:

France:

France is opposed to the use of force be it multilateral or unilateral. It is ready to participate in a MINUAH under the terms foreseen in July, 1993, that is to say, technical assistance and participation in forming a police force. In an explicit manner, France is opposed to participating in whatever activity that would imply direct police action.

France considers that it is urgent that a meeting of the Four friends take place at the department head or under secretary level, preferably in New York.

France insists as well on Argentina's participation as a fifth friendly country given that it is a member of the Security Council.

Canada:

Canada does not wish to participate in a multilateral armed intervention force. Canada thinks that in the present situation, there is probably no other alternative to that which the U.S. administration will adopt. In this perspective, according to Minister Ouellet, our problem will consist of knowing how to "manage" this new reality. Canada seems equally disposed to participate in a MINUAH whose mandate will have been redefined. Canada also considers it urgent to call a meeting of the Four Friends.

7. The permanent U.S. Mission has undertaken the necessary steps so that the Security Council comes to a decision very soon on the MINUAH's mandate and structure.

May 23, 1994.

From: SG.

oc: OCA Central?

Report of a discussion of the Secretary General with his Special Representative for Haiti at the United Nations Headquarters, Tuesday, May 24, 1994 at 6:30 p.m.

Present: The Secretary General; Mr. Gharekhan; Mr. de Soto, advisor; Mrs. Green; Mrs. Seguin-Horton.

Subject: The situation in Haiti. Possibilities for a military intervention by the United States.

The Secretary General says to Mr. Caputo that he is well aware of his last summary report.

Mr. Caputo explains that he did not dare present any options and policies to the Secretary General in this report. The fact is that he had lately a large number of informal consultations that are all going in the same direction: The Americans will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something: they are going to try to intervene militarily.

The Secretary General wonders if President Aristide could invoke Article 51 of the Charter in order to call for a military intervention.

Mr. de Soto says that the constitution prevents him from doing so.

Mr. Caputo thinks that after having asked for the intervention, Mr. Aristide will condemn it. Moreover, the United States, that wants to obtain the Security Council's blessing, is now actively studying the means to accord a legal protection to this affair.

Mr. de Soto recalls that this idea recently provoked a general protest among the OSA.

What can the United Nations Secretariat do, either to avoid or to encourage this intervention?, asks the Secretary General.

Mr. Caputo predicts a disaster. The United States will make the UN bear the responsibility to manage the occupation of Haiti. "With Aristide as President during two or three years, it will be Hell!" It is not so much the armed intervention itself that we have to avoid. What we do not want, is to inherit a "baby". For the Americans' are fixing to leave quickly. They would not intervene if they had to remain.

Mr. Gharekhan asks Mr. Caputo what he understands by leaving "quickly". One month, replies Mr. Caputo. Who is going to replace the Americans?, asks the Secretary General.

"Us", replies Mr. de Soto. The Americans will be applauded and the dirty work will come back to the UN. The only thing that could discourage the United States would be to not obtain any contributing countries for mounting a multinational operation.

France, according to Mr. Juppé, is opposed to it, confirms Mr. Caputo. As for Canada, it is committed to strictly limiting its contribution to the formation of a new Haitian police.

The Secretary believes that in making an effort, the United States will be able to manage to obtain 2,000 French-African troops and a few troops from the Caribbean.

Mr. Caputo says that the United Nations would have to work with a complex force and that it would be difficult for it to mount an operation in a one-month period. The Latin American countries are not ready to contribute. Mr. Caputo knows that Argentina, for example, is not very favorable to this idea. He also doubts that Mexico, Brazil or Venezuela would be tempted.

This scenario would be fraught with consequences for the United Nations as well as for this region of the world. Dante Caputo emphasizes that it is harmful that at the conclusion of the cold war, no other answer can be found for such a crisis.

In answer to the Minister's question about the consequences of the American intervention in Panama, Dante Caputo replies that it

concerned a different time where the cold war was still taking place. Today, we are right in expecting that other types of means be activated. The United Nations will be perceived as being impotent before the region's problems. They will have to face up to a particular difficult post-intervention situation.

To the Minister's question about the existence of another alternative, Dante Caputo replies that the United States acted as a brake to a diplomatic solution, creating a situation where the intervention became nearly inevitable.

The Minister remarks that actually, despite the goodwill of the United Nations, it's credibility is jeopardized and the [Haitian] military leaders are "laughing at us". The Minister stresses the difficulties of a strict and effective implementation of planned sanctions and expresses its doubt over the possibility of a complete closing of the border.

The Minister shares Dante Caputo's appreciation of the need to make some arrangements in the event of a unilateral intervention. However, the Minister continues to affirm that Canada will not commit itself to hostile activities in Haiti. Canada is ready to favorably consider a United Nations request favoring a peace keeping operation with the view of consolidating a democratic regime, aid programs, and participation in a better equipped MUNUHA. Basically, the Minister concedes that only the United States can wrestle with the [Haitian] military leaders.

To improve our image relative to President Aristide, the Minister believes that the President should participate in the next meeting of the Four Friends. Regarding this meeting, Dante Caputo maintains that it would be preferable if it be held first of all without the President, and that he not participate except after the meeting. In the perspective of managing the post intervention situation, Dante Caputo thinks that it is important that President Aristide can consider himself to be an integral part of the Four Friends' action.

According to the Minister, President Aristide's credibility risks to be stained, if he is restored after the U.S. intervention.

The Minsiter questions himself over the composition, nature and on the willingness of the countries that would be ready to participate in the MINUHA.

Dante Caputo emphasizes that France expressed the wish to participate in the formation of a police force in Haiti and is reticent to do "monitoring". Ambassador Préchette then recalls the difficulties encountered at the moment of recruiting the components of the operation's police force in 1993. Dante Caputo remarks that the question of this police force's role and mandate should be determined as a function of the whole and notes that the countries interested in taking part remain few, in addition to Canada, the United States, Argentina, and France.

The fundamental question remains the post-intervention role, multilateral action being put aside, indicates Dante Caputo. Ambassador Préchetto replies that in effect, the United Nations will not vote for this type of action, but could be in favor of a "green light" for a coalition of States that would invite countries interested in toppling the [Haitian] military leaders if a very serious incident unfolded. Dante Caputo adds that this American initiative could be blocked by an internal decision process.

The Minister concludes the meeting by recalling that this is an emergency, that Canada wants to play a role, and that he will be guided by the advice and suggestions of Dante Caputo. In the probable case where sanctions would have no immediate effect and would act in the military leaders' favor, the Minister remarks that it would then be necessary to explain why sanctions are being maintained against Haiti.

JULIETTE RÉMY,
May 23, 1994.

The Secretary General recalls that in the past, the United States was able to show that it could mount a multinational force, if only in appearance. "Must we say that we think that a military intervention in Haiti would be negative?"

Mr. de Soto thinks that insinuating the possibility of an armed intervention is working to produce a certain effect in Haiti. The [Haitian] military leaders are nervous. * * *It would thus be politically dangerous to publicly discourage this menace.

According to Mr. Caputo, it must first be proposed that the President of the Security Council ask for a closing of the border between Haiti and the Dominican Republic. This measure will have a certain economic and psychological impact.

The Secretary General wonders how it is possible to really close this border. A very clear commitment on the part of the Dominican authorities must be required, replies Mr. Caputo. The Secretary General thinks that the Dominican government does not have the means to prevent infiltration.

Mr. Caputo considers that the land or sea routes can be controlled if the authorities accept to play the game. In this regard, Mr. Caputo informs the Secretary General that the Americans have proposed to him to accompany them tomorrow to meet President Balaguer in Santo Domingo. Mr. Caputo has not yet replied, but he thinks that he must accept this offer in order to show that he is being active on the diplomatic front.

Replying to a question from the Secretary General, Mr. Gharekhan makes the point that the Security Council specifically mentioned the border in his presidential declaration.

Mr. de Soto thinks that the other friends of Haiti must be made to participate at this meeting, if only through their ambassadors in Santo Domingo.

Moreover, Mr. Caputo pointed out that the Republicans have the tendency to keep their distance vis a vis the idea of intervening, thinking that President Clinton would be committing a monumental error there.

Nobody can tell if such an operation will succeed or fail, notes the Secretary General. In addition to closing the border, continues Mr. Caputo, we will have to keep the same political framework set up two months ago if the United States requests.

The Secretary General asks Mr. Caputo if he still believes that after 17 months spent in his position, if the United States can conduct diplomacy. The Americans are still deeply divided on the Haitian question; there are supporters and detractors of President Aristide.

Mr. Caputo thinks that it is now or never to show the Americans that there is a political alternative to American intervention.

Mr. de Soto wonders if in fact Mr. Caputo should not go to Port au Prince to challenge the military leaders and try to convince Mr. Cédras, who pretends to be a "negotiator".

Mr. Caputo affirms that he is ready to go to Haiti. The problem is that if his visit fails, and that if it is accompanied by demonstrations by the BRAPH and by a definite "no" from Mr. Cédras,we risk provoking an armed intervention.

Mr. Gharekahan thinks that, in effect, the Americans could feel justified to intervene.

According to Mr. de Soto, this would be the case if it were already August, but if we try now, we still have time, he says.

Mr. Caputo declares that he likes this idea because the United Nations seems to be making every possible effort on the diplomatic front on the condition, of course, of obtaining a meeting with Mr. Cédras. In reply to a question from the Secretary General, he has the means to contact him.

Moreover, Mr. Caputo points out that the French insist a lot on including Argentina in the Group of the Secretary General's Friends. Argentina, who was rather tepid two or three months ago, now seems interested in the question.

The French find in effect that the Argentina's presence would allow a better balance * * * Security Council, among the Group of Friends. Venezuela would not be excluded for as much.

Aware of the risk of displeasing Brazil who is also a member of the Security Council, the Secretary General proposes to use the criteria of Argentina's active participation in the search of a solution to the Haitian problem. Isn't Argentina a frigate that sails in the region to check on the embargo's enforcement?

Mr. Gharekhan believes that he remembers that Mr. Goulding was totally opposed to this idea.

In answer to the Secretary General's question, Mr. de Soto says that Mr. Goulding thinks that including Argentina would bother Brazil.

Mr. Caputo suggests consulting Brazil.

Mr. de Soto points out that Mr. Luis de Silva, Brazil's presidential candidate, has come out in favor of intervention * * *.

Summarizing the situation the Secretary General proposes to act in the following manner: 1) Mr. Caputo reports tomorrow at Santo Domingo to discuss the border: 2) He makes contact with Mr. Cédras to set up an appointment with him; 3) He goes to Haiti to strengthen his credibility: 4) The Secretariat contacts Brazil to announce the decision to invite Argentina to be part of the Group of Friends, 5) The Secretariat? invites Argentina.

Evoking the role of the United Nations' mission in Haiti (MINUAH), Mr. Caputo recalls that the American plan is to intervene, leave quickly and pass the torch to the U.N. But, if they saw how difficult it is to mount a U.N. operation on the spot, they would perhaps reflect some more before intervening.

Mr. de Soto emphasizes that the MINUAH mandate exits. The United States has met with officers from the [illegible] Department for Peace Keeping to study means of renewing, redefining, and strengthening the Mission. Replying to the Secretary General, Mr. de Soto indicates that the initial mandate foresees 700 to 800 men. The United States is in the process of broadening the scope of MINUAH to a mission, not only of technical assistance, but also one peace keeping. This would thus be a way to discourage the United States to intervene in showing them how difficult it is to set up the Mission that it would like to see following its intervention.

Mr. Gharekhan thinks that the Secretariat cannot highlight this difficulty since the United States has the means to obtain the necessary troops.

The Secretary General fears that the United States will take a unilateral decision and that it will repeat the Somalian experience. The main question remains knowing what to do to avoid this unpleasant role for the United Nations.

According to Mr. de Soto, the Security Council's backing can be politically costly to

the United States in so far as it will cause the United States to make concessions.

The Secretary General points out that the United States can even choose to leave forces behind.

Mr. de Soto says that the closest analogy is the one of Panama. The United States knows that the Latin American countries will protest out of principle while at the same time they will be relieved to get rid of Mr. Cédras.

Suggesting to proceed by stages, the Secretary General concludes that they agree on the five points mentioned above. These points already will allow for movement. Mrs. Green, having asked if Mr. Aristide was going to be contacted, the Secretary General replies in the affirmative. He agrees to telephone Mr. Aristide. He suggests to put off until later the more substantial reflections on the question, but keeps in mind the fact that there is a risk of escalation. It should not be forgotten that the Haitian people suffer because of those sanctions.

FABIENNO SEGUIN-HORTON,
May 25, 1994.

CONFIDENTIAL

NOTE FOR THE FILE

Meeting between Mr. Dante Caputo, SREG for Haiti with Mr. Andre Ouellet, Foreign Affairs Minister of Canada, Ottawa, May 19, 1994.

Present: Mr. Stanley E. Gooch, Assistant Vice Minister; Latin American and Caribbean Desk; Mrs. Louise Préchette, Permanent Canadian Representative at the United Nations.

After being warmly welcomed by the Minister, Dante Caputo stresses, first of all, the different options for a solution and relates, for the Minister's benefit, the reactions observed in Paris and Washington. The first option consists of waiting for sanctions put in place to produce the desired effect: the military leaders' departure. In this regard, France and the United States have the same worry of seeing that the border between the Dominican Republic and Haiti be hermetically sealed.

However, stresses Dante Caputo, the United States would not be ready to wait several months for this to produce the desired effect. The second option, consists of using the sanctions as an instrument to support a political strategy. France is in favor of such a scenario and, in this regard, supports the idea of a high level meeting of the Secretary General's Four Friends Countries. The third option consists of using unilateral force, multilateral force, or a combination of the two. France is opposed to this. Concerning the United States position, such as laid out by Strobe Talbot, Dante Caputo thinks that time is short, and that the situation today cannot last beyond July. Dante Caputo emphasizes that Haiti represents a test case for which the United States has to have found a solution before November. The United States supports the return of a reinforced MINUAH (self defense, protecting sites) without specifying the probable means for the [Haitian] military leaders' departure.

Dante Caputo gives his personal impression of the strategy that the United States would get ready to implement. According to him, the United States cannot wait any longer to obtain the benefits of an action in favor of Haiti for a just cause; it would intervene punctually in order to then cede its place to the MINUAH.

THE 50TH ANNIVERSARY OF THE WARSAW UPRISING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise tonight, as I have done every evening this week, to pay tribute to the courageous people of Poland on their upcoming 50th anniversary of the Warsaw uprising which occurred during the months of August and September of 1944. This is the fourth in a series of special orders that I will give to bring attention to this event.

I will continue this evening by reading excerpts to the membership from the book "The Forgotten Holocaust: The Poles Under Nazi Occupation, 1939 to 1944" by Richard Lucas, in which over 250,000 innocent people were murdered brutally in the streets and homes of the town that they had known since their youth. Their valiant and heroic struggle is one that the West has heard little about, largely because after World War II so much of the history of that region was suppressed, and only now are we coming to learn the magnitude of what happened to people who so very much wanted to share our democratic values over the last half century.

This weekend and next week our Vice President, AL GORE, and a United States delegation will travel to Warsaw to help to commemorate those who lost their lives and to join with the Polish people in remembering this most terrible period of their magnificent history.

□ 1820

Mr. Speaker, reading from Mr. Lucas' book, he says,

But the most hideous episode involving Kaminski's men began at 10:00 AM on August 5 at the Radium Institute. After invading the building, they robbed everyone—the nurses and the ninety patients. The Russians under German command even stole hospital equipment, and what they could not cart off, they destroyed. A band of them tore apart the pharmacy and drank the rubbing alcohol until it ran out. Then they consumed ether. The orgy of plundering and drinking degenerated to raping not only the nurses but also the cancer patients, most of them elderly women. By Sunday August 6, the men shot inmates and began to burn the hospital room by room. Some of the patients vainly tried to escape through the windows by tying sheets together. Thirty people died in the flaming rooms of the building or were shot that day. The others managed to save themselves by finding a place in the basement of the building and hiding there. The atrocities at the hospital did not end until the middle of the month.

Among the casualties on August 6 were the well-known artist, eighty-two-year-old Victor Mazurowski, and his famous pianist wife, seventy-five-year-old Jadwiga Zalewska-Mazurowska. For not keeping up with the column of refugees, the distinguished couple was shot.

The murdering reached so feverish an intensity by August 7 that one eyewitness had the impression everyone in Warsaw would be decimated:

When we passed No. 9 Gorczewska Street (a house which belonged to nuns), we were called into the house and ordered to carry out the corpses which were there. The courtyard was a dreadful sight. It was an execution place. Heaps of corpses were lying there; I think they must have been collecting there for some days, for some were already swollen and others quite freshly killed. There were bodies of men, women and children, all shot through the backs of their heads. It is difficult to state exactly how many there were. There must have been several layers carelessly heaped up. The men were ordered to carry away the bodies—we women were to bury them. We put them in anti-tank trenches and then filled these up. In this way, we filled up a number of such trenches in Gorczewska Street, I had the impression that during the first days of the Rising everybody was killed.

Warsaw was subjected to one of the most systematic acts of plunder of any occupied city during the war.

Although wounded in Warsaw, Kaminski was determined not to lose the opportunity to engage personally in wholesale looting. After one of his fleecing escapades, he sat on a Warsaw balcony, a girl on each knee and drank champagne.

Special railway police were sent to Warsaw to insure more expeditious transport of the spoils. The Germans even dispatched an expert to supervise the loading of hospital equipment.

During the first ten days of August, about 7,000 railway cars loaded with property arrived in Wartheland. Upon arrival there, the spoils—consisting of machinery, raw materials, food, clothing, medicine and furniture—were placed at the disposal of Greiser, who distributed them among various German groups in the Posen area.

Motoring along the western rim of Warsaw on August 5 was a distinguished, impeccably-dressed officer in an SS uniform. He was General von dem Back-Zelewski, the man appointed to quell the insurrection in Warsaw. As he drove by the cemeteries bordering the city, he saw a large pile of civilian bodies. German police were about to set fire to it. Standing nearby was a group of civilians who were to be executed then and there. Bach-Zelewski lurched from his seat, stopped the car, and ordered the executions to stop immediately. Then he repealed Himmler's standing orders. Bach's reasons were not so much humanitarian as they were practical: "A military force which loots and massacres, ceases to fight."

Bach did not have too much difficulty getting rid of Kaminski after word of what his brigade had done in Warsaw got back to Hitler's quarters. General Alfred Joll testified, "I reported this fact to the Fuhrer, and he immediately ordered the dissolution of the brigade." True, the atrocities did not disturb the man who had six million Jews murdered during the war. Rather, it was the inefficient and orgiastic way the Russians went about it. After all, there was a prescribed way for Nazis to commit murder.

Bach arrested and sentenced Kaminski; the Gestapo in Lodz shot him in the back.

The Kaminski Brigade itself was transferred first to Stawki and later to the Kampinos Forest area. It was there on the night of September 2 that a Polish unit led by Lieutenant Colonel Adolf Pilch took revenge for the atrocities committed by Kaminski's men. The Poles threw grenades into the cellars of buildings housing the

headquarters of two of its battalions, virtually annihilating the unit.

By August 11, the western part of Warsaw had been taken.

Bach left City Center, the strongest fortified sector, and Zoliborz in the far north for the last. This strategy, in effect, virtually abdicated to the Poles the initiative in City Center, while Bach-Zelewski concentrated on clearing the western banks of the Vistula. Bach gradually succeeded in splitting up and defeating them in isolated pockets.

The situation for a AK grew more difficult as the days passed. When the decision was made to rise up, the AK had enough ammunition for only a few days and not more than a week. Now two weeks into the battle with no pospect for Soviet relief, Bor kept sending his desperate messages to London, emphasizing his army's plight and asking for supply drops.

The hostility of the Soviets to the AK was summed up in a Polish report of August 16: "Diversive activities helpful to the Soviets are continued in the Radom district. The attitude of the Soviets toward the Home Army is hostile."

As a consequence, the resistance fighters on August 1 were simply not equipped for anything like a long-term struggle against the Germans. They had a total of 43,971 hand grenades, 3,846 pistols, 657 submachine guns, 30 flame throwers, 2 anti-panzer guns, 406 anti-panzer grenades, 12,000 incendiary bottles, 2,629 carbines, 6 mortars, 10 howitzers, and small amounts of ammunition and explosive material. Heavy weapons were nonexistent. With only 2,629 carbines, only about 6 percent of the soldiers could be armed with rifles.

The RAF sent ten supply missions to Warsaw during the uprising; and several other missions, intended for the Polish capital, dropped supplies outside the city. Casualty rates were very high; the Poles alone lost 16 crews. In all, 245 Poles, English and South African airmen were shot down, and only 41 of them survived.

As the level of fighting intensified and casualties mounted on both sides, the number of corpses in the streets made the entire city look like an open cemetery. The "gatherers," as the corpse collectors were euphemistically called, had the awful job of removing the bodies from the streets and buildings. Sometimes the corpses lay there for weeks, and when they were touched by hooked poles used for this purpose they fell to pieces, often exposing swarms of rats who fed on decayed flesh. For this dreadful work, the Germans, whenever they could, used Polish captives.

The Germans quite by accident discovered the Poles were using the sewers. Early in September they started to dig a tunnel of their own from their positions in Saxony Park to the Polish stronghold in the Exchange Building, which they wanted to destroy. During their digging operations, they found a sewer four feet in diameter. At first they simply took their own tunnel under it. But when they heard the sound of movement in the sewer, it dawned on them what was afoot. The Germans then immediately tried to stop Polish use of the subterranean maze by throwing grenades, mines, gas and rubble into the passages. Even hand grenades without their pins were hung so that when an unsuspecting person hit one, he was blown to bits. There were full-scale battles below, as men fought hand-to-hand and drowned each other in excrement.

Bach-Zelewski tried several ploys to get the Poles to stop fighting in August. Concerned that the uprising would spread throughout the country, they tried to offset the murderous image the Germans acquired earlier in the month in Wola and Ochota.

Mr. Speaker, in ending my special order this evening, let me just say that as the Poles and their friends memorialize their forebears, they also remember their history as a freedom-loving people whose democratic values were unique in that region of the world. They did not deserve extinction, and they deserve the respect of today's NATO members and expeditious consideration of their desire to join the councils of freedom-living people everywhere.

SUGGESTED SCHEDULE FOR CONSIDERATION OF HEALTH CARE REFORM

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

Mr. HOEKSTRA. Mr. Speaker, tonight I would like to spend a few minutes talking about the process that this House may find itself in as we begin the critical debate on health care.

Last week the Democratic leadership disavowed the Clinton administration's health care plan, but they pledged to forge a new plan that was significantly different and would address many of the concerns that the American people had raised about the earlier versions.

What I would like to point out is perhaps the process that we may be going through as we focus on developing a health care bill. What I have in front of me here is H.R. 3600, which is the health care bill that was brought to the full Committee on Education and Labor, and the process that we went through in the Committee on Education and Labor is that we had 29 days of total hearings, we had 11 days of subcommittee markup, we had 8 days of full committee markup.

The markup time alone—that is, the opportunity to review the bill, propose amendments, debate amendments, and vote on amendments—took us over 2 months. In full committee, over 90 amendments were debated and 51 were adopted, which means that, as good as the authors of this document, the 1,100 pages of material, thought that their original bill was, there was still significant opportunity to refine and improve that bill.

As we now face the daunting task of looking at perhaps another new bill that may be 1,100, 1,200, 1,300 pages, we do not know how many because the bill is not in front of us, but I propose to this House that we, perhaps, adopt some minimum standards for considering this bill, to make sure that as the American people watch the process, they can be assured they have had full opportunity to see this bill, deliberate it, amend and debate it before final passage.

What would a final schedule look like? We have heard some things, some people propose that we may see a bill in the next 3 to 5 days and before we go on recess, which would be another 2 weeks, we would vote on final passage of the bill.

I would propose that that is not enough time to consider a bill that will affect 17 percent of our economy.

What is a more realistic schedule? What is an expectation a proposal that I think we can lay before this House?

Here is a proposal: That by August 1, all the bills, both Republican and Democratic alternatives be introduced with CBO full scoring and that the bills be fully printed and available for review and discussion; that on August 2 through 7, on the floor of this House, each one of the bills be walked through since we will not have the benefit of committee hearings, but that each author be permitted the opportunity to describe and to discuss and outline their bill. Then on August 8 we debate the rule, we debate an open rule that would allow for amendments to the bills as long as they are printed within 24 hours in the CONGRESSIONAL RECORD.

By August 13, we finalize the rule and approve the rule.

And then we go home for our recess, not for a vacation but for the opportunity to provide the American people to see, review, and provide feedback to us on this bill; use the recess to gain input on a new mark on new marks rather than to go back and report to them what we have done here in haste.

We then come back here on September 8, the amendments are due to be printed in the RECORD, and on September 9 we begin debate on the health care bill. We wait, we debate for 5 to 10 days, we vote on the amendments. If we pass a bill, a conference committee occurs during the middle of September and October 5 we have final debate and finally vote on a health care package.

A bill of this importance deserves that kind of opportunity to be heard in front of this Congress and in front of the American people.

What else could we expect? Today I sent out a "Dear Colleague" that says John Hancock signed the Declaration of Independence without reading it first. Will every member in this House agree to read the bill before we have a final vote? Will they agree to read 1,100 pages that reflect an outline of what is going to happen to health care before they vote on that kind of a package?

□ 1830

Third, as we move forward on health care, if we move out a mark similar which we had in Education and Labor, will they agree that before health care takes place in any State, that State will have a public referendum where the voters will choose to participate in the program or not?

CONSIDERATION OF HEALTH CARE REFORM

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

Mr. KINGSTON. Mr. Speaker, I wanted to follow up with Members of the House on the comments made by the gentleman from Michigan [Mr. HOEKSTRA] just a minute ago, and I have just come from an agriculture hearing, a Committee on Agriculture hearing, and we today did a mock markup on GATT, which basically means that we voted on a lot of the substance of the GATT agreement, the General Agreement on Trade and Tariff, and this section was about that thick, 3 or 4 inches thick, and it only dealt with agriculture issues. To my knowledge that was the first time the members of the committee had seen, not just that portion of the bill in its entirely, but the related amendments, and yet I suppose we were supposed to be miracle readers, and could sit over there in 2 or 3 hours and debate while also reading the bill for the first time.

Mr. Speaker, as my colleagues know, maybe trade agreements should go that way, but here we go on health care, and we have had the health care debate going, not just in the 103d Congress, but in previous Congresses. We have the Rowland-Billirakis bill, we have a McDermott bill, we have the Michel bill, we have the Clinton bill. We have some bills right now, as the gentleman said earlier, we should put a deadline on to debate and to vote on. Now I understand that there is a Democrat leadership bill that is coming up. It is all done in secret. Nobody is in there.

As my colleagues know, I know there is some good and bad in sunshine laws, but I think this is an example where we need a sunshine law, where we have such a tremendous issue that is being dealt with behind the doors, behind the scenes, and by one party which, I think, is offensive and outrageous, and the American people need to know that the major bill, the thing that we are not able to add and put on the table right now for review and study, is being crafted secretly in some back room.

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

Mr. KINGSTON. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, perhaps we can reflect back on the NAFTA debate that we had in 1993. We had a NAFTA document, 2,000 pages, a good process, a very difficult process. We had the opportunity to read it. We had the opportunity to debate it. We had the opportunity to go back to our districts to talk to businesses, to talk to labor unions, to talk to a whole series of groups, to fully understand; maybe not fully understand, but get a deeper understanding of what NAFTA would do to jobs in our districts, to jobs in this country, to earning power in this country, and we went through a very lengthy process, and I think, when we got done, I think everybody felt that they had had the opportunity to input, to be heard, and then we made a decision.

Compare that to the process we are looking at now. We are both freshmen. I guess we like that kind of process, understanding what we are going to be voting on. It really scares me, what we could be looking at during the first 2 weeks of August.

Mr. KINGSTON. Mr. Speaker, I like the gentleman's idea of going home, and talking to the voters, to the constituents, to health care providers, the nurses, the physicians, and the insurance companies, the laborers, the homemakers. We need to talk to them about it. They need to know, because, if the gentleman remembers when the President introduced this health care bill, I think it had over 50 percent approval, maybe 57. But once people read that 1,329-page document, the approval rating went straight to the ground because it is all in the fine print, and we have got to have that fine print, not just so that 435 Members of Congress can read it, but so the American people can read it.

Mr. HOEKSTRA. We need the ability to go through and read the fine print so that we can find out what was used to get the last 10 or 15 votes that are going to vote in favor in that bill if it passes with 218 votes.

Mr. KINGSTON. Let me ask the gentleman about that because I know there was a lot of discussion that NAFTA actually passed, not on the merits, but on the allocation of given roads and bridges and keeping certain special interest projects in people's district. I ask, "Do you think that will be the case in health care?"

Mr. HOEKSTRA. We have already seen it. We have already seen it in the bill that came out of the Committee on Ways and Means where there is criteria. There are dollars available for teaching hospitals, for construction, low-interest construction loans, and the criteria, as the gentleman knows, it is kind of like, well, makes it look like it is available for everybody, but it so happens, when we take a look at the criteria and how specific the criteria are, it would only benefit three teaching hospitals around the country, one in Chicago, one in New York, who so happened to be represented by key members of the Committee on Ways and Means.

So, there is beginning to evolve this practice now in health care that is not what is good health care policy, but what is it going to take to get those last votes.

Mr. KINGSTON. So, as it stands right now, we are still having the same debate on health care, but it is going on secretly to cut these bills, but the question of who pays for it, who runs it, which are the two predominant questions, are still unanswered and unaddressed.

Mr. HOEKSTRA. Right.

GOVERNMENT OF, BY, AND FOR THE BUREAUCRATS

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

Mr. DUNCAN. Mr. Speaker, those in this Nation who are not worried about big government had better take a new look. The arrogance, the abuse of power, the waste, the inefficiency, is becoming almost unbelievable.

In the last few days, Mr. Speaker, the Washington Post and the Washington Times have had these news items. First, the headline, "Millions of Letters Undelivered." The story said:

> Postal inspectors recently discovered millions of pieces of undelivered mail in two of Washington's largest post offices, just two of those post offices. Nearly 3,000,000 pieces of mail were discovered at these 2 facilities. How much is there all over this Nation?

Second, from the story about the Food and Drug Administration,

> Gene Oden could not have imagined how much his life would change when 20 Federal agents burst into his office in June 1993 and began seizing products crucial to his dietary supplement business. More than a year later the Food and Drug Administration has yet to file charges against Mr. Oden. Still he has been forced to lay off all but 28 of his 105 employees while he wages war with the FDA hoping to recover more than $1 million in products the agents seized.

Mr. Speaker, when people wonder why drugs cost so much in this country, all they need to do is look at the FDA. The overregulation and bureaucratic mumbo jumbo has helped the big drug giants, but has made it almost impossible for small companies to participate and has driven drug and medicine prices sky high.

Third, the third story, once again from the Washington Post,

> "1,300 hundred IRS agents, workers, accused of snooping at tax returns. Employees used computers to peek at friends' files."

The story told how more than 1,300 employees of the IRS have been investigated or disciplined for using Government computers to browse through tax returns of friends, and relatives and neighbors.

Right on the heels of this came a report in the Washington Times about a traffic incident between Susan Allen, a Washington lawyer, and John Richardson, the husband of the woman who heads the IRS. Here is how Mrs. Allen described what happened.

> His name was John Richardson, but his registration, I told him, said Margaret Richardson. "That's my wife," he said, "and she's the IRS Commissioner, and I hope you paid your taxes."

I said, "What?"

And he repeated, "My wife is the Commissioner of the IRS, and I hope you paid your taxes.

"I couldn't believe he was telling me that," Mrs. Allen said.

Some people go to work for the Federal Government, and suddenly they think they are some type of god. They think they are rulers rather than our servants. We have ended up with a Federal Government that is of, by, and for the bureaucrats instead of one that is of, by and for the people; even the best-intended Federal programs today, even ones supposedly designed to help children, do much more to benefit the people who work for the Government than they do for the intended beneficiaries.

□ 1840

Almost always the pressure to increase spending in any area comes from those who work for the Government, not from the intended beneficiaries. It might not be so bad if we were getting our money's worth, but usually these hard-earned tax dollars are just wasted.

I might point out that the average person today, not the wealthy, but the average, pays almost 50 percent of his or her income in the form of taxes when you count State, Federal, local, sales, property, income, social, gas, excise, and all the other taxes that people pay. Roy Murdock wrote recently in the July issue of National Minority Politics that Washington has sort of a reverse Midas touch. Virtually everything it touches turns to lead.

Why, Mr. Speaker, is there all this waste and inefficiency, all this arrogance and abuse of power? I believe it is primarily because of our civil service system, a system that does almost nothing for good, dedicated employees, but serves now to protect lazy and incompetent ones. We have many good people working for our Federal Government, but we cannot get rid of those who do not work hard or those who treat people badly.

This is why it costs so much more to do something through the Federal Government than it does through the private sector. This is why Edward Randall, the liberal Democratic mayor of Philadelphia, said a couple of years ago, the reason government does not work is because it was not designed to. There is no incentive for people to work hard, so many do not. There is no incentive to save money, so much of it is squandered.

Mr. Speaker, we need to get control of our government in this country once again, and we will not be able to do so unless we downsize the Federal Government and get the functions of this government and the things that people want us to do back to those governments which are closest to the people, which are our local and State governments.

HEALTH CARE REFORM

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

Mr. DURBIN. Mr. Speaker, in the next few weeks, Congress will debate the most important and biggest social issue we have ever faced in our history, the reform of America's health care system. You heard speeches early on from some of my Republican colleagues who would like us to wait, to study this a little longer, to put it off. And yet the American people know we have been engaged in this debate for almost 2 years now. We have thoroughly familiarized ourselves with concepts and ideas to try to take what is good in our health care system and keep it, and to change the things that just are not working for America.

Tonight I would like to address the whole question of the influences that will be on Members of Congress in the next few weeks as the health care reform debate begins. A little later on my colleague, the gentlewoman from Oregon [Ms. FURSE], will take a special order on this same subject. I hope those interested will listen closely to her remarks.

Let me tell you, for those listening, sending a letter to your Congressman can be a very valuable experience as you put your thoughts together. Believe also that Members of Congress see this mail.

Let me tell you about a letter that I received on health care reform. It came from Mike Schuette. Mike is the owner of several grocery stores in Breese, IL. He wrote to me and urged that a health care reform bill include an employer mandate. That is one of the terms you will hear a lot of. An employer mandate is a requirement that employers and employees share the cost of health care insurance.

Mike Schuette, who has many employees in his grocery stores, wrote and said:

> It is our feeling that responsible people need health insurance. We could have pocketed a lot more profit through the years had we not paid for our associates' health insurance. But we feel it would have been money that belonged to our associates.

When Mr. Schuette talked with my office about the issue, he noted that as long as the mandate also applied to big retailers such as K-Mart, he could support an employer mandate and felt it was the right thing to do. He said he could pay for his employees' health insurance and compete with bigger companies, as long as the bigger companies had the same requirement.

Contrast that with K-Mart's attitude. When K-Mart came to see me and sent their lobbyist, as they are entitled to do under our system of government, they had an entirely different story. This huge corporation, K-Mart, enormous, nationwide retailer, told me they just could not afford to pay for their employees' health care coverage. When their executive vice president and general counsel, Anthony Palizzi, testified before Congress, he said:

> I am here today on behalf of K-Mart and retail companies around this Nation to tell you as much as we might like to, retail employers simply cannot absorb the massive costs of health care reform.

So on the one hand, we have the tiny chain of grocery stores, the Schuette stores in Clinton County, IL, which is already responsibly providing health insurance to its employees, and on the other hand, we have these mega corporations like K-Mart which claim to speak for Schuette, incidentally, and they say it cannot be done.

I think maybe big K-Mart could learn a lesson from Mike Schuette, to take the responsible business position to provide health protection for its workers, instead of saying it cannot be done.

A level playing field is good for all businesses and good for competition. But today the competition is not fair. Mike Schuette takes care of his employees. He and his family think it is the right thing to do. Across the street, K-Mart, competing with him, does not, and that is unfair.

Individual businesses have accepted this responsibility, their shared responsibility with their employees to provide health insurance. In the next few weeks you will hear loud and clear from the business lobby in this town that they oppose health care reform. Don't be surprised. Look at the record. This same business lobby opposed Social Security, Medicare, minimum wage, worker safety, and virtually every piece of socially progressive legislation passed through Congress in this century.

As I contemplate my own vote on this issue in the weeks ahead, I am going to be listening closely to Mike Schuette and his family business and many like them who have stepped forward and done the responsible thing. The big business lobby, the special interest that has the money to make all the noise, is not going to have quite the persuasive power as hard working businessmen and women around America, doing the right thing, showing respect for their employees.

THE COMMUNITY OF NATIONS MUST ACT TO PREVENT HUMAN TRAGEDIES IN COUNTRIES LIKE RWANDA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the human disaster associated with recent atrocities in Rwanda should shake the conscience and civility of all humanity and Members of this body. This human

catastrophe, which has been graphically portrayed in televised footage of the refugee camps of Goma, Zaire and the massive destruction of Kigali, calls into question many pertinent issues relating to United States foreign policy and the responsibility of the world community of nations.

Brian Atwood, Administrator for the U.S. Agency for International Development, has said that the ". . . international community has never faced a refugee exodus of such magnitude in so brief a time." With over 2½ million internally displaced people and nearly 2½ million refugees in surrounding nations, this tragedy now poses a significant threat to the regional stability of the horn of Africa.

The fragile nation of Burundi shares the same ethnic composition as Rwanda and stands at the brink of chaos. Uganda, Tanzania, and Zaire host thousands of Rwandan refugees which threatens the stability of each nation. In this context, we must act to not only provide humanitarian relief but also to contain the chaos that threatens to spread throughout the entire region.

I applaud the effort of the administration in its recent operation to respond to the horrific circumstances prevalent in the crowded refugee camps. Currently, U.S. AID is working in tandem with the Joint Military Task Force and the U.N. High Commissioner for Refugees to provide the suffering masses with logistical support, food, medicine, and clean water. We are beginning to take our appropriate leadership role in responding to the chaos which has resulted in the deaths of anywhere from 500,000 to 1 million people.

But we must do more to mobilize other nations to cooperate in this mission. Through our role in the United Nations' Security Council, we must work to galvanize the U.N. system to respond to the degree of chaos consistent with countries like Rwanda. In addition, other nations must be made aware of their obligation to provide support.

Because of the cost associated with these missions, the United Nations must be employed as a critical medium for disaster relief and crisis prevention. This entails active collective involvement.

Questions are begged: Could we have prevented this human tragedy and mass genocide from occurring? What was the world's collective responsibility to act? How many more deaths must we witness in nations like Rwanda or Bosnia before we are compelled to take decisive action? I believe that these questions demand that we probe deeper into the nature and focus of American foreign policy in a post-cold war era—a time in which we as Americans must rethink and redefine what constitutes "American interest."

Despite attempts to treat American economic interest and respect for human rights separately, I believe that appropriate U.S. foreign policy must attempt to harmonize these concepts. In the big picture, a more stabilized and civil world directly serves our interests. In order to maximize and expand global market opportunities for our industries, our trading partners or potential trading partners must have stable, free, and civil societies where the rule of law is the standard.

In an ever dangerous world which continues to see blood shed, famine, and unrest, we must carefully analyze how American military and diplomatic resources are utilized. As Americans, we must solicit other nations to share in a collective responsibility. As a community of nations, we must diligently work to prevent future tragedies from resulting in the same degree of suffering seen in Rwanda.

In defining our "new American interest" and the role of international organizations like the United Nations in the post-cold-war era, one thing is certain—we must act. We must act as leaders of the New World Order.

□ 1850

BOSNIA

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from Indiana [Mr. McCLOSKEY] is recognized for five minutes.

Mr. McCLOSKEY. Mr. Speaker, I might say it is good to be here tonight immediately precedent to a statement on the same topic I am discussing from our majority whip, the gentleman from Michigan [Mr. BONIOR], one of my particular heroes and a real fighter for human rights and international justice.

It was also, I think, very pertinent to follow the gentlewoman from North Carolina [Mrs. CLAYTON] in her eloquent remarks as to Rwanda.

I might say, obviously, we do have concerns for a safer, more decent, human international order. Needless to say, as the previous speaker indicated, it does not seem to be the case these days.

I know it is not exactly an amazing insight, but the tragedies of Rwanda, Bosnia, the Balkans, Haiti, and other places are really not isolated incidents. Part of the problem is the simple that bandits, thugs, brutal perpetrators of genocide and mass murder all over the world are getting the signal, in essence, that they can get away with it, which leads me into my ongoing concern that we have.

We are on the verge tonight of seeing yet another deadline come and go in the Bosnian-Yugoslavian tragedy.

This afternoon I talked to Prime Minister Silajdzic of Bosnia by long distance from Sarajevo. I do not know if it is on the wire yet, but he told me that no surprise, the Bosnian Serbs at Pale again had rejected the so-called nonnegotiable contact team proposal for a 51 to 49 slit between the Bosian-Croatian Alliance and the Bosnian Serbs.

As we all know, the Bosnian Government and the Bosnian-Croatian Alliance, with all its problems and all the looming inequities and ratification of past injustices, the Bosnian-Croatian Alliance and the Bosnian Government had accepted, and I think sincerely so, this contact proposal plan.

Meanwhile, it has been outrageously and spiritually, if you will, rejected by the Bosnian Serbs. And just to add insult, damage and ongoing murder to injury, the Serbs in the last several days, as we all know, are again shutting down Sarajevo. They are stopping all road traffic in and out, and this is not a matter of minor incident. This means that food supplies are dwindling, and right now there is a run in Sarajevo markets, as to any food and miscellaneous household supplies that are available.

The U.N. flights, which are quite often shut down, as we all know, even when they are going, cannot really adequately feed everyone.

As we all know, in recent days, these peace-oriented Bosnian Serbs have opened up on U.N. flights to the tune of shutting down the Sarajevo airport, indeed, deterring our Secretary of Defense, Mr. Perry, from coming in and one United States plane in recent days, 3 or 4 days ago, took 20, whatever it was, 20 to 40 shells. One American airman was injured.

Yesterday, as we all know, in a great tragedy as to the numerous British troops on the ground, who, along with others, are trying to serve people in that war-ravaged area, but a young British soldier yesterday was murdered by Bosnian Serbs who opened up on a humanitarian convoy with the sad excuse later, regardless of the fact that the Brit, the humanitarian convoy was well marked, they, the Serbs opened up and they have the opinion and, indeed, the example from past practice that they can continue to get away with this.

Meanwhile, the military assault intensifies as to Sarajevo. There is not heavy shelling hitting there yet, but the machine gun fire, automatic weapons, and sniper traffic is increasing. Also, Gorazda, the area of Gorazda is under greater stress with more Serbs incursions in that war-ravaged area.

Meanwhile, Secretary of State Christoper, who was before the Foreign Affairs Committee today, is today or tomorrow, I believe it is today or this evening, is off to Europe to meet with the contact team to decide what to do about this latest Serb rejection and the problems on the ground there in Bosnia.

He states that "the contact team has agreed to increase sanctions on the Serbs. I don't know that that is going to put fear and trembling in their hearts and deter their present murderous practices." He does say, "the contact team is prepared to," and this will be interesting, "provide increased security for the besieged safe enclaves or havens." Obviously, that includes Sarajevo and Gorazda, particularly the group would consider similar, I guess, security treatment for Zepa and Srebrenica.

I guess the question I would have is whether the contact team in that regard will really mean it this time. Will the west provide security for the citizens of Bosnia being slaughtered rather than just on occasion asserting military force in the event that U.N. forces were to be threatened?

As a last resort, and as a last resort, I do not know how far down the road that is, the secretary says, this is at least, I believe, U.S. policy, that the contact group should consider a multilifting of the arms embargo which has obviously tied the hands of the besieged Bosnians.

We need a much greater sense of urgency in ending this tragedy as people grow increasingly terrified in Sarajevo, as ethnic cleansing and genocide continues in numerous other areas of Bosnia, such as Banjaluka and Prijedor.

□ 1900

Prime Minister Silajdzic told me today that unless the West acts now, there is no credibility. Let us hope that come Monday, the U.S. Congress will not have to consider a unilateral lifting of the arms embargo, which the Committee on Armed Services is working on now. Let us hope that the United States leads the contact group this weekend in communicating with the Serbs that their genocidal slaughter will be tolerated no more.

Let us hope that definitive action, if necessary, lifting the arms embargo and pummeling Serb positions and supply lines with air strikes, will be implemented if necessary. The genocidal slaughter in Bosnia and the West's abysmal, reckless passivity in the face of outrageous lawlessness is one of the defining issues of the closing years of this century. Let us hope the United States' so-called contact team, the United Nations, and the European Community now, at last, want to bring a decisive and more humane ending to this sorry chapter.

TIME TO LIFT THE EMBARGO ON BOSNIA

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

Mr. BONIOR. Mr. Speaker, first of all let me commend my colleague, the gentleman from Indiana [Mr. MCCLOSKEY], who has been consistent and courageous about his concern about what is happening in the Balkans, and particularly in Bosnia, and thank him for his statement and for raising this concern to our colleagues this evening.

Mr. Speaker, it was exactly 7 weeks ago today that we stood on this floor and debated whether or not we should lift the arms embargo to Bosnia.

Seven weeks ago that we debated whether or not we should end the genocide. Then, as now, we heard a lot of people argue that we shouldn't lift the embargo. That we shouldn't get involved.

A new cease-fire had been announced that day, they said, and we should give the peace process a chance to work. Never mind that the Serbs had broken over 30 separate cease-fires before that.

Never mind that they had made a farce of the whole peace process time and time again.

Never mind that they killed 200,000 Bosnians, systematically raped an entire generation of Bosnian women, and left thousands of people to starve in mass concentration camps.

Never mind all that.

We were told to give them one more chance.

Well, we gave them that chance, Mr. Speaker.

We looked the other way one more time.

And once again, they spit right in our faces.

Over the past 7 weeks, even though Bosnia has unconditionally accepted the terms of peace—the Serbs have made a mockery of the peace talks, and rejected offer after offer, compromise after compromise.

They have broken the cease-fire again and again.

And just yesterday, Mr. Speaker, Serb forces attacked a 10-truck U.N. convoy on the road to Sarajevo and blew up a fuel truck. One British soldier was injured and one was killed. And most heinous of all, when British and French troops braved the road and tried to recover their losses, Serb gunners fired on them.

Let me say that one more time Mr. Speaker: Yesterday, Serb gunners opened fire, not on Moslems, not on Croats, but on British and French soldiers trying to recover their losses.

Mr. Speaker, this is an outrage. This is shameful. How can we let this happen? I wish I could say I was surprised.

I wish I could say I never thought this would happen. But the truth is, Mr. Speaker, we were warned 7 weeks ago, on the very day the latest cease-fire was announced, I stood on this floor and read an ominous warning that the Bosnian Serbs had issued.

Through their news agency, the Bosnian Serb leaders said, and I quote,

> The Geneva Agreement is merely a one-month calm before an unprecedented storm and a prelude to total conflict. After that it will become clear to one and all that there is no formula according to which two victors can emerge from this war.

That's what the Bosnian Serb leaders themselves had to say about their cease-fire. And the first clouds of that unprecedented storm are beginning to gather right now.

In fact, earlier today, the Bosnian Serbs issued another statement regarding the peace process; another statement just as ominous.

In a letter to Russian President Boris Yeltsin, the Bosnian Serb leaders wrote, and I quote:

> Our acceptance of a peace plan would be the beginning of the end of the Serb people on their territories and a prelude to national suicide. We expect you to understand us.
>
> We expect you to understand us.

Well, we understand them Mr. Speaker.

We understand that they don't want peace, they just want more war.

We understand that they intend to wreak more mayhem.

More ethnic cleansing.

More murder.

More rape.

And more torture.

Mr. Speaker, the United States cannot be a silent partner to this any longer.

It's time to lift the arms embargo.

It's time to end the genocide.

And if Serbia keeps hitting targets, in Bosnia, then targets in Serbia itself should be blasted right back.

The only thing that will truly bring the Serbs to the peace table is if they see that their force will be met by force and that further aggression will get them nowhere.

Mr. Speaker, the people of Bosnia are not asking us to send in troops.

They are not asking us to defend them.

They are simply asking for the right to defend themselves.

And we have no right to deny them that.

If we don't lift this embargo and at least let the people of Bosnia defend themselves then the blood of Bosnia isn't just on the hands of the Serbs.

It's on all of us.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Connecticut [Mr. SHAYS] is recognized for 20 minutes as the designee of the minority leader.

Mr. SHAYS. Mr. Speaker, I would like to first respond to some comments made on the floor of the House tonight regarding health care, and to say that I have a great deal of gratitude to our President for calling on Congress to deal with the issue of health care, to

lead us toward a universal care, but I am troubled by a lot of the comments that some of my colleagues have shared and maybe feel deep in their hearts about the partisan nature of this debate, and the fact that we must act immediately, or within the next few weeks.

Mr. Speaker, as a Member of Congress, I have spent 4 years working on this issue. The more I know, the more I realize I do not know certain issues and areas. We are talking about 15 percent of our overall budget. We are talking about something that is a matter of clearly life and death. We are talking about ethical decisions. We are talking about jobs of countless millions of people. We are talking about reorienting our economy, potentially, in a way that could be very destructive.

Mr. Speaker, I happen to believe we have the best health care in the world, admittedly, for those who have it. That is for most Americans. I realize some Americans do not have quality health care, and we need to address it.

However, Mr. Speaker, I would like to focus in on what I think most of us on both sides of the aisle agree on. We agree on dealing with the issue of preexisting conditions; the fact that we, as Members of Congress, are not denied coverage because of a preexisting condition. No American should be, provided they are part of a system and are faithful to that system.

Mr. Speaker, we agree that we need to cut the paperwork and administrative costs, the red tape. This is bipartisan. We know that we need to be able to deduct health care costs in our income tax payments. We also know that individuals and small purchasers of health care should have the same ability to purchase health care as a large purchaser, which will involve some kind of community rating by age or geographic area. We agree on these things, and we also know that there needs to be major malpractice and tort reform.

Mr. Speaker, some of us believe that one significant way to control health care costs is through some form of copayment where those with higher incomes pay more on the copayment, that people have to have a stake in health care.

Mr. Speaker, where we have our disagreements I think are in these areas, for the most part, with no criticism, but just a recognition that I think we come from two different directions, and it is going to be hard to meld these two issues. Most Republicans tend to want to see a market model in our health care system where we try to have a market-competitive model. I think a good number of Democrats feel that will not work. They want the Government-regulated model, which Republicans do not feel will work very well.

Mr. Speaker, on those two very basic issues we have our disagreements. I am not sure if it is possible to meld them so we end up with some kind of bill, because they go in two very basic different directions. Mr. Speaker, it may be possible, but for instance, as a Member of Congress, I want universal care, but I want the market model. I am not going to give in to a strong Government-regulated model. I do not want to hurt what we have.

Mr. Speaker, my point, I guess, in making these comments is that there are going to be some very sincere differences between Republicans and Democrats. It is such a gigantic issue, and I hope that the Members in our Chamber who feel deeply about this issue are encouraging the bipartisan nature of it in finding a solution. It should not pass by 218 votes, with 217 going the other way. It cannot work that way. We cannot change our economy so significantly.

Mr. Speaker, I just believe that the bottom line to all this is that with good faith, we may come to where we can agree. Let us move forward on where we can agree, the areas that I mentioned, and then another day we are going to, in my judgment, have to sort out the market and Government-regulated model.

□ 1910

I just want to say, I am one Member on this side of the aisle and I think there are a number who believe in universal coverage but I think it has to be phased in, and I totally reject, however, bills that want to have universal coverage and expand programs. We cannot afford it. We simply cannot afford to have universal coverage and then tell the elderly that they are going to get prescription care, that they are going to get home care, that we are going to be able to afford that, and universal coverage for those who do not have any care directly.

My concern is that there are some bills moving forward that promise to do both, when every Member up here practically knows we cannot do both. We are going to have to pick and choose. I believe in expanded mental health coverage. I believe mental health has a lot to do with physical health. But I am not sure that we have the ability to help fund that right away if we also want universal coverage.

I also just want to make comment to the fact that today the Committee on House Administration moved forward with the Congressional Accountability Act of which there are 250 sponsors of this legislation, Republicans and Democrats, and bless their hearts, over 100 Members of our delegation of 113 freshmen members, Republican and Democrat, who have sponsored this bill. I want to thank the chairman and the ranking member, the Speaker and the leadership on my side and their willingness to work together to get Congress to come under the same laws that people in the private sector have to abide by and the executive branch. We are moving forward with this legislation. If the good will that existed in the Committee on House Administration can be seen in the Committee on Rules and on the floor of the House and ultimately on the Senate, I do not believe that the American people will long be able to say, "Well, why is it, Congressman, that I have to live by laws that you do not have to live by?" That day has to end. I think the best way is for it to end on a bipartisan basis. The fact is we have to abide by the laws everyone else lives by and also we just need to recognize that that is just a basic tenet of a democratic system where Congress cannot be above the law. It is also a fact that we will write better laws if we have to live and experience the laws that everyone else has to.

I am today very grateful to the leadership on both sides of the aisle and to the Committee on House Administration and directly to my colleague in this effort, the gentleman from New Hampshire [Mr. SWETT], and to the freshmen and the other members who have cosigned this bill and have wanted it to move forward.

Now I get into the main piece that I wanted to talk about today for the period of time that I have available, and I want to talk in terms of process and not personalities but to express a deep concern I have, that Congress needs to clean its own house, that we have got to restore our integrity, and if we are not willing to do it, who will?

The first allegations of wrongdoing in our post office were made over 3 years ago and they involved allegedly powerful Members of Congress. The first allegations were made at that time and there has not been any real action. The Committee on House Administration has evidently conducted an investigation and that has been used as an excuse not to move forward with the full body really looking into this issue.

There was an ongoing criminal investigation of particular Members of our body and people who worked here, and used as an excuse that there was a criminal investigation and that we should not focus in on any Member before this Chamber.

There is now an indictment and a pending court case. So the argument is that we should not get into this issue. Then there are arguments that say Congress should not be preoccupied by scandals and all this is a partisan bashing.

Mr. Speaker, I just have to express my deep concern that we have got to move forward. If we are not willing to move forward and tell the truth and not willing to clean our own house,

Congress will deserve to be criticized and despised by the people that we represent.

When allegations involving one of the most powerful men in Washington are made, no one seems to be eager to confront the issue and to insist we get to the bottom of the matter. I believe that we are setting a dangerous precedent and practice by refusing to investigate powerful leaders. We send the explicit message to our constituents and our colleagues that it is acceptable to break the law or not to play by the rules if the person accused of wrongdoing is powerful enough. We send a message that as lawmakers we can be intimidated if the person accused of wrongdoing is powerful enough. We send a message that as lawmakers we can be intimidated and also we send the message that Congress, the greatest deliberative body in the world, does not put a premium on setting and maintaining the standards of ethical behavior if the person accused of wrongdoing is powerful enough.

This is not the message in my judgment that Congress should be sending. If Congress does not investigate whether its own rules have been ignored, who will?

With that in mind, the gentleman from Wisconsin [Mr. KLUG] and I wrote a letter on June 22 to ask that we be allowed to meet with the House Ethics Committee to discuss an indictment against a Member of our House, the gentleman from Illinois [Mr. ROSTENKOWSKI], that was made public, and that letter was dated June 22 and never responded to by the House Ethics Committee. Because of the lack of response, I filed a formal complaint in a letter of June 30 outlining my concerns based on the indictment of the gentleman from Illinois [Mr. ROSTENKOWSKI]. I filed a formal complaint. I just want to register that this complaint, dated June 30, has not been responded to by the House Ethics Committee. The process that we have to deal with complaints like this must be addressed. It seemed to me that the gentleman from Wisconsin [Mr. KLUG] and I were deserving of a response to our letter to meet with the Ethics Committee, and it seems to me that clearly once a complaint has been filed, it has now been almost a month since I filed the complaint against the gentleman from Illinois [Mr. ROSTENKOWSKI], and to date I have heard nothing in regard to that complaint.

What I find particularly ironic is that the gentleman from Illinois [Mr. ROSTENKOWSKI] has made the point before the court that this is a matter of House rules and that we need to address this issue through the House Ethics Committee. In other words, his own lawyers in the court are making that argument.

One of the arguments that is being presented to not move forward on this issue is the fact that we would, in fact, interfere with a criminal investigation and now an ongoing court case. But I would like to make reference to the fact that as a member of the HUD investigation, the House Subcommittee on Employment, Housing and Aviation of the Committee on Government Operations, we conducted an investigation of HUD that lasted over a year. During the course of our investigation, we uncovered so much wrongdoing on the part, regretfully, of Republicans under Samuel Pierce's administration that we felt impelled to ask that an independent counsel be appointed. We asked that this independent counsel be appointed, and he has, Mr. Arlen Adams.

We did not stop our investigation. We continued to move forward. But we moved in concert with the independent counsel. The end result is that we passed major reform legislation, H.R. 1 of HUD, and we then let our work go forward with the prosecutor when we had concluded our investigation, passed our legislation for reform, passed our reports about the wrongdoing we had found and gave it to Mr. Arlen Adams, the independent counsel. He has subsequently had 14 convictions following trials or guilty pleas. And he has recovered more than $2 million of fines. The excuse that has been used to not move forward has been that we do not want to end up with what we ended up with in Iran-Contra. But there is a big difference. The big difference was that an individual was given immunity, Oliver North, and he used that immunity and expanded on his testimony. Then when he was prosecuted, the court said he had been given immunity.

Mr. Speaker, there is no reason to give immunity. And as Arlen Adams has said to me directly when I asked him, I said, "Did our committee help or hurt you?"

He said, "Of course your committee helped, so long as you did not give immunity." We were tempted to give immunity to one individual, and he asked us not to, and he told us why.

□ 1920

He said that individual, Deborah Gore Dean, needed to be prosecuted, so no immunity was given to her. We did not find out certain things we would have liked to, but we continued, and the fact is we have had a tremendous success.

I would end my comments by pointing out that today the gentleman from Wisconsin, Mr. SCOTT KLUG, and I have written to Mr. Bowsher who is basically the Comptroller General of the U.S. Government, asking the GAO to do an investigation of our office supply store to see if in fact the allegations that Mr. ROSTENKOWSKI has made that he is one of many who have done these things, to see one, if that is true, and then if in fact it is true to establish that the GAO make recommendations for any other wrongdoing that they may find involving any other Member.

The bottom line is that this should not be an excuse, that other Members have done something in the supply store. The bottom line is if other Members have done this, they too should be prosecuted. Bottom line, the Ethics Committee should follow through on the complaint that I offered, should give me the courtesy of a response and move forward. There is simply, absolutely no excuse for inaction in this way.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ENGEL). The Chair would remind the Members that remarks in debate may not include references to the official conduct of other Members unless pertinent to a Report of the Committee on Standards of Official Conduct or a question of the privileges of the House then under consideration in the House. The Chair would reiterate the caution issued by Speaker pro tempore FOLEY on June 15, 1988, that Members refrain from engaging in personalities in debate by referring to the official conduct of other Members.

WHITEWATER HEARINGS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DORNAN] is recognized for 40 minutes as the minority leader's designee.

Mr. DORNAN. Mr. Speaker, I am speaking to a group of 300 young American men and women over at George Washington University and I have to be there at 8 o'clock, so this 40 minutes is going to have to be about 22 minutes.

Mr. Speaker, I just left the Committee on Banking, Finance and Urban Affairs committee room, where they are conducting so-called hearings on Whitewater. You had to see the scene there to really believe it. It will be all over the evening news. I have never in my 16 years here seen more than a panel of six people at a witness table. Not on the Foreign Affairs Committee where I served for years, or the Committee on Science, Space and Technology, or the Armed Services Committee where I serve now, or in the Permanent Select Committee on Intelligence upstairs in closed session. Rarely, maybe four or five times a year, you will see six witnesses, and they are usually all focused on one subject. In the Armed Services Committee, and this was the policy in all of the years for the better part of a decade that I was on the Foreign Affairs Committee, we usually have panels of four people because this is the best you can handle

when you have 10, 20, or in the case of the Banking Committee, 30-some Members who want to speak or ask questions and are restricted to the 5-minute rule.

The White House must have been a lonely place today because here is who we had down at the Banking Committee. Mr. Bruce Lindsey, assistant to the President. Mr. George Stephanopoulos, senior policy adviser to the President. Harold Ickes, assistant to the President and Deputy Chief of Staff. Mark Gearan, assistant to the President for communications. John D. Podesta, assistant to the President and staff secretary. Clifton Sloan, associate counsel to the President. Neil Eggleston, associate counsel to the President. Margaret Ann Williams, Chief of Staff to the First Lady. Thomas McLarty, former Chief of Staff and charter friend of Bill. Lisa Caputo, press secretary to the First Lady. There were 10 people lined up to, I think, deliberately obfuscate the whole issue. I consider the gentleman from Texas [Mr. GONZALEZ] as a friend of mine, but this is such a transparent attempt to rig the hearings and prevent Republicans from asking hard questions and getting solid answers in return.

And while they are trying to make the hearings boring, they are not going to be boring because of the visual impact of 10 people who are all trying to be questioned only by the majority Members, the Democrats, who are just laying on the compliments. And here is the order of Members for questioning on the Republican side. LEACH who is just a general linebacker. Then MCCANDLESS, LAZIO and RIDGE will handle Mr. Sloan. MCCOLLUM and NUSSLE will handle Eggleston.

ROTH, BACHUS, and CASTLE will question Bruce Lindsey. ROUKEMA and THOMAS will handle Podesta. BEREUTER and GRAMS will handle Ickes. PRYCE, LINDER and KING will handle Margaret Williams. KNOLLENBERG alone gets Stephanopoulos. BAKER gets McLarty. SAM JOHNSON, a hero Air Force fighter pilot, gets Gearan all to himself. And HUFFINGTON, our candidate for the U.S. Senate against Senator DIANE FEINSTEIN, gets Caputo all to himself.

This Whitewater hearing is truly a circus, and I do not mean to drive the audience over to watch it on another channel, except maybe for a quick look. Let me just tell you that going by the news desk I picked up one of our good freshman Members, PETER KING's press release of the day. He is from the Third District, Nassau County. Here is what he says about yesterday's Whitewater hearing session, and you will learn more by this synopsis than you will by actually watching the hearing.

He says:

The first day of the House Banking Committee's Whitewater hearings exposed yet another pair of widely contradictory stories regarding improper White House contact with agencies conducting criminal investigations of the Whitewater-Madison Savings and Loan Affair. Going into today's session of the hearings,

that is this morning, King said:

the continuing emergence of conflicting stories from Clinton administration officials indicates that we are still a long way from the truth.

Ah, the truth, the truth. The truth shall set you free.

Well, we will see.

During his questioning of White House counsel Lloyd Cutler, King pointed out that on October 6, 1993, President Clinton met with Arkansas Governor Jim Guy Tucker,

sitting Governor Jim Guy Tucker:

who had earlier been named as the possible target of a Resolution Trust Corporation investigation of Whitewater-Madison. According to Cutler, the President was unaware that Governor Tucker was named in the criminal referral.

Do your homework, seven score and six year senior adviser.

King told Cutler that documents in the committee's possession showed that senior White House adviser Bruce Lindsey was brief in detail on the RTC criminal referrals on September 30, 1993. Furthermore, it is believed that Lindsey, while traveling to the West Coast with the President on October 4 or 5, 1993, briefed him on the criminal referrals.

KING says:

Someone is not telling the truth. Did Bruce Lindsey, a senior White House staffer and close personal friend of the President, fail to inform him of the criminal referral mentioning Tucker, or did he brief Clinton in full?

I wonder.

Either Mr. Lindsey and the White House counsel's office are guilty of very shoddy staff work or the President decided to go ahead and meet with Governor Tucker despite the appearance of White House interference with an ongoing criminal investigation.

Quoting again from PETE KING:

Mr. Cutler's limited inquiry simply failed to get to the facts. Under questioning during Tuesday's hearing, Cutler admitted that his findings on this meeting were based entirely on the uncorroborated testimony of longtime friend of Bill, Bruce Lindsey. The President was never asked about his wholly improper meeting with Jim Guy Tucker. Cutler fully accepted a secondhand version of events and gave testimony to the committee that would have been disallowed as a double hearsay in court.

Can you not just see it now?

"Objection, your honor, double hearsay."

"Sustained," as fast as the judge could bring down the gavel.

"What did the President know and when did he know it," KING asked.

Why are people close to the President and close to the First Lady not telling the truth? Who is telling them not to tell the truth? These are the questions we must answer in this preliminary round of Whitewater hearings.

You are not going to get to the truth, Mr. KING, or my fellow Americans, Mr. Speaker, with 10 witnesses sitting at the witness table. There is just no way you can go through and ask all of the necessary questions you need to with so many men and so little time, as they say.

HEALTH CARE

Mr. DORNAN. Mr. Speaker, I had intended to speak for 30 minutes today on health care because of something I was reminded of at the back of the church over here at St. Peter's. Yes, I am one of those practicing Catholics who on occasion makes what we used to call romantically a visit in the old days. I made a visit to St. Peter's which has a 12:10 Mass every day, and when voting allows, yes, I slip over to pray for my country. At church I picked up the Standard, which is the Catholic newspaper for this area, and I read a pretty good story. I wish I had brought it with me to put in the RECORD. It is a story on how the Catholic Church has decided to pull out all of the stops and enter the health care debate full score, full court press, all ecclesiastical guns blasting. It is good news for the President on the one hand and it is bad news for the President on the other.

□ 1930

The bad news for the President is that the Catholic Church is going to use its full good will and bona fides to stop taxpayer funding of abortion-on-demand in any health care bill.

The good news for the President is that the Catholic Church has a big-hearted concept of social justice, and they are as strong as Miss Hillary or Bill himself on universal coverage. In other words, if the President and Miss Hillary would dump abortion coverage across the board and not try and weasel around with little conscience clauses, then the Catholic Church, which is about a quarter of our country's population, would support them. Let me clarify the Catholic population because you have to take out all the Judas Iscariots and lousy, weak Catholics who have not been to church in 10 years, 5 years, or only go at Easter and Christmas. They follow the regimen of a lot of other Christian churches in America, who try to go 52 weeks a year and hit those holy days of obligation.

If abortion funding is taken out, the Catholic Church would tell their members to back up the President when he holds up that veto pen and says universal coverage or nothing. I have to say I disagree with the church on this, which is not often, if ever.

Now, before someone calls my office or writes in and says I am a Papist dog, a toady to the Catholic Church, or resurrects that photograph that showed Al Smith, Mr. Speaker, cutting the tape to the Holland Tunnel under the Hudson River and then sold it in the South, passed it off as Al Smith, Governor of New York, opening up the

trans-Atlantic underwater tunnel from the Vatican right to the Gracie Mansion there on the East River. Let me say what I think my obligation is as a stumbling but loyal, practicing Catholic to pay attention to my bishops or even to the lowliest of holy priests when it comes to issues before our country.

If all of the bishops say to me, "You are wrong, DORNAN, on Central America. You should support those wonderful Sandinistas. They mean well regardless of their 16 concentration camps. The Contras are off base. So was your friend, Ronald Reagan. Go with our policy on Central America." I would say, "I am sorry, bishops. This is a secular issue. I may have access to more information than you, particularly if I have access to intelligence briefings and, therefore, I must respect your counsel, but I can go the other direction." That applies to issues that are quasi in the social/moral field like capital punishment.

As in O.J. Simpson's case, for instance. If as the alleged killer, O.J. is found guilty and does not get the death penalty for such a brutal, vicious, double murder, then capital punishment is ridiculous in this country, and life imprisonment without parole will become, I think, the tougher of the two punishments. At least with capital punishment you can make your peace with God and get Pat O'Brien to take you to Old Sparky as opposed to living in a cage like an animal in Federal prison for the rest of your time on this planet.

But on capital punishment, a Catholic of good conscience, any Protestant of good conscience, any practicing Jewish member of that great faith, any Moslem of good conscience, they can go any way they want on the issue of capital punishment.

Abortion? Euthanasia? When my church speaks on those issues, I must listen. But, on health care, when it comes to universal coverage, I must disagree.

Here is why I cannot go for universal coverage at this point: When the administration says universal coverage, I do not know about the Catholic bishops, but when the Clintons say universal coverage, they mean mandates. The White House will point to polls showing Americans support universal coverage. I have seen those polls. I accept them as valid polling. Yet the only way to achieve Government-enforced universal coverage is through mandates, taxes, and limits on medical care.

When the public is told how the administration's plan would provide universal coverage, support not only collapses, it collapses quickly right in front of your eyes.

Why do we, and I use that editorial we to mean most Republicans, oppose universal coverage? Because, again, it means mandates. The only way to achieve it is through limits on care and also through taxation.

By insisting on universal coverage, the President is dooming health care reform this year.

If President Hillary Rodham Clinton, H.R.C., which to some of us means Her Royal Czarina, because we think she is not only the functional chief of staff in the White House, keeps chewing her husband out every time he comes back from a Governors' conference, as he did from Boston and says, "Get with the program, Bill, this is where we stand, universal coverage, not 95 percent, the whole enchilada," if they win, then Americans will have Government-set limits on health spending and care. It means less freedom of selection of doctors, particularly of specialists. It means price controls, which means fewer life-saving drugs will be developed, even though we lead the world in the area of research and development. It means mandates, which will lead to higher taxes, layoffs, lower wages, and as the King of Siam said, "et cetera, et cetera, et cetera." On the other hand, we Republicans and conservative Democrats support universal access to health insurance and some commonsense reforms that are widely supported and which will address the true problems in our system of health care.

And there are problems in our current system. We do not need to overhaul one-seventh of the entire national economy, which is 14 percent of our gross domestic product. We need to make some minor adjustments to what is already the best health care system in the world so that we can make health insurance more affordable and accessible to everyone while preserving the quality of medicine and freedom of selection.

Now, the Catholic Church's position on universal coverage is based solely on morality, which is not a bad way to base your position on most issues, but not necessarily on this one. This is a theme echoed by Hillary, reading Tikkun, and coming up with all of those vague Aristotelian theories about the quality of life and modern morality. It got her on the cover of Newsweek or Time with Bill Bennett, which is not too bad to have those two sharing it. Bill sharing it properly by his tremendous cut-and-paste job, the best I have ever seen in my life, of all of the great Aesop's Fables and Pinocchio and everything under the sun on morality and virtues.

I think every family should have a Bible on one nightstand, if they are from a Judeo-Christian heritage, and on the other, as least for the foreseeable future, Bill Bennett's "Book of Virtues."

Bill got on the cover of Newsweek or Time because of his "Book of Virtues." Hillary got there because of talking about the meaning of life. Sounds like a Monty Python film, "The Meaning of Life." So here is Hillary, with the Catholic bishops, as of this week, echoing this theme of morality. Most liberals are on board with that theme, too. Hillary, and others, argue universal coverage is also needed to contain costs. Without universal coverage, they say, those without insurance will still be showing up at emergency rooms across America and throwing themselves across the front doors of hospitals, and many of them severely need instant care; they will continue to pass those costs along to those with insurance, and the costs will continue to increase.

And that is amazing in that photo op a few days ago with Miss Hillary, the First Lady, holding this little child. He looked like he was 3, 4, 5, 6 years of age. She held him and then raised her voice and became very strident when talking about this, her pet issue. It was an amazing moment to see how she has committed her life to this concept of universal care.

It would have been fun to be a fly on the wall, or maybe an Arkansas trooper who still has access to a First Family, watching how Bill was received back from that night in Boston before the Governors when he talked about 95 percent. She must have read him the riot act. He's probably used to it, though.

We mainstream Republicans and conservative Democrats argue that by their own logic, morality is not a rationale, since under the liberals' proposed system, where using Bill's Governors' speech, only 95 percent are covered by insurance, everyone who needs medical care gets it. Of course, this is pretty much how the system works today.

□ 1940

If we need to pay for all these people, as Mrs. Clinton keeps saying, that show up at emergency rooms, then everybody is already getting coverage. That example proves their own point. It is who pays that is the issue.

And this is where all the support for the Clinton plan, even for Clinton-lite, the revised plan that Mr. MITCHELL in the Senate is honchoing, this is where it starts to fall apart, and they lose their support. The simple question is how are we going to pay for universal care? The issue of cost savings can be addressed by harnessing the power of the market; that is to say, the medical savings account.

At this point I am going to place in the RECORD and editorial from last month's Wall Street Journal called Consumer-First Health Care. These types of cost savings measures would not be allowed under the Clinton plan.

All in all, Mr. Speaker, and I say this returning respect to my Catholic bishops, their universal coverage is like a chameleon, like that cat in Alice-in-Wonderland, the more you look at it, it

just sort of disappears and you wonder if you are left with a good feeling and nothing else. It is as phony as a three-dollar bill.

So I will close, sticking with my 22-minute time limit here, and I will ask for permission in a second for putting this in the RECORD, it is a Wall Street Journal article today. It says:

Public, in Health-Care Poll, Disapproves of Performance of Clinton and Congress.

They are even angrier at the Congress than they are at the Clintons.

Listen to this:

As President Clinton heads to Harry Truman's Missouri home town this weekend in hopes of igniting a final burst of enthusiasm for health-care reform, he faces a public that is decidedly sour on the topic.

A majority of Americans disapprove of the job Mr. Clinton is doing on health care and an even bigger majority disapprove of Congress' performance, a new Wall Street Journal/NBC News poll indicates. 6 in 10 doubt that anything major will pass Congress this year. And 58 percent think that if something does pass, it actually will raise health costs, while 38 percent say quality will decline.

Put me in that category, Mr. Speaker, put me in that 58 percent majority. It does not ask whether or not we were going to lose freedom of selection for doctors or specialists or did not ask the question about rationing.

A little tiny article cites that Clinton's approval rating edges down. The article says:

Clinton's approval rating continues to edge down.

Americans' opinion of President Clinton's job performance continues to edge downward.

In a new Wall Street Journal/NBC News poll, 49 percent of those surveyed approved of the job Mr. Clinton is doing as President, down from 52 percent a month ago. Meanwhile, the share of those who say they disapprove of the President's job performance has risen to 44 percent from 39 percent.

That is the share of those who said they disapproved of the President's job performance has risen to 44 percent.

The toughest one still remains, handling of foreign policy. Thirty-four percent, that is 9 points below his election figure of 43, not a majority but a plurality, they say 34 percent approve of the president's performance while 54 percent disapprove. That is the highest disapproval for a President on foreign affairs in my lifetime—well, no it rivals L.B.J., in his last year and a half. Those marks are unchanged from a month ago. It can go lower, but I doubt that we will see it even lower than 34 across the board in all these categories.

On the economy, 45 percent approve of his performance. That is a 3-point drop from last month.

So this trip to Independence, MO, is going to be a biggie, and he will probably pick up all 10 of those people who are testifying over in the Banking Committee today, on Whitewater and load them on Air Force One with all the other prepubescent staffers running around there secretly carrying their own copy of the book "Agenda." At this point, Mr. Speaker, I will place in the RECORD that article from the Wall Street Journal today and two other articles, the excellent one on Health Care Assault on the Middle Class, by Peter Ferrara, and one by the Wall Street Journal a week ago, "Mandates Would Hurt the Middle Class."

With that, bingo, there goes my 22 minutes. I yield back the balance of my time, and I will head over to George Washington University.

[The material referred to follows:]

[From the Wall Street Journal]

CONSUMER-FIRST HEALTH CARE

The great medical care debate has reached the stage where all principles are out the window; the only goal is to cobble together some contraption that can garner 218 votes in the House and 51 in the Senate. It is perhaps time, intellectually at least, to step back and ask what the problem is to begin with.

Now President Clinton is going back and forth on "universal coverage," always a quizzical lodestone. In this society, we do not have any meaningful problem of people dying in the street for want of medical care; in that sense we already have something approaching "universal access" to care, whether or not through insurance "coverage." Even in terms of insurance, remember, we already have Medicare and Medicaid, so the uninsured are by definition neither elderly nor poor.

There are problems with portability and pre-existing conditions, as Martin Feldstein discusses nearby, but the big problem is exploding costs. These problems, in turn, relate to the historical accident that linked medical care and employment; health insurance benefits proliferated when wage increases were limited by World War II price controls. The result was that employees pay for health care with what seems to be Other People's Money, a sure-fire recipe for exploding spending and higher prices.

In recent years this trend has been intensified by government programs such as Medicare and Medicaid. Today, 80 percent of medical expenses are paid by somebody other than the patients themselves. The graph nearby shows how out-of-pocket expenditures have declined from some 60 percent of the total health bill in 1960 to 20% today, while government's share has doubled to 46%. This problem is not likely to be solved by yet bigger government programs. The way to control costs and make insurance affordable for more people is to reverse the trend, making patients part of the solution. The trick to a more competitive, economical system is to figure out ways to let patients be both the consumer and the purchaser of more medical services.

As it happens, experiments are under way. At least three companies—Golden Rule Insurance Co., Forbes Inc. and Dominion Resources Inc.—have implemented the Medical Savings Account plan developed by the National Center for Policy Analysis of Dallas. They're showing how market-oriented reforms can hold down costs and still preserve the freedom of choice and innovation for which America's health care is renowned; versions of these plans are included in the House Ways and means Committee bill and Senator Bob Dole's proposal.

Golden Rule, in Indianapolis, specializes in individual medical care coverage. Pat Rooney, its chairman, reasoned that if employees paid directly for a portion of their own care they would get the same level of treatment but would wind up spending less after comparison shopping caught on. He envisioned a plan giving a typical employee the option of sticking with his or her existing coverage or choosing a deductible of, say, $3,000 a year and putting the premium savings into a "medical savings account," which would be drawn down as medical expenses were incurred.

The remaining part of the employee's health contribution would allow the company to buy a catastrophic health care policy to cover all of the employee's medical bills over, say, $3,000 a year. All of an employee's health concerns would be covered, but the employee would have an incentive to comparison shop. Anything left in his $3,000 annual medical savings account would be his to keep tax-free, so long as it was used for insurance premiums between jobs or long-term care.

With these ideas implemented, Golden Rule's 1,300 employees can choose traditional $500-a year-deductible plan or one with a $3,000 family deductible. If they choose the latter, Golden Rule deposits $2,000 into a medical savings account. The first $2,000 of medical bills are paid out of the account, the next $1,000 is out-of-pocket and everything above $3,000 a year is paid by Golden Rule. In 1993, 81 percent of Golden Rule's employees chose the savings account option, and this year the number rose to 90 percent.

The reason is that since 85 percent of Americans spend less than $3,000 a year on medical care, and 73 percent have less than $500 a year in claims, Golden Rule allows employees to keep any balance left in their medical savings account. Today, the total medical bill for Golden Rule employees is about 60 percent of what it used to be under a conventional insurance program.

That's because many Golden Rule employees made dramatic changes in their health-care purchases. Melanie Woodcock reports that a local hospital offered to perform surgery on her for $6,046 after she offered to pay up front in cash. Otherwise, the total bill would have been $9,843. Deanna Irick says she would rarely go to the doctor when sick because she didn't want to pay the $250 deductible. Last year, she used her medical savings account for six-month checkups and treatment for a throat infection, visits she "normally would have skipped." She was able to spend the company's money, which had been put into her savings account, rather than her own. One out of five Golden Rule employees report they used their savings accounts for a medical service they would not have used under their old plan.

Forbes magazine in New York gives employees a $1,200 annual account in addition to their normal insurance. Every time they file $1 in medical claims they lose $2 from the account. Employees get to keep what's left in their account at the end of the year. The paperwork on routine claims has gone down dramatically and the company's health costs fell 17 percent in 1992 and 12 percent last year.

Dominion Resources, a Virginia utility holding company, deposits $1,620 a year into a bank account for the 80 percent of its employees who choose a $3,000 deductible plan rather than a lower deductible. Since 1989, Dominion's health care costs have risen less than 1 percent a year. The average number of claims filed per employee has declined by nearly half, and paperwork costs have been cut dramatically. All three companies use wellness programs to encourage employees

not to skimp on spending for physicals and other preventive medical techniques.

Support for medical savings accounts is growing. Six states—Arizona, Colorado, Idaho, Mississippi, Missouri and Michigan—have changed their tax laws to accommodate medical savings accounts. The United Mine Workers union has signed a new five-year contract with a health plan that includes a $1,000 bonus that workers can use to pay for their medical plan's $1,000 annual deductible. Mine workers still have first-dollar coverage, but the first $1,000 they now spend will be their own money rather than their company's.

Many companies currently offer flexible health spending accounts, but under current tax law the money reverts to the employer if it isn't spent at year's end because it would then be taxable income to the employee and not deductible to the employer. There is broad bipartisan support for changing the tax law to level the playing field and give medical savings accounts the same tax advantages as group insurance. Even the bill that passed Senator Kennedy's Labor Committee included a provision urging the adoption of medical savings accounts. Rep. Andy Jacobs of Indiana, the Democrat who won Ways and Means approval of medical savings accounts, says they "could be the most effective medical cost containment measure ever passed by Congress."

Most of the health bills now before Congress remind us of Henry Ford's philosophy behind the Model-T car; "You can have any color you want as long as it's black." Health care reform that includes medical savings accounts would represent real consumer sovereignty: patient self-interest would be harnessed to keep costs down, and workers would build up their own tax-free health care funds for when they were between jobs. Health care security would be enhanced, but not at the cost of quality or freedom of choice. In its current mood, however, Congress may very well not advance health care innovation, but smother it in desperate haste.

[From the Wall Street Journal, July 28, 1994]

PUBLIC, IN HEALTH-CARE POLL, DISAPPROVES OF PERFORMANCE OF CLINTON AND CONGRESS

(By Gerald F. Seib and David Rogers)

WASHINGTON.—As President Clinton heads to Harry Truman's Missouri hometown this weekend in hopes of igniting a final burst of enthusiasm for health-care reform, he faces a public that is decidedly sour on the topic.

A majority of Americans disapprove of the job Mr. Clinton is doing on health care, and an even bigger majority disapprove of Congress' performance, a new Wall Street Journal/NBC News poll indicates. Six in 10 doubt that anything "major" will pass Congress this year. And 58 percent think that if something does pass, it actually will raise health costs, while 38 percent say quality will decline.

HOLLOW VICTORY FOR GOP

But all of that is a hollow victory for Republicans. For whatever problems Mr. Clinton faces, the survey shows that he still has support on a couple of key points, and that the public is judging Republicans at least as harshly.

Two-thirds of those surveyed said they agree with Mr. Clinton that a bill should be vetoed if it doesn't guarantee universal coverage. Backing for the president's approach of requiring employers to pay for health insurance for their workers is softening, but still draws majority support, by a 37 percent to 21 percent margin, people tend to trust Democrats more than Republicans on health care right now, while a majority say Republicans are mostly trying to gain political advantage out of the issue.

"Hollow victories are better than hollow defeats," concludes House Republican Whip Newt Gingrich. But he also acknowledges: "We have only marginally succeeded in explaining what we are for."

Overall, the poll, conducted by Democrat Peter Hart and Republican Robert Teeter, indicates that Americans haven't changed their support for the basic elements of universal coverage and a standard comprehensive benefits package for everyone. But the survey also shows that the president faces a challenge in stirring public enthusiasm: Health-Care reform ranks behind both the economy and crime in the public's current list of top government priorities.

LAWMAKERS BEHOLDEN TO BUSINESS

Above all, the poll suggests that nobody—Democrat or Republican—is getting much political mileage out of health care. Indeed, while just 40 percent of Americans say they approve of the job that Mr. Clinton is doing on health care, a mere 26 percent say they approve of the job Congress is doing.

For lawmakers, there seems to be a gap between public sentiment and their own ability to act. One reason is that the health issue, more than any issue of recent years, is at once both highly personal and complex.

But there's another, internal factor. The current debate has dramatized how lawmakers have become increasingly beholden to business interests that oppose major features of the president's agenda.

Labor, the administration's ally on health reform, is no match any longer for business political action committees, which pump tens of millions of dollars into House and Senate campaigns every two years. In the late 1970s, Democrats relied more on labor PACs than the combined contributions of business PACs. Today, even House Democrats, more liberal than their Senate counterparts, get significantly more from business.

Among Southern Democrats, whose region has the highest rate of uninsured workers, there is little affinity with labor. And if it seems twice as hard to pass an employer mandate in the Senate than in the House, it may be related to the fact that the ratio of business to labor contribution is twice as high in the Senate.

Republicans are most indebted to business, and if anything, the health debate has reinforced this alignment. In fact, some Republican strategists are disappointed that the debate has so focused on business views rather than broader philosophical arguments.

The intense business opposition helps explain why support for an employer mandate has eroded even more quickly in Congress than in the public. In the new survey, 38 percent said they think a requirement that employers pay at least 80 percent of their employees' health coverage must be in a health bill, while another 16 percent said they favor such a mandate but would be willing to give it up to see some legislation passed. But 40 percent said they oppose such a requirement, up from 29 percent last December.

House Majority Leader Richard Gephardt concedes he has only "a shot" at passing a Democratic-backed plan containing such a requirement that employers pay as much as 80 percent of workers' insurance. His counterpart, Senate Majority Leader George Mitchell, is suggesting a smaller 50 percent employer mandate, which would only take effect after the turn of the century and then only if voluntary measures have failed to achieve 95 percent coverage.

In fact, much of the debate now turns on what will happen if the mandate provisions are dropped. Mr. Mitchell, who vowed yesterday to keep the Senate in session six days a week into the August recess if needed, appears to be crafting his bill with this in mind, as he experiments with subsidy schemes aimed at targeted populations, such as uninsured children or workers between jobs. Part of this effort is aimed at boosting participation rates and trying to get closer to the 95 percent goal. But if employer mandates are rejected, it also sets up a framework for a scaled-back bill that would give up any pretense of universal coverage and instead focus on specific problems where Democrats could show progress going into the fall elections.

[From the Wall St. Journal, July 28, 1994]

CLINTON'S APPROVAL RATING CONTINUES TO EDGE DOWN

WASHINGTON.—Americans' opinion of President Clinton's job performance continues to edge downward.

In a new Wall Street Journal/NBC News poll, 49 percent of those surveyed approved of the job Mr. Clinton is doing as president, down from 52 percent a month ago. Meanwhile, the share of those who say they disapprove of the president's job performance has risen to 44 percent from 39 percent.

Mr. Clinton also continues to get particularly low marks on his handling of foreign policy, where just 34 percent say they approve of his performance while 54 percent disapprove. Those marks are unchanged from a month ago. On the economy, 45 percent approve of his performance, down from 48 percent last month.

[From the Wall Street Journal, July 28, 1994]

HEALTH CARE ASSAULT ON THE MIDDLE CLASS

(By Peter Ferrara)

President Clinton and congressional Democrats are now arguing that their proposals for government-run health care should be passed because only their approach will help the middle class. This is one of the gutsiest moves in political history, because Mr. Clinton and friends are now selling as the great virtue of their health care reforms the exact opposite of what those reforms will do. Mr. Clinton's proposal, and its close cousins passed out of liberal controlled committees in Congress, should be rejected precisely because they would ruin health care for the middle class and the elderly in America, in the following ways.

Health Care Rationing: The Clinton plan, and similar proposals out of congressional committees, are based on massive government health care rationing. The key component of that rationing is a system of global budget and price controls. That system would centrally include sharp and arbitrary limits on private health plan premiums.

As a result, the system would sharply and arbitrarily limit the amount that private health plans all across America could spend on health care for the middle class. One recent study concluded that to meet the Clinton spending limits, health care spending by 2005 would have to be reduced by 18 percent from current trends. Another study suggests that such spending would have to be slashed by 24 percent by the year 2000.

With such sharply reduced resources, doctors and hospitals would not be able to maintain the same high quality care as today.

They would have to cut back on the services and care they provide. They would no longer be able to rapidly acquire and offer the latest innovations, newest technologies and most cutting-edge break-throughs, as they do today. They would no longer be able to provide the latest, most advanced, most sophisticated care for the most critically ill. Patients would be subject to delays and long waiting lines to receive tests, surgery and other health care, as the system would no longer have the resources to maintain prompt and ready care.

The middle class and the elderly in America today have far more access to more advanced sophisticated care than anywhere else in the world, but this will be lost under the Clinton plan and related proposals because of the rationing they would impose. These proposals are effectively designed to redistribute health care away from the middle class and the elderly, to give more to the uninsured and favored special interests.

Lost Freedom of Choice: Under the Clinton plan and related proposals, the middle class would have to buy the health insurance coverage chosen by the government, rather than the coverage they may prefer. Consequently, each family would be forced to pay for many benefits that may not be suited to them and that they do not want. These may include unlimited abortion on demand, drug and alcohol rehabilitation, broad mental health benefits, low deductibles, and many routine health services that may be cheaper to pay for directly rather than through insurance.

Higer costs: The Clinton bill and related proposals would force many, probably most, in the middle class to pay more for their health coverage and care, due to several factors. As discussed above, people would be forced to pay for expensive coverage they do not want, and do not pay for today. Mandated drug and alcohol rehab benefits at the state level have been found to raise premium costs by 8 percent. State mandated mental health benefits raise costs by 10 percent. Over time, special interests would only add more and more required, expensive benefits.

In addition, all insurers would be forced to adopt community rating, which requires everyone to pay the same premiums regardless of expected health costs. This would require younger and healthier workers to pay substantially more than today. Under such community rating, premiums for those aged 25-29 would be 50 percent higher than otherwise, and those aged 26-34 would together pay $26 billion more per year.

The proposals also provide sweeping, extensive, new subsidies for the poor, lower income workers, and small businesses to pay for the lavish, required health care coverage. These subsidies would be paid for by the middle class.

The proposal would extend third party insurance coverage to more people and more benefits, adding to the incentives at the root of our health care cost explosion. With a third party insurer paying the bills, consumers don't seek to avoid unnecessary costs, and doctors and hospitals don't compete to reduce costs.

Finally, the proposals would also increase taxes on the middle class. The Committee bills impose new taxes on health insurance premiums that will be paid by the middle class. With Mr. Clinton's support, they also abolish flexible spending accounts that allow workers a tax deduction for health expenses not covered by an employer's health plan.

How to Help the Middle Class: In contrast, the proposal offered by Senate Minority Leader Bob Dole would solve the problems troubling the middle class, without all the middle class carnage described above.

The Dole proposal requires guaranteed renewability for all insurance policies. That means insurers cannot cancel policies after the insured becomes sick, or charge them discriminatory higher rates. Mr. Dole also provides for portability, enabling workers to take their guaranteed renewable insurance with them from job to job.

Mr. Dole allows individuals to deduct the cost of insurance they purchase directly, providing them the same tax advantage enjoyed by workers with employer provided insurance. And allows workers medical savings accounts, which would give workers direct control over health care funds, with back-up catastrophic insurance. Workers would then benefit directly from the resulting incentive and competition to control costs.

Mr. Dole shows that the problems of concern to the middle class can be solved without a government takeover of the entire health care system that would destroy the quality of health care for the middle class, and their freedom and control over such care, as the proposals by Mr. Clinton and congressional Democrats would do.

[From the Wall Street Journal, July 21, 1994]

MANDATES WOULD HURT THE MIDDLE CLASS

(By Martin Feldstein)

President Clinton's campaign to rescue his health care plan emphasizes that his proposed health insurance mandates would be good for the middle class. Although the president repeats this claim in every speech, nothing could be further from the truth. Mr. Clinton said this week that there might be room for compromise on mandates, but if Congress enacts anything like the Clinton health plan, the American middle class would be the big losers.

The Clinton health program would hurt the vast middle class in order to provide insurance to a relatively small number of currently uninsured low-income people and to transfer income to many more low-income people who are already insured. The program would be wasteful and inefficient, a "negative sum game" in which the middle class would lose far more than the poor gain. It can be understood only as a technique for achieving a redistribution of income that could not be enacted in a more straightforward way.

PRIMARY CONCERN

If President Clinton really wanted to help the middle class, he would focus on the health insurance issue that he knows is its primary concern: the ability to maintain existing insurance coverage after a job change or the loss of an employed spouse. Relatively simple legislation could require insurance companies not to cancel existing policies and not to exclude pre-existing conditions when an individual transfers to a new group. Companies that sell insurance could also be required to offer periodic enrollment opportunities for any one who wishes to purchase insurance, with premiums limited by using assigned risk pools to deal with high-risk individuals or groups.

But instead of reforming the existing insurance to deal with the legitimate concerns of the middle class, the president and Mrs. Clinton have pursued the goal of building a massive government-managed system for redistributing health care and income.

The middle class could hardly be the big winners from mandating universal coverage, as President Clinton claims, since more than two-thirds of the uninsured are in families with below average income. Moreover, the relatively small number of currently uninsured middle-class families who would become insured under the Clinton plan would have to pay for that insurance by a decline in their wages.

Virtually all economists agree that most firms that are required to provide health insurance must offset the higher cost of fringe benefits by paying lower wages or laying off workers. The Congressional Budget Office has stated this clearly in its analyses of health insurance options. Even the administration has recognized this in its congressional testimony.

A currently uninsured individual who now earns $40,000 would suffer a wage decline of more than $2,500 because of the Clinton employer mandate. A two-earner couple with $40,000 of combined earnings would experience twice as large a wage decline. These wage cuts might not be immediate, but within a few years wages would inevitably be depressed below what they would otherwise have been. If wages could not fall that much, jobs would be lost as firms respond to the higher overall cost of labor by moving production offshore, subcontracting, and substituting equipment for employees.

Some firms would be able to avoid reducing wages by the full amount of the managed insurance costs because they have the market power to pass along some of the higher employment costs though price increases. When that happens, middle-class consumers as a whole would pay for the expanded insurance.

The currently insured middle class would also be hit in other ways. The Clinton plan would require middle-income families to pay substantial premiums out of their own pockets. For the typical married couple, the required out-of-pocket premium would be $872 a year. The administration has acknowledged that more than 40 percent of Americans could face higher out-of-pocket premiums under the Clinton plan than they do today.

Although the middle class has to pay for its health insurance through reduced wages, the Clinton plan would subsidize the premiums of low-wage firms. These subsidies would translate into higher incomes for millions of lower wage employees who are now insured. The cost of providing these subsidies would be borne by the middle class in the form of extra premium payments and an explicit increase in taxes.

The administration has claimed that it can finance the subsidies to low-income employees with a tax on cigarettes (another hit to the middle class). In reality, the Clinton plan would face a much larger financing gap of about $120 billion a year before the end of the decade. This gap could be financed only by substantially higher taxes on the middle class. Official estimates might understate the financing cost in order to make it easier for Congress to enact the legislation. But once the benefits are enacted, the middleclass taxpayers will have to pay for them.

Little is heard these days of the administration's early claim that, by controlling the cost of care, it could avoid such a financing gap. No one really believed that the administration could achieve cost reductions of the magnitude that it projected. Moreover, middle-class voters were rightly worried that controls on health-care costs would restrict their choice of doctors and hospitals and would force reductions in the quality and quantity of care that they received.

But although such tough cost controls are not part of the president's current sales

pitch for his health plan, they would play an important role if the Clinton plan were enacted. Only by controlling middleclass spending on health care can doctors and other health providers be redirected to meet the increased demand from lower-income individuals that would result from expanding their health insurance. And limiting the future growth of government health spending is crucial to the president's goal of containing the budget deficit while increasing welfare payments and expanding other government social programs.

VERY BAD DEAL

So the middle class would not only face lower wages, higher premiums, and a substantial tax increase but would also see a decline in the quantity and quality of middleclass health care. In short, the Clinton health plan would be a very bad deal for the middle class.

If the president is the expert on domestic policies that he claims to be, why doesn't he understand all this? And if he does understand it, why doesn't he level with the middle class and admit that it is being asked to pay more and accept less health care in order to redistribute income and health care to lower-income groups?

UNIVERSAL ACCESS AND UNIVERSAL COVERAGE

The SPEAKER pro tempore (Mr. ENGEL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Oregon [Ms. FURSE] is recognized for 60 minutes as the designee of the majority leader.

Ms. FURSE. Mr. Speaker, I took out this special order tonight to return to the health care debate and to return it back to the American people. There really is only one special interest in this debate, and that should be the health of Americans. But unfortunately, a lot of other special interests have gotten involved.

Special interests are spending millions of dollars to try to move the debate away from what I believe is the fundamental question, and that is what health care system can we design that meets the needs of the American people? Not what special interests can we keep in play, but how can we develop a health care system that actually meets our needs?

Lately, seemingly everyone has a financial stake, in the billions, and their money is being used to sway the debate. Here in Congress, as we work on health care reform, our eyes must be on the needs of families and children. Unless we keep our eyes on this goal, we will lose an opportunity to establish for all Americans what they need, and that is a system that works, that makes sense, one that provides universal coverage so we end cost-shifting.

I would like to say that universal access, which my colleagues spoke about, everyone, I believe, has access to every BMW dealer in the country but they do not have the opportunity to have the money to buy the car that they have access to.

What we need is a health care system that says you have access and you have the opportunity to use it.

So, universal coverage is very different from universal access.

What I would like to do in this special order with other colleagues of mine is let everyone in this House know and let everyone in the country know that we really are willing and ready and able to vote for real health care reform.

Now, I thought about how could we say what is real health care reform? We have heard so many 30-second spots, heard people taking out, hiring actors to tell us what is or is not health care reform.

So I thought, instead of looking at those emotional 30-second sound bites, I would look at some statistics because I am a believer that in fact statistics can give us a good idea.

So I thought it might be useful to look at statistics of other nations on health care and really what I want to say on health is there are certain statistics that everyone agrees show the health picture of a country. One of them is infant mortality and the other is longevity of women and men in a culture, in a country.

I thought I would look and compare with our northern neighbor because that country, Canada, is very similar to us in a lot of our history and our geography—except that Canada has universal coverage and we do not.

So I thought I would look at how much do we spend per capita and how much does Canada spend per capita on health care?

In the United States we spend $2,867 per capita. Canada spends $1,915. So quite a lot less that Canada spends.

Now, you would imagine that if you spent less, you were going to get worse health statistics. In fact, that is not what I found. What I found was that in Canada the life expectancy of men is 74 years and in the United States it is 71 years.

So you live longer in Canada than you do here.

Women is even more so: 80 years in Canada and 78.9 years in the United States, that women live.

□ 1950

So then I thought, well, I would look at the statistics around infant mortality because one of the things we know is that, if our children survive their first year, that is a sign that our health care is good, we have given good infant care, we have given prenatal care. So, I looked at, remembering that we spent much more in this country per capita, I looked at this comparison. In Canada the infant mortality rate is 6.28. That is 6.28 per 1,000 live births. In the United States it is 9.22. Far worse, 9.22 children in the United States die in that first year per 1,000 births compared to 6.28 in Canada.

What was the difference? The difference was that Canadians have universal access to health care. So, certainly I believe that, if we were spending as much as we are now, we should have better statistics, and I think that that is part of the facts, rather than the special interests, that I would like to have us talk about tonight.

I would like to yield time to my colleague, the gentlewoman from California [Ms. WOOLSEY] to talk about some of the issues that she has investigated and found out about this health care versus special interests.

Ms. WOOLSEY. Mr. Speaker, I am glad to have the opportunity to speak about my special interests, and my special interest is the people of the Sixth District of California, Marin and Sonoma Counties. These are the people that hired me to come to Washington to work for them, and these are the people that I know want health care reform and want a health care reform plan in this Nation.

Mr. Speaker, health care reform is of the utmost importance to the people I represent in Marin and Sonoma Counties. So, Mr. Speaker, I have been holding town meetings on health care all across my district, and hundreds of people have attended. I have also received thousands of letters and phone calls about health care reform from the people who are my special interests, the people I work for in the Sixth Congressional District.

The residents of Sonoma and Marin have made it clear to me that they want guaranteed health care that can never be taken away. They want a health care reform plan that covers all Americans, regardless of employment, income, or marital status. They want a comprehensive benefit package, including a full range of reproductive benefits. Another thing that is very important to people in Sonoma and Marin Counties is the right to choose their health care providers, including alternative providers. Finally, they know that any health care reform plan must be affordable, and must be accountable to the public.

Of all of the health care reform proposals currently under consideration, only one accomplishes all of these goals. And that is H.R. 1200, the American Health Security Act—the single-payer plan. I am a cosponsor with my colleague, the gentlewoman from Oregon [Ms. FURSE] of the single payer plan because it will give the people in Marin and Sonoma everything they want in health care systems, and it saves money as well. The Congressional Budget Office has determined that a national single payer plan would reduce spending on health care by $114 billion annually by the year 2004. Mr. Speaker, no other proposal compares.

I am proud that more than 1 million Californians have signed a petition to put single payer as an initiative on the

ballot in California in November. If Congress does not pass a national single payer health plan this year, it is crucial that the final plan that Congress approves gives States the option to establish a single payer system. That way voters, such as my constituents in California, can vote to have a single payer plan in their State.

Mr. Speaker, to ensure that the single payer plan can be successful, if it is voted in at a State level, the final health care plan must protect States that choose a single-payer system by forbidding businesses, regardless of their size or State boundaries, to opt out of the single-payer plan. Many American companies currently have locations in Canada, and are successfully providing their Canadian employees with health insurance under a single-payer system. American multistate employers must do the same within the United States.

Mr. Speaker, the people of Sonoma and Marin want me to fight for the best possible health care system. Their hopes are high, and I do not want to disappoint them. I will continue to fight for health care reform that provides coverage to all Americans that can never be taken away while at the same time ensuring that States can choose to opt into a single-payer system without penalty.

Ms. FURSE. Mr. Speaker, I began by talking about statistics, and statistics are useful, they are necessary for us, but they are dry, and what I think is important about our discussion on health care reform is that every single one of us knows somebody who has a problem in this health care system. That is the reason why my constituents all are decided that we do need change, we do need a new health care system.

I would like to talk about a personal story. Many, many people in America are familiar with the issue of diabetes. Diabetes is a very serious health problem in our country. It affects 14 million people. One of those 14 million is my own very beloved daughter.

Now anyone who has diabetes or knows someone who has diabetes is aware that it is very difficult to get an insurance company who will cover them. The problem is that they say, well, diabetes is a preexisting condition. Well, that is true, it is a preexisting condition. It is something that a person with diabetes cannot change. One cannot change it like they change the color of their hair, and, like my beloved daughter, they have to take good care of themselves, and she does. She takes tremendous care of herself, and what that means is she prevents much more serious disease, but if she cannot get health insurance, and there are many millions of diabetics who cannot, she cannot have that kind of health care that is ongoing, that prevents serious, serious injury.

Now there is another person I would like to talk about. She is a constituent of mine. She is a new mother, and she has this beautiful 8-month-old baby, and her husband is starting a new restaurant in Oregon, and he is working 15 hours a day. My colleagues know what it is like to start a new business, and they have very increasing costs at home, and so my constituent has decided that she has only one choice, and that is she has taken health care coverage, catastrophic health care coverage, for her baby and her baby alone. Neither she nor her husband can afford health care insurance. They have taken it on this precious child of theirs.

Mr. Speaker, when my colleagues think about that child's health, they know that that child needs healthy parents to take care of that child if he should need them. Now, nobody, nobody, should be forced to choose between their child's health and their own. As parents, Mr. Speaker, we always choose our children first; of course we do. But what a terrible choice that is, and, as my colleagues know, it is a terrible choice economically.

I hear people say, "We can't afford health care coverage." Well, I would say to the gentleman who says we cannot afford it that we cannot afford not to have it, because when we provide universal coverage, it means that we do not have this terrible cost shifting, we do not have people going to emergency rooms for health care.

We pay for it. Those of us who are fortunate enough to have insurance, we are paying doubly because we are paying very high costs. But we are also paying for very bad health care.

Now I looked at the district that I represent, that I am so proud to represent. There are 11,000 uninsured children in my district.

□ 2000

Well, the State of Oregon decided to do something about that, and I am very proud of that. The State of Oregon, one of the very few States that decided to completely change and revise its health care system. We went on this unique journey, Mr. Speaker. We crafted a plan. What we did was have meetings with thousands of Oregonians who talked about their needs. We involved physicians, licensed providers, administrators, consumers, everybody. And, you know, that work has paid off. Last year, Secretary Shalala granted Oregon a waiver to move ahead with the Oregon plan. It is an inclusive plan, it is a plan that the people support, and it is proactive. And when Donna Shalala came to Oregon this year, she said Oregonians are the most health literate in the world, because she said we have dealt with this issue. We have put together a health care plan that cannot be taken away.

So I believe, Mr. Speaker, that I have something to say about this issue. I believe that we can do it, we can provide that universal coverage, we can provide it, and we can tell the special interests that there is only one interest, and that is the American people.

I want to say one thing about my Republican colleagues: That never, in the 2 years I have been here, have they produced a health care plan that has universal coverage. Even though the people have said that is what they want, not one House Republican, has authored, sponsored, or cosponsored a plan with universal coverage. It baffles me that they would do nothing to provide guaranteed health coverage for all Americans. It is the thing America looks for, it is the thing that the rest of the world in most industrial nations have, universal coverage. As my colleague' said, the fact that it can never be taken away from you, that it is comprehensive, and that you do not fear losing a job and losing your health insurance.

I think in the next 2 weeks, Mr. Speaker, we will see the dialog. The dialog will be of Americans, not of special interests. We will have a health care plan that meets our needs.

Mr. STARK. Mr. Speaker, the latest interest group to use their billion dollar budgets to defeat health reform is the American Hospital Association.

With their ads—and their direct attempts at frightening senior citizens—the AHA is willing to risk defeating the President's goals of universal coverage and health care cost containment in the hope of filling their bedpans with billions more.

The American Hospital Association's ads distort the Ways and Means health reform plan and are intended only to scare the American people. Despite all their claims, the truth is, if health reform is enacted, all Americans—including seniors, including hospitals, including workers—will be better off.

The target of the AHA has been the Medicare program, and our attempts to bring costs under control.

REDUCING THE GROWTH IN MEDICARE IS NOT UNREASONABLE

Without reform, Medicare spending is projected to grow from $206 billion in 1996 to $307 billion by the Year 2000—a 10.5-percent average annual increase compared with 3-percent growth in general inflation. Even after adopting the Medicare growth reductions included in the Ways and Means bill, Medicare would increase during this same period from $202 billion to $271 billion—still a 7.6-percent increase each year. Further, AHA's claim that these reductions would leave Medicare paying only two-thirds the cost of treating Medicare patients assumes that hospitals do nothing to control their costs.

HOSPITALS ARE IGNORING REVENUE GAINS UNDER THE BILL THAT WOULD OFFSET MEDICARE GROWTH REDUCTIONS

Hospitals will see significant new revenues under the Ways and Means bill. Hospitals loses from providing free care to the uninsured—about $14 billion a year—would be nearly eliminated, and $2.5 billion a year in new revenue would be provided to academic

health centers. Another $1 billion a year in capital financing assistance would be provided to hospitals in need of renovation. Combined—under the Ways and Means bill, these changes mean $12.5 billion more in revenue for hospitals.

HOSPITALS CAN ABSORB SLOWER RATES OF GROWTH WITHOUT HARMING PATIENT CARE

Despite the fact that almost 40 percent of hospital beds are empty, profit margins in the industry are at higher levels now than they have been over much of the last two decades. According to the AHA's own data, hospital profit margins were 5.5 percent in 1993, compared to less than 4 percent in the early 1980's, and less than 3 percent in the 1970's. With these kinds of profits, hospitals can, and should slow their cost increases—without harming patients in any way.

THE MEDICARE PROGRAM WILL BE STRENGTHENED UNDER THE BILL

In addition to ensuring the long-term viability of the program and reducing the need for future premium increases, the Ways and Means bill will improve the benefits available to every Medicare beneficiary. A new prescription drug benefit, improved coverage of mammography screenings, a cap on beneficiary out-of-pocket costs, and enhanced assistance to low-income beneficiaries will all be added.

It is important that our debate and decisions be based on accurate information, and a good understanding of the reform plans before us. Ads like the AHA's only skew the facts and further complicate an already complicated process.

HOSPITALS HAVE BEEN SUCCESSFUL AT THIS BEFORE

Finally, sometimes it is helpful to have been around here awhile. The last time we took up the issue of health reform, it is useful to remember that the AHA was instrumental in its defeat.

They had a different tactic at that time, but they were working for the same result.

In 1979, the AHA, by saying that they could do it themselves, was successful in defeating legislation that would have guaranteed to the American public that health care costs would be brought under control.

Today, in 1994, we in Congress are just proposing to do what the hospitals themselves offered to do in 1979—namely, slow the rate of growth in hospitals costs to a more reasonable level. It was Paul W. Earle, Executive Director of the AHA-sponsored "Voluntary Cost Containment Effort" who testified before a Congressional committee and made that promise to all of America.

Achieving health reform in 1994 requires that we in Congress discard the double talk and put a plan that works before the American people.

DO NO HARM IN HEALTH CARE

The SPEAKER pro tempore (Mr. ENGEL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the Chair recognizes the gentleman from Georgia [Mr. GINGRICH] for 60 minutes as the designee of the minority leader.

Mr. GINGRICH. I thank the Chair for recognizing me. The title of my talk tonight is "Do no harm in health care."

You know, the first rule of the Hippocratic Oath for doctors for over 2,000 years has been "Do no harm." If you were not sure what you were doing, then a doctor had an obligation not to harm the patient. And I think as we go into this period of trying to write a health bill, that we should start with that premise, that Congress should learn from medicine, and Congress should do no harm. If we are not sure about something, let us go carefully, because in health care, we are dealing with the life and death of individuals, we are dealing with relationships that can change entire industries.

Done improperly, it is conceivable, for example, the wrong health reform will bankrupt the teaching hospitals of America. Done improperly it is conceivable that the wrong health reform will destroy the hospital system of New York City. Done improperly, many bad things can happen, and they can ruin entire communities, they can ruin industries, and they can risk the lives of people.

Now, I notice that last Saturday, in the Democrat and Chronicle of Rochester, NY, there was an article about Rochester's health system, which is a very famous health system, maybe the leading managed care system in the country. The entire community has community managed care.

This is the title: "Senator Vows to Exempt Rochester's Health System." This is the article from the Rochester Democrat and Chronicle.

Senator Daniel Patrick Moynihan promised to exempt Rochester's health system from any harm caused by a final national reform plan. When you have a system that is working, when you have a model plan, you keep it that way, Moynihan said in an interview. They go on to say later in the article, it has been proposed, legislation has been proposed allowing Rochester's regional system to operate out of any mandatory or voluntary purchasing alliances.

Now, I just want to raise this point: I am glad that the Representative from Rochester and the Senator from New York want to exempt Rochester from the national health plan. But there are 3,000 counties in America. Should the other 2,999 counties be told, I think there are actually about 3,300 counties, should the other counties be told you do not get to be exempted, but Rochester does?

I picked this up, because I just saw this outrageous effort to exempt a single county, and I was fascinated because I noticed in the Education and Labor version of the health bill that the State of Hawaii was exempted. That is the entire State.

Let me make a clear point here. While there has been a great deal of publicity about Hawaii, and people talk about Hawaii supposedly having universal coverage, the fact is that Hawaii does not have universal coverage. It has about 89 percent coverage. In fact, the State of Connecticut has a far higher percentage of its population covered with insurance than does Hawaii. But apparently one of the Members from Hawaii, a very powerful Representative on the Committee on Education and Labor, was able to get an amendment adopted to that particular health version, which exempted the State of Hawaii. Should the other 49 States have the same right of exemption?

Congressman PETE HOEKSTRA of Michigan sponsored a bill that says there ought to be a referendum in each State. If the people of the State do not vote to be part of the national health plan, they should not be forced into it.

I must say, when you see Hawaii being exempted in one bill, when you see a promise by a very powerful Senator to exempt Rochester in another place, you begin to ask yourself, maybe everybody should be exempted and only the White House should have to serve under the bill. Or maybe only Members who vote yes should have to serve under the bill.

But it raises again a question which I have been raising for several days, which is, with only 2 weeks to go before the August recess, how can the Democratic leadership plan to bring a bill in, which nobody has read, which has had no hearings, which does not really exist yet?

I am told they will be releasing not the bill, but principles tomorrow morning. Apparently, they will then be negotiating to rewrite the principles. And maybe by next Friday they will have begun to write a bill. And the following Monday or Tuesday we will start voting. But Members will be voting in ignorance.

Now, this has already started. There is an article in the Washington Post of July 13 by David Broder entitled "Health Care Disarray." It says the following.

Two things make the work even more arduous than it sounds. As one of those volunteers told me last week, "This is not legislation where you can take a piece from this bill and a piece from that in order to satisfy different political factions or needs. It has to work as a system or you will do terrible damage."

Broder goes on to write,

The second problem is that some of the bills approved before the July 4 break are not really bills, but notions or plans approved as concepts. Many of the critical details were left undefined. That is particularly true of the Senate Finance Committee version, which was passed after several confusing, chaotic sessions, as committee members tried to get out of town. The version that the House Committee on Ways and Means finished a few days earlier was also written in short bursts of debate, interrupted frequently by rollcalls on the House floor. Now staff Members are trying to translate those ad hoc decisions into coherent legal language.

Now, notice the contradiction in the two points that Mr. Broder makes.

First he says, quoting a Democratic staffer, or Democratic Member he describes as one of those involved, he quotes them as saying this is not legislation where you can take a piece from that in order to satisfy different political factions or needs. It has to work as a system, or you will do terrible damage.

Having said the first need is to have a systematic approach, let us go back to how he describes the Committee on Ways and Means bill. He said it was "written in short bursts of debate, interrupted frequently by rollcalls," and then describing both the Senate Finance Committee and the Committee on Ways and Means bills, he says, "Now staff Members are trying to translate those ad hoc decisions." Let me repeat, "ad hoc decisions into coherent legal language."

□ 2010

Notice the juxtaposition in two short paragraphs in his column entitled "Health Care Disarray." Mr. Broder talks about it has to work as a system and in the following paragraph describes ad hoc decisions, which are, by definition, of course, not a system.

Now, I reported the other day to the House that we had called to check on the Senate Finance Committee bill and it still has not been written. It was passed, and people could see it being passed on C-SPAN on July 2. So they have now had 26 days to write it, almost 4 weeks. But it is not written yet, because they apparently cannot finalize the language.

Now we are being told that a new set of principles will be announced tomorrow to be voted on within 2 weeks and yet there is no language. Principles are not the same as legislation. Human beings can live or die depending on the legislation. Hospitals, industries, medical care can live or die depending on the legislative language.

The deficit can be dramatically higher or dramatically smaller, depending on the legislative language. I remember several years ago a mistake was made on a Medicaid provision about 3 in the morning and the staff wrote the bill wrong and instead of costing $300 million, it has so far cost, I believe, $49 billion because it was written wrong.

So this idea that we should legislate from a series of outlines without having seen the bill is, I think, utterly destructive.

Robert J. Samuelson, a very sophisticated analyst, one of the leading economic analysts in the country, had the following to say in the Washington Post on July 13.

Congress should simply start over. The best thing Congress could do now on health care would be to start over next year. The most important social legislation in a quarter century should not be approved as a last minute, poorly-understood patchwork.

From the start the debate has suffered from the Clintons wild promises that they could achieve universal coverage at little extra cost. This has produced five inconsistent congressional bills that all in one way or another fanaticize a health care future that will never happen. Health politics has become bumper sticker politics. Everything is being done for image and immediate bragging rights.

Vast promises are made of new benefits with little effective control on cost. Health spending already constitutes 21 percent of Federal spending and one-seventh of all spending in the economy. The danger of a poorly-crafted program is that although it might be popular in the short run, it could encumber our economy with long-term commitments that we simply cannot afford, warns the Bipartisan Committee for a Responsible Federal Budget.

What really is at stake is the integrity of government. Popular cynicism is no secret. In surveys, Americans express discontent with government, yet surveys also show that Americans want more from government in the way of health care, education, environmental protection and economic security. Politicians pander to the inconsistencies by posing government as a solution to a multitude of problems. The Clintons are practitioners of this style of politics. The trouble is that when the solutions do not match the promises, public disillusion deepens.

Universal coverage is a swell slogan but a meaningless concept. Almost no one today has complete insurance coverage against all health risks. For example, only about 45 percent of the elderly have insurance for long-term care. And the idea that complete coverage can be constructed is a mirage because health care is an infinitely elastic concept. It expands with every new technology, drug or discovered ailment.

Consider between 1982 and 1991 the number of cornea transplants doubled from 18,500 to 41,500. We will never be able to afford everything. Some rationing by income or availability will always exist.

What the debate skirted is the morally awkward issue of whether health care is a right and, if so, what care is a right. The Clintons evaded this question by promising to control costs and expand benefits. The claim was always dubious.

Five outside groups reestimated the Clintons basic package of insurance benefits. All found higher costs than the White House did. For individual coverage, the costs were put from 9 to 26 percent higher. For two-parent families, the costs were 13 to 59 percent higher. No matter. The Clintons set Congress's agenda.

How bad are the resulting bills? Examine the Senate Finance Committee bill described as moderate. Its goal is to raise the share of Americans with insurance to 95 percent by the year 2002. Small firms with fewer than 100 workers could buy health insurance from big purchasing cooperatives. Insurers would have to accept almost anyone who applied. There would be insurance subsidies for everyone with an income of up to twice the poverty line. In 1993, the poverty line for a family of four was $14,335.

What are the bills defects. Here with the top three: One, it creates a huge off-budget entitlement. True, the bill doesn't compel companies to buy insurance. But it does decree what all insurance must cover and the coverage is lavish. Aside from most doctor and hospital bills, it also includes mental health, rehabilitation services, drug and alcohol abuse services, hospice care and family planning services.

Although a national health board would set the details, Congress would have the final say. And it has little reason to resist inevitable demands for new benefits because mandates could be expanded without imposing new taxes.

Two, there is no effective cost control. Indeed, because the bill mandates comprehensive insurance, it would probably accelerate spending. The new spending pressures would overwhelm the tiny measures intended to curb costs, putting small companies in buying pools and instituting a complex, probably unworkable tax on high priced insurance plans.

Three, subsidies for the poor are not financed. No one yet knows how much the subsidies would cost but the tax increases in the bill, the cigarette tax goes from 24 cents a pact of $1.24 a pack, might cover only half the amount. In short, the finance bill would probably speed up health spending, skimp on subsidies and miss its 95 percent coverage target. Other bills are as bad or worse.

The House Ways and Means Committee wants bigger mandates and subsidies. It pays for its subsidies mainly from savings generated by price and spending controls. But no one knows whether the controls would work or be acceptable. A single payer bill has the honesty of avoiding mandates and pays for government insurance with taxes. However, benefits are so generous that by one estimate they would raise health spending by an extra $300 billion by the year 2000. The increase is assumed away with cost controls.

All these bills indulge in make believe. Although they sound good, they would break down in practice. A sensible bill might be put together with some modest insurance reforms, but this seems unlikely, precisely because it would be so politically unexciting. What should not be forgotten in the inevitable clamor to do something is that a bad bill would be worse than no bill at all. Opposing such a bill is prudence, not obstructionism. The country deserves a more candid debate than Congress can provide this year.

It is between those who consider health care a right and those like me who think the first focus should be on cost control.

If it is a right, then put the spending in the budget and pay for it with taxes. If the focus is cost, then curb tax subsidies for insurance or impose strict spending controls. Neither approach would be easy. Any sweeping reform requires public understanding. This is now missing.

"Great innovations," Thomas Jefferson once said, "should not be forced on slender majorities."

Mr. Speaker, I think Mr. Samuelson's column is so important that it is worth focusing on two or three parts. First of all, he says "universal coverage is a swell slogan but a meaningless concept."

I thought the President, for a brief moment Monday, a week ago, admitted that Mr. Samuelson was right when the President went to Boston to the National Governors Association and said "You know, maybe universal coverage cannot mean more than 95-percent coverage. Maybe that is the best we can do." By the end of that day, he was forced by the White House staff to retract what he said, and they put out a number of people who began to say he never said it, or he did not mean it, or it was all a mistake.

I thought for a brief moment that President Clinton was beginning to get

the message that Mr. Samuelson meant when he wrote "Universal coverage is a swell slogan, but a meaningless concept."

Note that he described accurately the bills, and as I said earlier, some of the bills do not even technically exist. He is describing the concepts of the Senate finance bill, because the fact is the bill itself has not been written yet.

He says "All these bills indulge in make believe. Although they sound good, they would break down in practice." Mr. Speaker, I think that where we are is, we have 3 futures. One is the effort which, sadly, the President and the Democratic leadership is still committed to, a future in which we try to somehow write an impossible bill in an impossible length of time, and we do grave damage, both to public trust in the Congress and to the public deficit, and to the health care system.

I oppose trying to write a massive, comprehensive bill in a 2-week period with no public hearings, with no public examination, with no public understanding.

Second, we could do nothing. As Mr. Samuelson's headline of his column entitled "Congress Should Simply Start Over," in his opening sentence, "The best thing Congress could do now on health care would be to start over next year."

Mr. Speaker, I think there is a third thing we could do. It would be better than trying to ram through a bad bill by political manipulation, and it would be better than doing nothing. Mr. Samuelson alludes to it when he says "A sensible bill might be put together with some modest insurance reforms." I like that term, "a sensible bill," because I believe we could write a sensible bill.

I believe it is possible for us to take the essence of the Rowland-Bilirakis bill, to take the best ideas of the Michel-Lott bill, to take the best ideas of Senator DOLE's bill, and to write an honest bill which does good things with almost no damage to the system. I think that kind of bill is the best path.

Mr. Speaker, I urge the Democratic leadership, and I urge President Clinton, let us work together to write a bill that is positive, that could get overwhelming support on both sides, that would do good things without doing harm.

We could start with malpractice reform, which one recent study said would save $76 billion over 5 years. Then we could go and add guaranteed insurance for everyone who is in the system, so that you cannot get a precondition. Once you buy insurance and once you are being insured, you could change jobs and you would not lose your coverage.

We could eliminate preconditions for the insured, and that would, for the 85 percent of Americans who already have insurance, that would be a tremendous step.

Mr. Speaker, then we could agree to allow the States to manage Medicaid. This is something governors, both Democrat and Republican, have asked for. It would clearly allow us to lower the cost of Medicaid and to serve poor people at less expense with greater controls by simply having managed care.

Then we could allow the 35 States that currently are not allowed to have senior citizens buy into a managed care plan, 15 States allow it, but for the 35 the Health Care Financing Administration has not approved, simply allow senior citizens to have the choice, because in fact, there are managed care plans today offering senior citizens better coverage with prescription drugs at lower cost. That would be a good step.

We could also provide for group insurance for small business. That would be a good step, because it would lower the cost of insurance for small business. Then, Mr. Speaker, we could extend the same tax deductibility to the self-employed, the unemployed, and the family farmers that we get if we are in a big corporation. That would be a good step.

Also, we could provide tax neutrality, so you could either take the tax deduction yourself, if you wanted to buy the insurance, or your employer could take it, but you would not be trapped in only buying the insurance your employer wants you to have. That would be a good step.

Finally, for those Americans who still would not be covered, we could double the number of community health center patients who are dealt with, and that would take care of another 4 million people who could go to a community health center, instead of going to the emergency room, and that would both save money and increase health care for the working poor.

Every one of the things I just mentioned, I believe, could get overwhelming support from Republicans, and I believe could get overwhelming support from Democrats. I believe it would be possible to have 290 votes for the bill I just described. It would fit what Mr. Samuelson described when he said "A sensible bill might be put together with some modest insurance reforms."

It would be an honest bill. It could be scored by the Congressional Budget Office. We would know exactly what we were doing. We would not harm a single teaching hospital. We would not weaken the New York City hospital system, which is an enormous and complex and very expensive system.

We would not block anybody from leaving their home State to go to the Mayo Clinic, or to go to any other great center. We would not limit choice for individuals, in terms of choice of their doctor and choice of their hospital.

We would not weaken the quality of the best health care system in the world. We would have established no new Government bureaucracies in Washington. We would establish no new Government controls in Washington.

However, we would have improved for every individual who is self-employed, every individual who is unemployed, every family farm, every small business, we would have improved dramatically their access to health care, and we would have guaranteed for the 85 percent of Americans who already have health care that they could change jobs without any fear of precondition, and that they could never lose their insurance coverage if they got a disease or an illness.

Mr. Speaker, every one of those items could be passed by an overwhelming majority. I like the quote that Mr. Samuelson had from Thomas Jefferson: "Great innovations should not be forced on slender majorities."

It seems to me we want to pass a health bill that the American people are convinced does no harm, and the best way to do that is to have a bipartisan effort with the Democratic leadership and the Clinton White House sitting down with the Republican leaders and writing a bill at the leadership level. It will be far better to have a Gephardt-Michel bill in the House, to have a Mitchell-Dole bill in the Senate, to have the President in a position to be for a positive bill. The President would have lowered his sights and would have accepted less than he might like, but he would be accepting things that everyone could agree are good, without imposing things that are destructive. Then we would not have to have Democrats trying to exempt the county that Rochester is in. Then we would not have to have Democrats trying to exempt the entire State of Hawaii.

My challenge is this, Mr. Speaker: If any place is going to be exempted, every place ought to have the right to be exempted. This should not be a matter of power politics, and somebody on the right committee, or somebody with the right friends getting a special deal.

If we are going to start exempting, then every county in the United States should have the same opportunity that some Democrats want to give to Rochester. If we are going to start exempting, then every State should have the same opportunity that some Democrats want to give to Hawaii.

However, Mr. Speaker, if something is so bad that we have to talk about exempting, if something is so destructive, so harmful, so dangerous that we have to start talking about making sure that our particular county is not in it, or our particular State is not in it, maybe we should not do it to anybody. Maybe something so bad, that it requires exemptions, should not be passed in the first place.

Mr. Speaker, let me just say in closing, I think it will be a terrible mistake for the President and the Democratic leadership, I think it will be a terrible mistake for the Congress and a terrible mistake for the country if there is an effort made to ram through a comprehensive health bill without public hearings, without adequate understanding, without a chance for the news media to take it apart, to look at it, without an opportunity for experts to analyze it.

□ 2030

Mr. Speaker, I want to close by going back to the way in which Mr. Samuelson closed his column.

He said, "Any sweeping reform requires public understanding. This is now missing."

If there is an understanding and if it is a comprehensive bill, what did Mr. Samuelson suggest?

What should not be forgotten in the inevitable clamor to "do something" is that a bad bill would be worse than no bill at all. Opposing such a bill is prudence, not obstructionism.

So I would say, if we have to, we are prepared to try to stop a bad bill. But that would be a sad thing. Far better to work together to produce a good bill; far better to produce a bill that the American people can have faith in; and far better to write a modest but positive bill that does no harm, that we can publish and let people look at.

I go back to what I suggested a few days ago, because it is the acid test. If we could introduce a bill in writing the last day we are in session, if we could then go home for the 3 weeks of the August recess and allow the country to see the bill, if we could then, having had people look at it in public, having had them take it apart, if we could come back and in the opening 2 or 3 days in September clean up any mistakes we learn about during the recess, improve it a little bit, and then pass it by overwhelming Republican and Democratic majorities, then I think we would have done something worthy of the Congress. Then we could be proud that we had followed the right procedures. And then we could go home and say, yes, this is a start. And next year we will do something that builds on this. But at least what we did was right and harmed no one.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUTTO (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of official business.

Mr. LAUGHLIN (at the request of Mr. GEPHARDT), for today through August 5, 1994, on account of medical reasons.

Mr. DREIER (at the request of Mr. MICHEL), for today from 2:15 p.m. until 4 p.m., on account of attending a funeral.

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for today after 1 p.m., on account of illness in the family.

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. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.
Mr. KIM, for 5 minutes, today.
Mr. HOEKSTRA, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.

(The following Members (at the request of Mr. HASTINGS) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.
Mr. CLAYTON, for 5 minutes, today.
Mr. REED, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. LAROCCO, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. BONIOR, for 5 minutes, today.
Mr. MCCLOSKEY, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. BOEHLERT.
Mr. HANSEN.
Mrs. ROUKEMA
Mr. SOLOMON in four instances.
Mr. BURTON of Indiana.
Mr. MCCANDLESS.
Mr. HORN.

(The following Members (at the request of Mr. HASTINGS) and to include extraneous matter:)

Mr. HAMILTON.
Mr. SYNAR.
Mr. BILBRAY.
Mr. LAUGHLIN.
Mr. RANGEL.
Mr. MURPHY.
Mr. DEFAZIO.
Mr. ROSE.
Mr. PALLONE.
Mr. GEJDENSON.
Mr. TUCKER.
Mr. HOAGLAND.
Mr. ANDREWS of Texas.
Mr. WHEAT.
Mr. ENGEL in 2 instances.
Mr. VISCLOSKY.

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. HOKE.
Mr. STUDDS.
Mr. CRANE.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 32 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, July 29, 1994, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3579. A letter from the Acting Director, Office of Management and Budget, transmitting a draft of proposed legislation entitled, the "Federal Acquisition Labor Law Improvement Act of 1994"; to the Committee on Education and Labor.

3580. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 94-35, authorizing the furnishing of assistance from the Emergency Refuge and Migration Assistance Fund for unexpected urgent needs of Rwanda and Burundi migrants, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

3581. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by James W. Swihart, of Virginia, to be Ambassador to the Republic of Lithuania, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3582. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the fiscal year 1992 report on the Foreign Service Retirement and Disability System and the Foreign Service Pension System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3583. A letter from the Secretary of Energy, transmitting the Department's first annual report entitled, "Report to Congress on Procurement and Identification of Energy Efficient Products," for Federal agencies, pursuant to section 161(d) of the Energy Policy Act of 1992; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Armed Services.

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. DELLUMS: Committee on Armed Services. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with an amendment (Rept. 103-601, Pt. 3). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes; with an amendment (Rept. 103-625, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4535. A bill to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes (Rept. 103–626). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 494. Resolution providing for the consideration of the bill (H.R. 4801) to amend the Small Business Act, and for other purposes (Rept. 103–627). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules House Resolution 495. Resolution providing for consideration of a concurrent resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year (Rept. 103–628). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4724. A bill to amend title 38, United States Code, relating to veterans housing programs, and for other purposes (Rept. 103–629). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4776. A bill to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes (Rept. 103–630). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4768. A bill to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes; with an amendment (Rept. 103–631, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

Referral to the Committee on Ways and Means of H.R. 4003 extended for a period ending not later than July 29, 1994.

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. BOEHLERT:

H.R. 4846. A bill to amend the Internal Revenue Code of 1986 to provide that the unearned income of children attributable to personal injury awards shall not be taxed at the marginal rate of the parents; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself, Mr. SWIFT, Mr. DICKS, Mr. KOPETSKI, Ms. FURSE, Mr. KREIDLER, Mr. MCDERMOTT, Ms. CANTWELL, Mrs. UNSOELD, Mr. WYDEN, and Mr. INSLEE):

H.R. 4847. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Natural Resources.

By Mr. DICKEY:

H.R. 4848. A bill to control crime; to the Committee on the Judiciary.

By Mr. HAMILTON (for himself (by request), Mr. GILMAN, Mr. LANTOS, Mr. BERMAN, Mr. SWIFT, and Mr. OXLEY):

H.R. 4849. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; jointly, to the Committees on Foreign Affairs, the Judiciary, and Energy and Commerce.

By Mr. ISTOOK (for himself and Mr. INHOFE):

H.R. 4850. A bill to require Congress to comply with the laws it imposes on others; jointly, to the Committees on House Administration, Education and Labor, the Judiciary, Government Operations, and Rules.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. FRANK of Massachusetts, Mrs. MEEK of Florida, Mr. BACCHUS of Florida, Mr. EMERSON, Mr. MEEHAN, Mr. SKEEN, Mr. MCDERMOTT, Mr. MONTGOMERY, Mr. RANGEL, Ms. DELAURO, Mrs. THURMAN, Miss COLLINS of Michigan, Mr. WYNN, Ms. WATERS, Mr. LEWIS of Georgia, Mrs. CLAYTON, Mr. WATT, Mr. HASTINGS, Mr. SCOTT, Mr. PAYNE of New Jersey, Mr. OWENS, Ms. MCKINNEY, Mr. HILLIARD, Ms. NORTON, Mr. TUCKER, Mr. WHEAT, Mr. STOKES, Mr. THOMPSON, Mr. CLYBURN, Mr. JEFFERSON, Mr. FIELDS of Louisiana, Mr. MFUME, Mr. CONYERS, Mr. FLAKE, Mr. EDWARDS of Texas, Mr. FROST, Mr. TEJEDA, Mr. BRYANT, Mr. SARPALIUS, Mr. WILSON, Mr. LAUGHLIN, Mr. PETE GEREN of Texas, Mr. GENE GREEN of Texas, Mr. COLEMAN, Mr. HALL of Texas, Mr. PICKLE, Mr. ORTIZ, Mr. CHAPMAN, Mr. ANDREWS of Texas, Mr. DE LA GARZA, Mr. GONZALEZ, Mr. BROOKS, Mr. WASHINGTON, and Mr. STENHOLM):

H.R. 4851. A bill to waive the time limitation specified by law for the award of certain military decorations in order to allow the posthumous award of the Congressional Medal of Honor to Doris Miller for actions while a member of the Navy during World War II; to the Committee on Armed Services.

By Mr. MANTON (for himself, Mr. YOUNG of Alaska, and Mr. STUDDS):

H.R. 4852. A bill to provide congressional approval of a Governing International Fishery Agreement; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself, Mr. REED, and Mr. HUGHES):

H.R. 4853. A bill to amend the National Sea Grant College Program Act and the Coastal Zone Management Act of 1972 to enhance marine aquaculture in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself and Mr. YOUNG of Alaska):

H.R. 4854. A bill to amend the National Aquaculture Act of 1980 to promote the development of the aquaculture industry in the United States, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Agriculture.

By Mr. VISCLOSKY (for himself, Mr. ROEMER, Mr. MYERS of Indiana, Ms. LONG, Mr. BUYER, Mr. MCCLOSKEY, Mr. HAMILTON, Mr. JACOBS, Mr. SHARP, and Mr. BURTON of Indiana):

H.R. 4855. A bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings; to the Committee on Public Works and Transportation.

By Mr. NADLER:

H.R. 4856. A bill to improve the Nation's health care by creating a comprehensive medical malpractice prevention program through the creation of independent, publicly accountable State medical boards and more stringent licensing and discipline procedures; to empower health consumers by mandating reporting of certain information regarding health care providers and professionals and by enhancing informed individual choice regarding health care services by providing certain information to consumers; and for other purposes; to the Committee on Energy and Commerce.

By Mr. DORNAN:

H.J. Res. 394. Joint resolution declaring that the preborn are persons entitled to the guarantees contained in the fifth, thirteenth, and fourteenth amendments to the Constitution of the United States of America and prohibiting abortion within the United States; to the Committee on the Judiciary.

By Mr. ACKERMAN (for himself, Mr. GILMAN, Mr. LANTOS, Mr. TORRICELLI, Mr. MFUME, Mr. SERRANO, and Mr. BEREUTER):

H. Res. 496. Resolution condemning the terrorist attack on the Delegation of Argentine-Israeli Associations on July 18, 1994, the terrorist attack on a Panamanian commuter plane on July 20, 1994, and the terrorist bombings near the Israeli Embassy and a building housing Israeli and Jewish organizations in London on July 26, 1994; to the Committee on Foreign Affairs.

By Mr. SAXTON (for himself and Mr. DELLUMS):

H. Res. 497. Resolution concerning the situation in Rwanda; to the Committee on Foreign Affairs.

By Mr. SCOTT (for himself, Mr. STARK, Mr. MCDERMOTT, Mr. MILLER of California, Mr. OWENS, Ms. MCKINNEY, Ms. PELOSI, Mr. FARR, Mr. TUCKER, Ms. WOOLSEY, Mr. DELLUMS, Mr. WATT, Mr. STOKES, Mr. HILLIARD, and Mr. ROMERO-BARCELÓ):

H. Res. 498. Resolution making in order, in the consideration by the House of Representatives of H.R. 3600—the Health Security Act—an amendment providing for an AMCARE plan that makes available a Government-sponsored, fee-for-service nationwide health plan to almost all eligible individuals not covered under large group health plans; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. LEHMAN.
H.R. 65: Mr. FARR.
H.R. 106: Mr. FOGLIETTA.
H.R. 127: Mr. CONYERS, Mr. NUSSLE, Mr. HOAGLAND, Mr. BROWN of California, Ms. VELÁZQUEZ, Mr. VOLKMER, Ms. ENGLISH of Arizona, and Mr. ROGERS.
H.R. 146: Mr. CANADY.
H.R. 157: Mr. TAYLOR of North Carolina.
H.R. 166: Mr. COPPERSMITH.
H.R. 417: Mr. BUNNING.
H.R. 494: Mr. FRANKS of New Jersey.
H.R. 657: Mr. ZIMMER.
H.R. 662: Mr. ZIMMER and Mr. DORNAN.
H.R. 743: Mr. COPPERSMITH.
H.R. 790: Mr. COPPERSMITH.
H.R. 999: Mrs. BYRNE.
H.R. 1080: Mr. EWING, Mr. FRANKS of Connecticut, and Mr. LIVINGSTON.
H.R. 1099: Mr. ZIMMER.
H.R. 1126: Mr. CANADY.
H.R. 1128: Mr. DORNAN.
H.R. 1129: Mr. CANADY.

H.R. 1164: Mr. LANTOS.
H.R. 1168: Mr. KYL, Mr. COPPERSMITH, and Mr. ROEMER.
H.R. 1319: Mr. ZIMMER.
H.R. 1551: Mr. PETE GEREN of Texas and Mr. ABERCROMBIE.
H.R. 1604: Ms. SCHENK.
H.R. 1621: Mr. ROEMER.
H.R. 1627: Mr. ROSE.
H.R. 1809: Ms. WOOLSEY.
H.R. 1816: Mr. DICKEY.
H.R. 1955: Mr. SANDERS, Mr. SWETT, Ms. FURSE, Mr. Neal of North Carolina, and Mr. NADLER.
H.R. 2219: Mr. ZIMMER.
H.R. 2275: Mr. ROEMER.
H.R. 2340: Mrs. COLLINS of Illinois.
H.R. 2376: Mr. KNOLLENBERG and Mr. ROEMER.
H.R. 2467: Mr. DARDEN and Mr. RUSH.
H.R. 2569: Mr. ZIMMER.
H.R. 2648: Mr. DURBIN, Mr. HALL of Ohio, Mr. WATT, Mr. BARRETT of Wisconsin, Mr. SERRANO, Mr. GENE GREEN of Texas, Ms. VALÁQUEZ, Ms. BROWN of Florida, and Mr. BROWN of California.
H.R. 2680: Mr. COPPERSMITH.
H.R. 2898: Mr. CONYERS.
H.R. 3064: Mr. DOOLEY, Mr. CALVERT, and Mr. HANSEN.
H.R. 3270: Mr. WAXMAN, Mr. STUDDS, Mr. CLAY, Mr. LANTOS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACOBS, Mr. WHEAT, and Mr. CHAPMAN.
H.R. 3293: Mr. HANCOCK and Mr. MCCLOSKEY.
H.R. 3392: Mr. BORSKI, Mr. GRAMS, Mr. HYDE, Mrs. CLAYTON, and Mr. GALLO.
H.R. 3596: Mr. CONDIT.
H.R. 3634: Mr. COPPERSMITH.
H.R. 3691: Mr. CANADY.
H.R. 3692: Mr. SCHAEFER.
H.R. 3780: Mr. PORTMAN.
H.R. 3862: Mr. SHUSTER.
H.R. 3866: Mr. LEHMAN.
H.R. 3871: Mr. PORTER.
H.R. 3875: Mr. BLUTE.
H.R. 3966: Mrs. MORELLA.
H.R. 3971: Mr. MCNULTY.
H.R. 3987: Mr. NEAL of Massachusetts.
H.R. 4116: Mr. HASTINGS, Mr. STUDDS, Mr. RANGEL, and Mr. CLEMENT.
H.R. 4162: Ms. VELÁZQUEZ.
H.R. 4214: Mr. FOGLIETTA.
H.R. 4326: Mr. HANCOCK.
H.R. 4361: Mr. MINETA and Mr. HOYER.
H.R. 4370: Mr. ENGEL and Mr. ACKERMAN.
H.R. 4386: Mr. CHAPMAN, Mr. MCNULTY, and Mrs. CLAYTON.
H.R. 4412: Ms. LAMBERT.
H.R. 4413: Mr. BACCHUS of Florida.
H.R. 4419: Mr. ALLARD.
H.R. 4570: Mr. JEFFERSON, Mr. HILLIARD, Mr. EVANS, Mr. WYNN, Mr. LANTOS, and Mr. HOAGLAND.
H.R. 4590: Mr. YATES, Mr. MCMILLAN, Mr. BEILENSON, Mr. CLYBURN, Mr. DEFAZIO, Mr. HUNTER, Mr. WHITTEN, Ms. VELÁZQUEZ, Ms. WATERS, Mr. NADLER, Mr. BARLOW, Mr. HOCHBRUECKNER, Mr. TOWNS, Mr. FISH, Mr. DORNAN, Mr. BURTON of Indiana, Mr. FARR, Mr. DIAZ-BALART, Ms. MARGOLIES-MEZVINSKY, Mr. MAZZOLI, Mr. MCCLOSKEY, and Mr. MEEHAN.
H.R. 4592: Mr. SMITH of Michigan.
H.R. 4618: Mr. JACOBS and Mr. RANGEL.
H.R. 4657: Mr. QUINN.
H.R. 4669: Mr. JACOBS, Mr. RANGEL, and Mr. SENSENBRENNER.
H.R. 4695: Mr. HASTINGS.
H.R. 4696: Ms. VELÁZQUEZ and Mr. EVANS.
H.R. 4739: Mr. BARRETT of Wisconsin.
H.R. 4741: Mr. DE LUGO and Mr. FALEOMAVAEGA.
H.R. 4767: Mr. THOMPSON and Mr. MFUME.
H.R. 4787: Mr. HASTINGS.
H.R. 4788: Mr. GENE GREEN of Texas.
H.R. 4791: Mr. COX and Mr. WALKER.
H.R. 4802: Mr. COOPER, Mr. LEWIS of Florida, Mr. STUDDS, Mr. EMERSON, Mr. BROWN of California, Mr. SPRATT, Mr. HOBSON, Mr. STARK, and Mr. MORAN.
H.R. 4803: Mrs. MINK of Hawaii, Mrs. UNSOELD, Mr. HASTINGS, Mrs. LOWEY, Mr. WATT, Mr. EDWARDS of California, Mr. FILNER, and Mr. FRANK of Massachusetts.
H.R. 4830: Mr. MCHUGH, Mr. BARRETT of Nebraska, and Mr. DUNCAN.
H.R. 4833: Mr. FALEOMAVAEGA.
H.R. 4841: Mrs. LOWEY.
H.J. Res.: 352: Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. MCCOLLUM, Mrs. MEEK of Florida, Mr. MURPHY, Mr. OWENS, Mr. PAYNE of New Jersey, Mr. MINETA, Mr. PARKER, Ms. BROWN of Florida, Mr. BORSKI, Mr. KLINK, Mr. KILDEE, Ms. COLLINS of Michigan, Mr. SKEEN, Mr. STARK, Mr. SARPALIUS, Mr. THORNTON, Mr. WHEAT, Mr. SCHUMER, Mr. TRAFICANT, Mr. EVANS, Mr. FAZIO, Mr. UPTON, Mr. SERRANO, Mr. MATSUI, Mr. DOOLITTLE, Mr. LEACH, Mr. WYDEN, Mr. JEFFERSON, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. VENTO, Mr. FROST, Mr. STUPAK, Mr. SCOTT, Mr. MARTINEZ, Mr. SAWYER, Mr. CALLAHAN, Mr. CARDIN, Mr. ENGEL, Mr. RICHARDSON, Mr. WYNN, Mr. KLEIN, Mr. ROMERO-BARCELÓ, Mr. RAHALL, Mr. FRANKS of Connecticut, Mr. DINGELL, Ms. ROYBAL-ALLARD, Mr. YOUNG of Alaska, Mr. RAVENEL, Mr. TOWNS, Mr. DE LUGO, Mr. PICKLE, Mr. NEAL of Massachusetts, Mr. EMERSON, Mr. KLECZKA, Mr. HUGHES, Mr. SYNAR, Mr. PICKETT, Mrs. UNSOELD, Mr. PASTOR, Mr. HEFNER, Mr. CLAY, Mr. WASHINGTON, Mr. TUCKER, Mr. GENE GREEN of Texas, Mr. GONZALEZ, Mr. ANDREWS of New Jersey, Mr. BARCIA of Michigan, Ms. ENGLISH of Arizona, and Mr. KREIDLER.
H.J. Res. 366: Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDREWS of Maine, Mr. BAESLER, Mr. BARRETT of Wisconsin, Mr. BATEMAN, Mr. BEILENSON, Mrs. BENTLEY, Mr. BERMAN, Mr. BILBRAY, Mr. BLUTE, Mr. BREWSTER, Mr. BUNNING, Mr. BUYER, Mr. CALVERT, Mr. CRAMER, Mr. CRAPO, Ms. DANNER, Mr. DEAL, Ms. DELAURO, Mr. DELAY, Mr. DE LUGO, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. DIXON, Mr. DUNCAN, Mr. ENGEL, Mr. FINGERHUT, Ms. FURSE, Mr. GEPHARDT, Mr. GILLMOR, Mr. GINGRICH, Mr. GOODLATTE, Mr. GORDON, Mr. HASTINGS, Mr. HEFNER, Mr. HOAGLAND, Mr. HOBSON, Mr. HUTTO, Mr. JACOBS, Mr. JOHNSON of South Dakota, Mr. SAM JOHNSON, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. LANTOS, Mr. LAROCCO, Mr. LEACH, Mr. LIGHTFOOT, Mr. MCDADE, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MONTGOMERY, Mr. MURTHA, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. OLVER, Mr. OXLEY, Mr. PALLONE, Mr. PAYNE of New Jersey, Mr. PETERSON of Florida, Mr. PETRI, Mr. PICKETT, Mr. PRICE of North Carolina, Mr. RAMSTAD, Mr. RAVENEL, Mr. REGULA, Mr. ROEMER, Mr. SABO, Mr. SARPALIUS, Mr. SAXTON, Ms. SCHENK, Mr. SCHIFF, Mr. SCHUMER, Mr. SHAW, Mr. SKELTON, Mr. SLATTERY, Ms. SNOWE, Mr. SPRATT, Mr. STUMP, Mr. SUNDQUIST, Mr. SWETT, Mrs. THURMAN, Mr. TORRICELLI, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WYNN, and Mr. YOUNG of Florida.
H. Con. Res. 110: Mr. BAKER of California and Mr. LIPINSKI.
H. Con. Res. 148: Mr. GREENWOOD.
H. Con. Res. 212: Mr. WATT.
H. Con. Res. 234: Mr. ABERCROMBIE, Ms. ESHOO, Mr. KLUG, Mrs. LLOYD, Mr. PASTOR, Ms. PELOSI, and Ms. SHEPHERD.
H. Con. Res. 268: Mrs. BENTLEY, Mr. COBLE, Mr. SAXTON, and Mr. YOUNG of Alaska.
H. Con. Res. 269: Mr. FRANKS of New Jersey and Mr. UPTON.
H. Res. 117: Mr. COPPERSMITH.
H. Res. 213: Mr. CANADY.
H. Res. 291: Mr. SISISKY and Mr. ISTOOK.
H. Res. 430: Mr. BACCHUS of Florida and Mr. HILLIARD.
H. Res. 434: Mr. FROST and Ms. DUNN.
H. Res. 481: Mr. MCCOLLUM.
H. Res. 485: Ms. ESHOO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4497: Mr. INGLIS of South Carolina.

SENATE—*Thursday, July 28, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana.

PRAYER

The Reverend Dr. Scott Jones, Howe Methodist Church, Howe, TX, offered the following prayer:

Let us pray:

Almighty and everlasting God, ruler of all nations, guardian of all who seek justice and resist evil, giver of every good and perfect gift, source of all knowledge and wisdom, we pray today for all the Members of this body, the U.S. Senate, for all its staff and officials, and for all who help in its deliberations. We seek Your help in guiding what they think, say and do.

First, help them to seek the genuine good of all the citizens of our country. Help them to put aside personal gain, group advantages and narrow party agendas, and to seek only what is true and right and good for our Nation as a whole.

Second, we seek the gift of wisdom for those who govern this Nation. Help them to discern Your will and to find the best means of fostering true peace and true justice throughout the world.

Third, we ask for integrity and courage. In the midst of the many temptations common to human beings and especially strong at the seats of temporal power, we ask that You would support each Member and staff person of this body at the highest levels of personal honesty, individual courage, and moral rectitude. Where temptations are strongest, Lord, there give the greatest measure of ethical strength. We acknowledge You as the final judge of all human actions, and pray Your blessing on what will happen here today, and every day.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Florida [Mr. GRAHAM] is now recognized to speak for up to 30 minutes. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

HEALTH CARE REFORM

Mr. GRAHAM. Mr. President, at this point in the national debate over health care reform at least a half a dozen plans have come to the forefront. All of these seem now to have obtained negative majorities. But they all have a common and I believe a flawed premise. It is that the road to national health reform is a single, national, one-plan-fits-all model. This path has taken a number of forms: managed competition, single payer, employer or individual mandate, pay or play, Medicare expansion, market reform. The path has been trampled by detail and controversy over the means, the means that supporters will use. This trampling has almost buried the broad agreement on the necessity of achieving universal coverage and cost containment.

There is, Mr. President, however, a second path, a path which to date has been almost ignored. It is a decentralized structure based on the principles of federalism in which the Federal Government establishes fundamental objectives and the States provide the specifics. In such a system, the Federal Government would establish nationally agreed upon health care performance objectives, standards, and goals, while giving to the States and communities the ability to develop localized tactics to achieve those standards. Such a structure would bring the decisionmaking processes down to the State and local levels where the arrangements for health care are all very different.

Although several plans refer tangentially to a State law, national reform should establish a Federal-State partnership as a central principle rather than an afterthought.

Let me repeat, Mr. President. National reform should establish a Federal-State partnership as a central principle rather than as an aside.

The National Academy of Sciences Institute of Medicine notes:

> States are the principal governmental entity responsible for protecting the public's health in the United States. They conduct a wide range of activities in health. State health agencies collect and analyze information, conduct inspections, plan, set policies and standards, carry out national and State mandates, manage and oversee environmental, educational and personal health services, and assure access to health care for underserved residents. They are involved in resource development. They respond to health hazards and crises.

Mr. President, health care is particularly suitable to the establishment of national goals with decentralized implementation and sensitivity to local culture, geography, and institutional variations. States and communities within States have different health care needs based on societal factors such as the quantity and nature of health care providers. For example, Nebraska, North Dakota, and South Dakota have twice the number of hospital beds per person as Alaska, New Hampshire, and Hawaii; varying demographics, especially for the most health intensive populations. For example, as a percentage of State population, Florida, Pennsylvania, Iowa, Rhode Island, and West Virginia have 50 percent more elderly than do Alaska, Utah, Colorado, and Georgia; current levels of insurance coverage. In Nevada, Oklahoma, Louisiana, Texas, and Florida, approximately one-quarter of the population under 65 is uninsured. However, in Hawaii, Connecticut, and Minnesota, less than one-tenth is uninsured.

Clearly, different State circumstances will require differing solutions and timeframes. For example, what would work in rural areas will not work in urban areas. The means of achieving universal coverage and access are undoubtedly different in Florida than in Wyoming. Even within rural areas, the health care concerns of those along the rural sections of the United States-Mexico border are vastly different than the needs of ranchers in Montana.

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

A successful plan would have to accommodate the broad diversity of this Nation. Yale Professors Theodore Mashaw and Jerry Marmor stated in a July 7, 1994, Los Angeles Times editorial:

> Given the diversity of States, their varied experience with health care, and intense local preferences, why enact a single brand of national health care reform, especially if it is the poorly considered compromises that we seem to be headed toward. By moving compromise in the direction of preserving goals rather than defining means, we can allow States the further thought and experimentation that are needed for effective implementation.

Mr. President, presently, there is insufficient field-based experience and consensus to commit the Nation to a single health care monitor. No State—not Hawaii nor California—has had an adequately extensive or sustained experience with a managed care model for all. There is not an empirical base of experience suggesting that such a model should be the centerpiece of a national health care reform.

Unfortunately, it is largely the Federal Government's failure to provide waivers to Medicaid, Medicare, and the Employee Retirement Income Security Act [ERISA] which has limited States' creativity for many years. In the mid-1980's, while I was Governor, Florida was unsuccessful in an attempt to receive a waiver from the Federal Government for a Medicaid buy-in program from the Reagan administration. Florida's current Governor, Lawton Chiles, was in Washington a few weeks ago pushing again for a Federal waiver that will provide 1.1 million uninsured Floridians with health insurance. He has been met with foot-dragging and hohumming from the Health Care Financing Administration. Why has there been such a long consistent pattern of Federal reticence to approve innovation and creativity at the State level?

A New York Times article dated June 12, 1994, may provide an explanation. According to the article, in a June 1993 memorandum, Health Care Financing Administrator, Bruce Flatic warned: "The waiver authority could become a way of relaxing statutory or regulatory provisions considered onerous by the States."

He went on to add that "waivers will be used to slow down nationwide reform."

After 6 month's effort by Governor Chiles, the waiver which he has requested to allow the State, at no additional cost, to provide insurance for the near poor, the working poor, this waiver is still not forthcoming.

The same arguments were made in 1974 when Hawaii passed its comprehensive health reform bill. There was the belief that it was unnecessary because there would soon be national comprehensive reform, and that Hawaii's bold initiative would frustrate national efforts. Instead, Hawaii and other States have become models for health care reform.

In addition, the Federal Government's administrative agencies are not prepared or capable of accepting the mammoth new responsibilities inherent in any unitary program for health care system reform. Medicare's dismal performance in monitoring fraud—a $15 to $20 billion annual hemorrhage by some informed estimates—is a harbinger of what a unitary system could inflict upon a nation: a train wreck with all Americans aboard.

I further add that Congress has not been successful in recent years in confronting major complex public problems. The savings and loan debacle, the 1986 Tax Act, and catastrophic health care, are all examples of how Congress has a greater interest in getting a bill passed than in truly solving problems. We may be at the point in this debate where certain compromised positions will sacrifice effectiveness and reform for a rose garden ceremony. The politically doable is not necessarily equal to the pragmatically desirable.

Earlier this week, I sat at a chair in the Chamber and listened to one of the proposals being described by its advocate. The Senator argued for a plan, in part, because it was the result of a series of compromises on contentious components of reform. As I listened to the compromise being described as a virtue, I analogized this to two aviation engineers who could not decide on a wingspan of an airplane. One says the wingspan should be 100 feet. The other says the wingspan should be 150 feet. So they compromise, with disastrous results. They build a plane with one 50-foot wing and one 75-foot wing. Both engineers are happy, but the plane crashes and burns.

Unlike the engineers, Congress must come up with a design that works and not one that compromises principles and threatens the health of all of its passengers.

The unitary path to reform will likely result in an ineffective amalgamation of compromises or a highly partisan and closely divided final product. The Nation would be ill-served by either result. A narrowly based and unworkable program passed this year would sow the seeds for continued destructive sniping and controversy in the years ahead, and lead to an accelerated erosion of public confidence in the Federal Government.

We cannot repeat the legislative failures of the 1980's. The savings and loan debacle cost us between $150 and $300 billion. It was a significant factor in the most serious recession since the 1930's. A health care debacle would put millions of Americans at risk, damage the world's highest quality health care delivery system and, if medical inflation continues, contribute to record deficits by the end of this decade.

Mr. President, there is a second path. That path is a Federal-State partnership toward reform. This Jeffersonian model is one that has been utilized time and time again. In fact, the interstate banking bill which just passed by the conference committees this week provides for an interstate banking system with national standards and underlines State flexibility to recognize the diversity of communities across the Nation.

Further, when it comes to health reform, States have significant experience, success, and track records they, in fact, have achieved more in the way of reform than Congress has. In the summer of 1993 issue of Health Affairs documents successes at the State level and health reform from Florida, Hawaii, Maryland, Minnesota, Oregon, and Washington. Significantly, these States have adopted reforms that differ in terms of scope, anticipated outcomes, and process.

These variations reflect diverse needs, ideology, and stages of health care evolution in each State. So should national reform. Moving health reform to the States and closer to the people should be a central principle of a national health plan. Only then will we have real accountability and responsiveness to the needs of citizens, business, and providers. Only then are we likely to have a reform which will actually deliver its promise of sustained and straightforward accessibility to high-quality, affordable health care for all Americans.

Mr. President, we might ask how would this second path—a path which had as a central principle a Federal-State partnership—be accomplished? Let me suggest, first, that the Federal Government should establish Federal standards in those areas where uniformity is required and agreed upon. Standards that the Federal Government should set would include universal coverage, cost containment, the composition of a standard benefits package, insurance reform on issues such as community rating, portability, guaranteed issuance, and a State-based public authority to assure implementation and be accountable for these goals.

Certainly, these are goals on which the Congress, the President, the States, and the American people can come to some agreement. However, the Federal Government should separate the ends and goals of health care from the means of health reform. The Federal Government should establish agreed-upon performance objectives to attain these 5 goals. However, for both political and policy reasons, the Federal Government should not impose the detailed means by which the States must achieve the performance objectives. Rather, the Federal Government should set forth performance standards which are achievable and will provide adequate and equitable financial assistance to States for implementation, and then hold States accountable for results.

The fundamental question determining the Federal role in health care implementation should be this: Does the particular proposal under consideration require uniformity in process or procedure to achieve national goals? To repeat, Mr. President, the question which should be asked of every proposal, organization—financial, or regulatory—should be this: Does the particular proposal under consideration require uniformity in process or procedure to achieve the national goal?

There are a set of limited circumstances which, in my opinion, meet this test. These would include Medicare, special populations—such as immigrants—which impose disproportionate impacts on States and local communities, and national tax policy which creates various health care incentives.

The need for national uniformity might also include the special treatment of interstate corporations similar to that now received under ERISA. However, for the vast number of issues, the answer is clearly no. National uniformity is not required to achieve the goal of universal coverage.

For example, to achieve universal coverage in cost containment, States could implement a system resembling Hawaii; States could implement the Clinton administration plan; States could administer national competition without mandatory alliance. They could administer a single-payer system, an all-payer regulation, or a combination of these proposals. Each of these means to accomplish the end has the capability of achieving the goals of universal coverage and cost containment.

To attain the nationally established goals, the Federal Government should make funding available to States in the form of a block grant based on factors such as poverty, State income, other demographics, and health care costs.

The Federal Government should utilize funding to provide rewards to States that move more quickly toward the goals of national reform—guaranteed funding, so long as States continue to move toward those goals—and possibly even impose sanctions on the States failing to meet the goal.

States should choose how to finance their share of the cost of health reform by virtually any means which they find most appropriate to their State. Beyond that, the Federal Government should only provide direction, and get out of the way of State reform. In fact, the States should be allowed to supplement the Federal standards benefits if they so choose, but with their own non-Federal funds. In a decentralized or Federal system, States would have the responsibility to establish and implement programs to achieve national standards.

Among other things, States should have the flexibility in following, or States should be granted the flexibility to establish, the health delivery arrangement that best meets the geographic considerations and needs of its population.

Financing: States should be responsible for any costs beyond that established as the basis of Federal block grant funding. Therefore, States will have a strong incentive to initiate effective cost containment systems whether by use of market forces, a regulated payment system, or a mix of both. In regulation, States have historically, and should continue to be, primarily involved in the training and licensure of health care providers, and have been responsible for the civil justice system, and, thus, medical malpractice reform.

However, States such as Hawaii, Washington, Florida, Minnesota, and Oregon could maintain and build on the successful and popular health care reforms which they already have in place. How do we get there? How do we walk this second road of a partnership of the Federal Government and the States for health care reform?

What is needed, Mr. President, is to convert the various unitary plans which combine both ends and means in a centralized Federal Government approach. We need a plan to convert those various unitary plans from explicit health care road maps to statements of destination.

Due to the late hour of this debate, Congress should look at the objectives of the various plans and pick the proposal that best meets mutually agreed upon goals. Which of the half dozen or more plans before us will in fact give us the greatest confidence that they will achieve the objectives of universal coverage, cost containment, insurance reform, and the other goals which have been stated?

The underlying organizational, financing and regulatory details would only be a temple for States. That would be applicable in the absence of a State's enactment of its own reform structure, or in the wake of a failed State plan. In short, the Federal temple would only serve as a safety net for States. States could opt out of any national design as long as they could demonstrate that they could meet the Federally established standards that we agree upon.

Mr. President, this strategy is not original. In the President's Health Security Act, States were given the option of adopting a single payer in lieu of the purchase of private insurance through mandatory options. If States decline to use the single-payer option, they would be included in the national system.

My proposal suggests a similar foundation of a national system but with a broader range of options to the States. Provided States meet the tests of achieving universal coverage, with guaranteed and affordable comprehensive benefits, they could choose from a variety of financing organization and regulatory arrangements.

Mr. President, in the last election Americans made it clear that health care reform is of primary importance to the Nation. Health care reform is necessary not only to the 38.5 million uninsured Americans, but also for the health of the economy and the health of the rest of America.

Congress is trying to respond. But at this point it appears that there will be one of two results: We will either fail to enact health care reform due to the partisan bickering, or we will pass a compromise that will not work, will detract from true reform, including stifling reform efforts at the State and local levels, and further diminish the public's confidence in the Federal Government.

Mr. President, we badly need—this Nation, our people and our future—a sustained success in health care reform. The well trod road of federalism is that path.

Mr. President, I ask unanimous consent to submit for the RECORD various materials referred to in my remarks.

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

[From Domestic Affairs, Winter 1993-94]

TAKING FEDERALISM SERIOUSLY: THE CASE FOR STATE-LED HEALTH CARE REFORM

(By Jerry L. Mashaw)

It is a good time to take stock of the debate about health care reform. There are nearly as many divergent ideas about the desirable specifics of reform as there are analysts who believe that the system is broken and must be fixed. This much is clear: A country that spends more of its gross domestic product on health care than any other country in the world, yet still fails to provide reasonable assurance of coverage to a substantial, and increasing, proportion of its population, is not doing a good job. We do need reform. What should it be?[1]

The major proposed directions for reform are now reasonably familiar to those who have been following the debate. But as partisans of one reform strategy or another have battled for attention and adherents, some simple facts have often been obscured. The good news is that there is merit to most of the proposals that have been put forward. The bad news is that no one of them is without serious flaws or uncertainties. This combination of good and bad news provides a persuasive argument for national health care reform that leaves great scope for state flexibility in the design of health care systems.

That is the simple message of this article. But to unpack the argument a bit, we must first take a brief look at the pros and cons of the major proposals. We will then see why state planning makes sense and discuss how to avoid some of the potential pitfalls of what I will call a federalist approach.

ON THE ONE HAND, ON THE OTHER HAND

So much attention has been focused on the Clinton administration's deliberations and

Footnotes at end of article.

reform strategy that we have virtually forgotten the multitude of plans that were being put forward in the last two years of the Bush administration and that are still supported, in various forms, by many important actors and interests. Roughly speaking, these plans can be grouped under four headings: (1) so-called play-or-pay proposals, (2) the Bush voucher plan, (3) single-payer or Canadian-style arrangements, and (4) managed competition.

Play or pay is an attempt to build directly on the current system of employer-based health insurance. Employers would either provide insurance for their employees or pay into a common pool that would in turn provide that insurance. In short, play or pay is an employer mandate system that would attempt to arrest the rapid unraveling of employer-based insurance that now leaves as many as 60 million Americans without insurance at some point each year. It is, indeed, the decline in the percentage of employed persons who have health insurance through their workplace—not unemployment or a decline in support for public programs—that has resulted in a smaller percentage of all Americans being covered now than in 1980.

Play or pay has the advantage of building on the current system, but its disadvantages are many. Mandates are often perverse forms of taxation with undesirable economic effects. Small employers, who can least afford hefty benefits packages and who are collectively the greatest source of job creation, often bear the largest burdens. Moreover, because benefits in a play-or-pay would remain tied to employment, the "portability problem"—the inability to change jobs without losing or impairing insurance coverage—could be solved only by further mandates or regulations. Finally, play or pay, in and of itself, would do nothing about the unemployed, who would have to be insured through a separate fund.

This last issue points to a substantial risk inherent in all play-or-pay schemes. There is a danger that highly paid workers, who are already well-insured and who tend to have lower health risks, would end up with generous packages of employer-based insurance, while lower-paid-workers, who generally have poorer health status and are more costly to insure, would be in a public system that over time would become increasingly costly. The response to that system's rising costs would likely be belt-tightening for the less affluent—that is, less and less adequate coverage for them.

This sort of two-tiered medicine is not what most people have in mind when they speak of universal health insurance. After all, we have a similar situation now, with a lower tier that is increasingly vulnerable to political demands for cutbacks in government spending. The more of us who are included in essentially the same system, the more likely that system will be to provide high-quality treatment and low levels of administrative hassle for everyone.

Play-or-pay proposals also tend to leave much of the administrative complexity and cost of the current health care system intact. Moreover, although it is not impossible to address the various drawbacks of these proposals, the solutions themselves would generate new complications.

Finally, there is no necessary link between play-or-pay reform and cost containment. Reduction in the inflation rate for medical care would have to be achieved through some other regulatory mechanism, which could prove very intrusive—and at precisely the point where most Americans would least like regulation: the point of service delivery.

Politically, play or pay was developed as a path of least resistance. It is an approach built around existing institutions and the anticipated political barriers to doing anything else. Such a strategy could be politically astute in the short run, but it would give us a Rube Goldberg design for health care reform—a design that in the long run could function very badly.

To compete with the play-or-pay plans proposed by Democratic leaders in Congress, the Bush administration developed a different and conceptually much simpler system. Universal coverage would be encouraged by a tax credit or voucher, the value of which would be inversely correlated with family income. Vouchers could be transferred to employers for participation in an employment-based insurance plan or used directly to purchase health coverage. The proposal may have been intended to be the entering wedge for a reform strategy based on an individual mandate, as described by Michael Graetz elsewhere in this issue. And as Graetz's article points out, there is much to be said for an individual mandate approach. Our current scheme of tax-deductibility for employer contributions to health insurance, combined with the exclusion of the value of those contributions from taxable individual income, is a remarkably regressive system of public support for health insurance.

The Bush voucher plan, however, had the defects of its virtues. First, although it would have increased the proportion of the population with health insurance, it did not propose to make coverage universal. Second, the credit-voucher approach would have left some Americans, whatever their expected health risks, with only the insurance that they could buy with their limited subsidies. Others would have remained free—and financially able—to purchase more and better coverage. The predictable result would have been an extreme form of two-tiering. Third, the plan's mechanisms for subvention—sliding-scale credits for the poor and tax deductions for the well-off—would have afforded little relief from the increasingly fantastic costs of insurance to members of the working lower-middle class.

Fourth, there was no obvious cost control mechanism in the Bush proposal, although caps on tax deductibility under employer-based plans could have been added later and cost control was being built into the benefits package through the unfortunate stratagem of cutting back on what most Americans view as adequate coverage. This means of cost control would be likely to exacerbate the extent of tiering as well as the administrative costs and "system gaming" that always accompany attempts to restrict the scope of coverage of any health insurance program. The result over time might well be little or no cost containment

Finally, because the Bush proposals relied on the current insurance system—with its marketing costs, duplications of coverage, and massive administrative bureaucracy—there was little hope that the credit-voucher approach, as proposed, would have significantly affected the absurd ratios of administrative to service-provision expenses in American health care. There may have been a managed competition sleeper in the Bush plan's "Health Insurance Networks" that would have lessened administrative costs, but the proposal did not emphasize this feature. And any savings from this portion of the plan might have been swamped by the costs of the new administrative complexities inherent in means-tested vouchers and deductions.

Meanwhile, a number of senators and congressmen were pushing a quite different alternative: single-payer or Canadian-style reform, a proposal that is far from dead either in the Congress or outside it. The single-payer approach is elegant in its simplicity. All Americans would be covered for all necessary medical expenses. The "government"—probably, in truth, state governments (just as provinces play this role in the Canadian system)—would be the "buyer" of all health care goods and services. Each year, a state would negotiate with providers for an overall budget limit on expenditures, along with a specific schedule of payments for particular procedures. If the budget were overrun in one year, the amounts paid for various procedures would be cut back in the next. The specific amounts to be paid for particular medical services would be hashed out primarily in the medical fraternity—that is, doctors and hospitals would, by negotiating with each other and the government, determine how much of the overall and limited health care pie each would consumer.

For consumers or patients, this system is almost too good to be true. Each patient would have a card entitling him or her to health care as needed—that is when that need was certified by a licensed professional. There would be no limits on choice of doctors or hospitals; doctors and hospitals would not be allowed to charge more than the prices previously negotiated with the government; and private insurance would be available only for those limited services not covered by the national scheme (e.g., cosmetic surgery).

As the Canadians like to put it, a system of this sort is universal (everyone is in the same boat), portable (not tied to either a particular job or place of residence), accountable (public authorities bargain for the populace concerning benefits and their costs), and fiscally prudent (monopsony bargaining by a single payer produces the power to constrain costs, and the necessity to provide other goods and services motivates the government to constrain its health care budget). Administrative complexities are kept to a minimum. Multiple insurance policies, balance billing, experience rating, and pre-clearance for access to tests or care ("managed care") are all unnecessary. While administrative costs are shaved and provider incomes are constrained, choices about how to practice medicine are guided only by professional judgments and patient choices.

For the United States, the difficulties with this system are primarily ideological and political. The first problem is the specter of "big government." In a single-payer system, virtually all of the health care dollars that now run through the private economy would run through the government budget. Experience in Canada and elsewhere should lead us to expect a decline over time in the now-relentless rate of increase in the share of our GDP devoted to health care costs. Nevertheless, the prospect of a one-time shift of vast resources—amounting to 8 to 10 percent of GDP—from private accounts to public accounts has led many to believe that a single-payer approach would be ideologically unacceptable to the American populace. (Opinion polls do not necessarily support this claim.)

A second major problem is that single-payer reform would decimate the private insurance industry. If we had to choose a part of the American health care system to decimate—the choices being providers, patients, or insurers—this would surely be my choice. Nevertheless, putting this industry out of

business—except in niches or to the extent that it administers portions of a single-payer apparatus—is thought by many to be politically nonviable. A large number of jobs are at stake here, even if they are in some sense make-work, in that they involved carrying out administrative tasks that a single-payer system would render unnecessary.

There are also worries about queues, fed largely by anecdotes that seriously misrepresent the true picture in Canada and elsewhere. In addition, some have suggested that government finance would stifle the continuous march of technological progress in American medicine—a fear that seems to be groundless as well. Yet, taken together, these various concerns, however mistaken or exaggerated, may be sufficient to make the single-payer approach politically nonviable as a national solution.

At this point enter (stage center) "managed competition." While oxymoronic in its nomenclature, managed competition captured the imagination of the Clinton administration and apparently provides the backbone of its plan. The basic notion of managed competition is the formation of purchasing cooperatives that would provide insurance for the whole population and that, because there would be only one in each local market, would have the bargaining power to force down provider prices.

Universalism can be built into a managed competition proposal in any number of ways, ranging from allowing employers to buy coverage for their employees from the health insurance cooperatives (and setting up a governmental program for those who are unemployed) to establishing a voucher system reminiscent of the Bush plan. Managed competition strategies typically would preclude insurers from experience-rating populations (that is, charging premiums in relation to the relative risks of particular groups) or denying individuals coverage because of their preexisting conditions.

The advantages of managed competition are said to derive from its use of monopsony power (as in a single-payer scheme) to control costs and from its reliance on the competitive provision of services as a mechanism to protect the quality of care and patient choice. Thus, the ideological baggage of managed competition—unlike that carried by the single-payer approach—all seems positive: "market," "choice," and "competition."

However, the problems with managed competition are many. It would rely very heavily on reorganizing the practice of medicine into health maintenance organizations (HMOs) or preferred provider organizations (PPOs). Groups of physicians and hospitals would agree to treat populations of patients for fixed annual fees. In essence, the providers would become the insurers in this system—and would make money only to the extent that they became efficient in managing the care of their patient populations.

A logical corollary of this arrangement is that patients would have less choice about who provides them with medical care and physicians themselves would have less professional autonomy. The superficial ideological attractiveness of managed competition may vanish as both patients and physicians learn more about what managed competition really means. In addition, because managed competition has never been tried anywhere on a substantial scale, it would entail the acceptance of these losses of autonomy for patients and physicians in exchange for an unknown degree of cost containment.

These disadvantages may not be so dire as they sound when stated abstractly. There are many successful HMOs with satisfied customers. Moreover, few of us do much real choosing of our doctors anyway. We may select a general practitioner or internist (if we find one), but a huge proportion of acute care is now provided by specialists or sub-specialists to whom we are referred and about whom we know little. The use of large cooperative purchasers would cut down on administrative expenses and could be designed to assure virtually unlimited portability of benefits, although with some administrative stress.

There are many variations on these four themes and perhaps some approaches that are not captured very well by the typology that has been employed here. Moreover, systems can sometimes be fused. Play or pay and managed competition have much overlapping content and can be brought even closer together or made more distinct by technical design features that go beyond the scope of this discussion. For present purposes, the basic point would be clear enough: There are lots of proposals out there, and each has strengths and weaknesses.

WHY CHOOSE?

Although the discussion in the last section was couched mostly in policy-analytic terms, we should not be misled into believing that deciding how to reorganize American health care delivery and finance is just a matter of resolving technical issues. These choices are highly political. To put the matter slightly differently, because there are substantial uncertainties about how any proposed system would work and because each has different risks and benefits, choosing a plan involves ascertaining what risks people think are worth running for what potential gains. Moreover, there are basic moral and political questions about how egalitarian and comprehensive health care should be and about who should have the authority to make what sorts of choices regarding health care facing what incentives or constraints. Answers to these sorts of questions are the essence of political judgment.

It is precisely here that the basic structure of our federal system can play a crucial role in making health care reform viable, successful, and acceptable to all Americans. Political judgments concerning the desirability of the reform directions we have been discussing are products of personal experience, local economic and social conditions, and political ideology. These factors change substantially as one moves about the United States. If change is to be workable and acceptable, it must take account of the real differences between New York and Idaho, Wisconsin and Louisiana.

For example, because of their long experience and heavy involvement with HMOs, Californians may be perfectly happy with some version of managed competition. Vermonters, by contrast, may find the idea of an HMO appalling and the notion of competition among large health insurance cooperatives laughable given the small size and sparse population of their state. Maryland may prefer an all-payer rate-setting system for cost control, in no small part because it has had significant success over the last decade constraining hospital costs by using that approach. The governor of Kentucky has worked out a complex and comprehensive version of play or pay that might well suit Kentuckians and their particular circumstances.

And so it goes. There is unlikely to be any single best system for the whole of these United States. Regions, states, even localities are different in their demographic characteristics, political cultures, and existing styles of medical practice and health care consumption.

Why not then let states choose how to reform American health care? If it is uncertain how any new proposal would work out in practice, why run a single experiment, which might fail, on the whole country at once? Is it not precisely the genius of American federalism to permit not only experimentation to discover what works, but continuous variation in policy prescriptions over time to accommodate different conditions and different preferences?

My answer to these questions is yes. But I must recognize that there are serious and plausible objections to leaving much of health care planning to the states. In the next section, I will consider some of the major concerns about a federalist approach to reform.

ARGUMENTS AGAINST THE STATES

I do not propose here to consider every conceivable objection to a major role for the states in health care reform, but I do want to describe—and, frankly, dispel—some of the most important. My view is that the problems addressed here, though real, are not so serious that they should cause us to prefer a nationalist to a federalist approach to reform.

First, it is objected that "letting the states do it" would mean that health care would be different, and potentially less "good" (comprehensive, universal, effective, or whatever), in Mississippi and West Virginia than it is in Minnesota and New York. That is true. But it is also true of housing, schooling, access to transportation, and a host of other life-enhancing goods and services that many of us would prefer to see more evenly distributed across the national population. It is also, of course, dramatically true of our existing health care arrangements. We should not delude ourselves that the creation of a "national" plan would stamp out the large differences in the economic or other circumstances of populations across the United States.

Moreover, if, as many analysts persuasively argue, managed competition just would not work in Mississippi or Idaho or, indeed, in about half the states, putting that system in place could hardly produce a big change for the better. Similarly, if Minnesotans are ideologically opposed to means-tested vouchers while Arkansans shudder at the thought of their state government becoming the single payer that manages their health care, why choose a national system that has the potential to make these populations worse off than they currently are? Uniformity is in fact a pipedream, and, as the fictious Mr. Sherlock Holmes discovered, indulging in a large number of those dreams can be detrimental to your health.

What then about the capacities of the states, both administrative and political? Can we really trust the states to adopt and implement reforms that universalize coverage, make it portable for their populations, constrain costs, and maintain quality? We might readily ask those same questions about the national government. And we already know the answers with respect to the current system of private provision. It fails all sensible tests for a good health care system.

But we need not rely entirely on "as compared to what" arguments. For one thing, a federalist approach does not eschew national standards, as we shall shortly discuss. Of equal importance, a number of states have been actively engaged in health care reform

efforts of their own, and many are having significant successes—against, as we shall see, very steep odds.

Hawaii is perhaps the best known example. That State has developed an extraordinary amalgam of play or pay, monopoly bargaining, voucher-type gap-filling, and single-payer regulatory control under which the whole population is covered. Quality of care and consumer satisfaction are both high, and health care costs Hawaiians, as a proportion of income, 5 percentage points less than it costs the average mainlander. There are many historical and geographical explanations for these happy circumstances in Hawaii, but none explain away a true success story in American health care provision. Moreover, the cost containment that has been achieved is startling in a state that has the second highest cost of living in the United States.

A quick trip back East will also reveal some excellent results in states such as Maryland and New York. For the past decade, both of those states have been engaged in fairly aggressive rate regulation and "supply-side" controls with respect to hospitals. Their efforts have paid off handsomely. Maryland's all-payer regulation of hospital rates is the most developed and most successful in the country, and New York's rate of growth in hospital spending is now among the lowest. Is New York well-known for low costs and good government? For that matter, is Maryland? And yet, these states, pressed hard by hospital cost escalation that increasingly showed up in their Medicaid budgets, took actions that have constrained costs without, as far as anyone can tell, impairing the quality of care provided their populations.

Many other states have initiatives at various stages of planning, enactment, and implementation (Minnesota, Delaware, Vermont, and Florida, for example). Others, such as New Jersey, have tried to strike out in new directions only to find that they are hemmed in by federal regulations related to Medicare and Medicaid—and particularly by the pre-emption, in the Employees Retirement Income Security Act (ERISA), of state actions affecting self-insuring employers. Indeed, Hawaii's signal success in universalizing care while constraining costs has much to do with its good fortune in having obtained a waiver from the ERISA pre-emption rule—a waiver that has not been made available to any other state in the Union.

By this point, another quite sensible query may have occurred to many readers: If the states are so good at health care provision or reform, why do we have a national health care crisis? The basic story is conceptually simple. Remember the various types of national health care reform plans that were discussed earlier. One common feature of all of these proposals is their comprehensive nature. To universalize care, make it portable, maintain quality, and constrain costs, you have to have a plan that addresses virtually all aspects of health care delivery and finance.

Under current law, this sort of comprehensive approach is unavailable to the states. Forty cents of every dollar expended on health care is spent by the federal government under rules and regulations that are not subject to state control. To be sure, some states have been able to get waivers of certain Medicaid regulations, and Maryland has managed to get, and utilize effectively, a Medicare waiver as well. But their inability to control large chunks of health care finance is only the beginning of the states' current difficulties. If it is impossible to fold self-insured employers into the system because of ERISA, as it is everywhere except in Hawaii, then states cannot build comprehensive systems. To oversimplify, but not by much, the ERISA preemption means that the people who have the lowest health risks and the highest abilities to pay will be outside of the state systems.

Equally important, a huge proportion of the federal contribution to the expense of American health care comes through the tax code. The tax deductibility of employer expenses for employee health care means that some $65 billion is dumped into the health care system annually in a form that can be maintained only if insurance or self-insurance remains employment-based. This eliminates, for all practical purposes, the potential for states to cut health care insurance loose from its historic, and accidental,[2] moorings in the workplace.

In short, the problem is not just that federal policies have failed to facilitate state solutions to problems of health care delivery and finance; it is that these policies continue to thwart state efforts at almost every turn. Nor, to be frank, has the federal government been responsible about throwing these monkey wrenches into state efforts. The ERISA barrier, which is probably the most serious, was created by a statute that preempts all state regulation while failing to provide any national regulation in its stead. Hence, while states can prevent private insurers from excluding people because of preexisting conditions and can require insurers to community rate, as the states historically have done with the Blues, ERISA prevents them from taking the same steps with respect to self-insured employers. The result has been a flight to self-insurance to avoid regulation—and then the increasingly frequent and distressing discovery by employees that their employer's health insurance can be counted on to provide good coverage only if they remain well.

I do not want to oversell this tale of state responsibility in the face of federal obstructionism. States are not responsible, or even competent, all of the time. And if large amounts of federal monies are going to be put into a national health care system, then it is surely also irresponsible for the national government to allow those monies to be spent with no federal controls or oversight.

I have no quarrel with this position, but it does not entail the conclusion that we must therefore have a national health care system that is uniform across all states and administered primarily from Washington. On the contrary, it should lead only to the conclusion that the federal government should set broad goals or parameters within which state systems are required to operate and then free the states to create those systems that work best for their populations within the constraints of the federal guidelines.

This is hardly a novel institutional structure. We use it in many realms of national domestic policy, ranging from highway construction to environmental protection to day-care. In my view, we would be well-advised to use it again in health care reform. If the federal government would continue its fiscal contribution to American health care—both direct expenditures and tax expenditures—but make maintenance of that contribution conditional upon some straightforward guidelines for state organization of health care provision and finance, we might have the best of both possible worlds: a system that satisfies national aspirations and is responsible with national monies, while it simultaneously responds to the differing conditions, cultures, and preferences of states and their populations.

In principle, these guidelines could be quite simple. A state should not receive the necessary waivers from federal statutes or the maintenance of federal fiscal contributions unless it provides or constructs a universal system that covers all reasonably necessary medical procedures. Benefits in that system should be portable both within and without the state, and there should be a public authority that can be called to account for the operation and quality of the system. The federal government's means for financing its contribution to the system should ensure that if a state's (appropriately adjusted) health care costs per capita, or its health care cost inflation rates, exceed national targets, those excess costs are to be paid 100 percent with state and private, not federal, dollars.

TROUBLE IN CAMELOT?

As does any reform plan, the federalist solution raises its own set of worrisome issues: What would be the effects of multiple and varied rules on national employers? How would the federal government enforce the conditions it sets? How would a federalist approach deal with the reality that states differ in their capacities to achieve universality and cost containment given the current differences among their health care systems on both counts and, more generally, the differences among their economic, social, and institutional situations?

As to the first question, national employers already cope with enormously diverse health care needs and systems across the country. All health care arrangements are intensely local. The claimed need for uniformity is a smoke screen for the real objectives of the big businesses who cite it: either the maintenance of the current system, which gives them some advantages over small businesses (e.g., no regulation of their health care benefits and the potential ability to avoid contribution to the cost of the uninsured) or the construction of a new set of mandates that will disadvantage their smaller competitors even further. The objection to a lack of uniformity should be ignored.

Enforcement, by contrast, is always a problem in state-federal cooperative arrangements, but the size of the problem should not be overstated. Over time, progress generally is made through threats, negotiation, and occasional sanctions, Moreover, a federal statute can easily be structured so that consumers and providers have private rights enforceable in court. The double-whammy of federal bureaucratic pressure and private litigation has a long history of enforcement success in program after program of "cooperative federalism"—though not unalloyed success, of course. Compliance is never perfect with any legal requirement in any legal system.

Differences in state capacities would have to be recognized and taken into account in federalist strategy. Most state-federal systems begin with the submission and approval of plans, move on to implementation and monitoring, and continue over time with endless rounds of negotiations, sanctions as needed, and legislative amendments. Any such system—and health care would surely be no exception—establishes a process, not a completed product. And in that process, states will perform better, worse, or just differently. No sensible federal administrator could expect otherwise.

Doubters and skeptics among the readers of the last three paragraphs may view them as overly optimistic, perhaps even glib. And even the more sympathetic may now be thinking the equivalent of "easy to say, but tough to implement." My response for now is only this: So is everything. All reform is essentially trial and error—or more cheerfully, trial and accidental success. Social engineering is an art, not a science, and mistakes can be very costly.

To take a pessimistic view, if in reforming American health care we are currently about the business of engineering a train wreck, it would be nice not to have the whole country on the train. From a more optimistic perspective, in establishing and operating this grand new experiment, it would be helpful to be able to learn over the years from the experiences of those states where the switches work better and the trains run closer to their scheduled times.

FOOTNOTES

[1]The conclusion that the system is broken seems to generate little disagreement, although I must confess that I believe we can take the bashing of the health care system too far. An industry that grows at twice the rate of the gross domestic product, creates a huge number of high-paying, high-skilled jobs, provides the United States with technological leadership in a major economic sector, and is virtually immune from foreign competition should hardly be treated as public enemy number one.

[2]Somewhat ironically, the origin of employment-based health insurance is attributable in substantial part to employers' desires to avoid wartime wage controls.

NATIONAL HEALTH REFORM: WHERE DO WE GO FROM HERE?

(By Theodore Marmor, Jerry Mashaw, and Jon Oberlander)

I. THE PROBLEM

The debate over health care reform has reached a critical juncture. There is significant opposition in Congress to the administration's plan without consensus on an alternative. There is widespread agreement that health reform is needed but disagreement on the precise shape reform should take. Given these political circumstances, and the associated risk of deadlock, what should supporters of health reform do? How can national health reform be enacted when no majority exists for any single reform plan?

The challenge for reformers is to pursue a strategy that reflects the political consensus on the goals of health reform as well as the lack of consensus on solutions. With no clear majority for any proposal, health reform proponents are divided into factions favoring managed competition, single-payer, expanded Medicare and various hybrids of these approaches. These divisions, however, should not obscure the larger consensus among reformers on fundamental principles: universal coverage, cost containment, and radical reform of private health insurance practices.

A majority for health reform can be formed if supporters of the various reform options are aggregated around their common commitment to these principles. In other words, if a legislative proposal can be developed that brings together all those serious about health reform—be they single-payer, managed competition or whatever—a sufficient majority will be created that can overcome the resistance of health reform opponents. The trick, then, is to pursue legislation that builds on the reformers' consensus on goals while recognizing their differences on how to achieve those goals.

II. THE SOLUTION

One possible solution to the problem of forming a legislative majority amongst reformers whose health policy preferences diverge is to enact legislation requiring universal coverage, cost containment, and insurance practice reform but allowing for multiple strategies for meeting these standards.

Specifically, Congress could pass legislation mandating that the states enact universal coverage, insurance reform and cost control by a specified date but leaving the states a choice about which administrative and health delivery changes they wish to implement. To a limited extent the Clinton plan, with its single-payer option, already recognizes the advantages of state flexibility. We propose, however, to expand on the concept of state-led health reform by enlarging the scope of state discretion and making it a political cornerstone of national health reform.

How would a proposal for state-led health reform work? Congress would enact legislation mandating state compliance with federally-established national health reform standards. By a specified date, states would be required to enact universal health insurance meeting the following standards.

Universality. All citizens must be guaranteed health insurance coverage. Insurance coverage may not be denied for preexisting medical conditions. Community rating is mandated. Insurers may not sever coverage.

Comprehensiveness. Health insurance coverage must include all necessary medical services. Congress should specify a minimum benefit package which leaves states the option of adding coverage for additional services (e.g., dental care).

Portability.

Accountability. States must designate an administrative agency responsible for overseeing their health care system.

Fiscal viability. States must establish a reasonable plan for cost containment. States exceeding national targets for medical inflation will themselves be financially responsible for excess expenditures.

States would submit their proposed plans to a National Health Commission for approval. It should be noted that Congress must enact accompanying legislation (such as reform of the ERISA provisions of self-insuring companies) that allows states sufficient legal discretion to pursue health reform. States should be allowed, with federal approval, to fold Medicare and Medicaid into their health systems.

Federal funding would be available to states meeting the national health reform standards. Funding could be in the form of a block grant varying with state income, demographics, and health cost history. Federal monies would constitute only a portion of the financing base. States could choose how to finance their portion of the health budget.

While the standards for national health reform would be national, states would retain autonomy in choosing how to meet these standards. States could implement a system resembling the Clinton administration's plan. They could also pursue managed competition without mandatory alliances or single payer or all-payer regulation or a combination of these proposals. As long as they satisfied national health reform standards, states would be free to create the health system of their choice.

III. DISCUSSION

What are the political advantages of a state-led or federalist health reform? By mandating principles of reform without imposing a single reform strategy, federalist reform addresses the puzzle of how to take advantage of the majority for health reform when that majority cannot agree on the precise shape of reform. The widespread support for universal coverage, cost containment and insurance reform is embodied in the national health standards. The diversity of opinions on how to achieve these goals is recognized by giving the states flexibility in meeting the standards. Single-payer and managed competition advocates will both find room in state-led health reform to realize their favored system and therefore ought to come together within the same coalition.

The federalist strategy will put opponents of reform on the spot. Legislators whose opposition to reform has been cloaked in objections to specific plans or elements of plans will have to come clean. They will no longer be able to object to national health reform on the basis of dissatisfaction with a particular reform plan; federalist legislation will not impose any one plan on the states. The political dynamics of health reform would be altered. The debate would no longer center, for example, on the desirability of mandatory health alliances. Instead lawmakers will be faced with a straightforward question: "Do you support the goals of national health reform; universal coverage, cost control and insurance market reform?" It will be more difficult to oppose national health reform standards than it is currently to oppose specific plans. The health debate will move to a terrain which is more comprehensible to the public—and where public support for reform will be a stronger political force. And that is crucial.

States vary widely in wealth, demographics, political culture, and medical arrangements. Given this diversity, it is preferable to give states flexibility in setting up health systems appropriate to their respective situations. Managed competition, for instance, is not obviously feasible in states with geographically dispersed low populations; there is insufficient population density to sustain a system of competing health plans. On the other hand, states such as California with substantial HMO experience will be more comfortable with such arrangements. The political perspective on health care is not the same in Vermont as it is in Utah.

Moreover, many states have a significant track record in health reform. State health reform contains many examples of selective success such as Hawaii's universal coverage system and New York's hospital rate regulation. Even as the federal government considers national reform, states such as Florida, Minnesota and Vermont are pushing ahead with their own health reform plans. Most states would likely welcome the opportunity to pursue their own health reform strategies. Given states' socioeconomic and political diversity, their experience with health reform, and their preferences for maintaining their own health systems, does it not make sense to enact national health reform that gives the states the freedom to choose what kind of health administration they want?

The Clinton Health Plan has received criticism for limiting choice. This criticism is largely misplaced. Nevertheless, reforms must confront the problem of reform's association with restrictions on choice in medical care. By leaving the states free to choose their own administrative structure, the criticism the administration's plan has encountered will be ideologically neutralized; health reformers can seize the symbolism of choice. Health reform built on federalism will resonate with the public as a flexible, pragmatic solution to the nation's medical crisis.

As the proliferation of reform proposals in Congress demonstrates, there is more than

one route to universal coverage and cost containment. There is a great deal of uncertainty about how these plans would operate in practice. Managed competition has never been tried anywhere on a systemwide level and no state currently employs a single payer model. Given this uncertainty, it makes sense to take advantage of the opportunity federalism gives us by allowing for experimentation with various reform ideas. State-led reform will allow us over time to observe the effectiveness of various options for reform.

IV. CONCLUSION

The fundamental assumption behind the federalist strategy is that there is an existing but divided majority for health reform in Congress. We propose to mobilize this majority by providing a formula for health reform that reflects both reformers' consensus on the goals of national health reform and their disagreement on how to achieve those goals.

Many Legislators who do not agree on the direction of reform do agree on the necessity of reform. By pursuing legislation that simultaneously sets national health reform standards while guaranteeing state flexibility in implementation, a legislative majority committed to health reform but not to any one health reform can, we believe, be coalesced. The federalist strategy offers hope for enacting national health reform legislation in 1994.

FEDERALISM: MAKING IT WORK IN HEALTH CARE REFORM

(By Theodore Marmor and Jerry Mashaw)

I. INTRODUCTION

Our earlier March memorandum—National Health Reform: Where do we go from here?—argued that a federalist form of health reform made substantive and political sense in the current Congressional context. By federalist reform we meant a combination of a limited number of fundamental national standards for universal health insurance and substantial state discretion for choices beyond those architecture fundamentals. The national standards we noted included universality of overage, comprehensiveness of benefits, portability of insurance coverage, public accountability, and reasonable constraints on rising medical costs. Under this form of "strong federalism," the rest of the medical care domain is left for the states: whether or not to change the regulation of medical practice (who can do what with what licenses), whether to encourage changes in the organization and delivery of services (HMOs, PPO's, integrated health systems), how to implement cost controls that limit the rate of increase in medical expenditures (single budgets, all-payer systems, competitive health plans), and so on.

What follows here is an elaboration of what these board claims might mean in practice. We first address the question of what should not vary among the states—what should be uniform in health care reform. We discuss the case for substantial state discretion under the rubric of a simple question: Should one care if states vary in how they deal with this or that feature of a universal health insurance system?

II. PERSISTENT QUESTIONS: FEDERALIST ANSWERS

A. Should states be permitted to vary in who is entitled to health insurance coverage? Put another way, what does universal coverage mean operationally and what, if any, variation is permissible?

The answer, in our view, is simple. Citizens and resident aliens are the proper beneficiaries of guaranteed health insurance and no good case exists for permitting variation in this national standard. There are, however, grounds for treating the health costs of illegal aliens—and the burdens they impose on localities—as a serious, separate issue in spreading the costs of health services.

Universal coverage is a precondition of the economic security expected from reform. We cannot reach that goal without requiring that the great bulk of our citizens and legal residents have health insurance. Adjustments to the realities of illegal entry into the United States is certainly an important feature of national burden-sharing, but not one that should be built into the basic statutory entitlement. After all, the psychological security we hope to produce is for those legitimately within our borders. Dealing with the consequences of having others within our borders is crucial for states like Florida, Texas, California, and new York, but it is part of fiscal federalism, not entitlement to health insurance.

B. What does federalism mean for portability of coverage? If states are the basic administrative units for universal health insurance, the obvious question is of portability. The equally obvious solution is the national requirement that states recognize the terms of other state's health insurance programs. There are many practical issues involved here, but they are second-order ones; Canadian provinces have a half century of experience in doing precisely this in medical care. Conflict, it must be noted, is inevitable with portability requirements. States with different remuneration policies will necessarily have differences with providers of care in other states. Cross-state agreements will be required, but national legislation must require portability, not the details of its implementation.

C. How uniform should health insurance benefits be across states? Put another way, should one care if Minnesota residents have a health insurance plan that differs in its covered services from that of South Dakota? This is far more complicated a question than is usually recognized.

Having a system of universal health care that varies from state to state, but includes a federal financial contribution, raises three quite separable issues: First, there is the problem of raids on the federal treasury by sates that create "luxury" health insurance systems. Second, there is the problem that with different resources, states contributing the same level of fiscal effort cannot create the same comprehensiveness of coverage. Third, there is concern that some states will choose to have "inadequate" health insurance coverage.

The first and second issues are quite easily solved as part of the federal formula for transfers to the states. As in many systems of "cooperative federalism," the national formula should take account of the risk factors, population and financial resources available to states in calibrating the federal government's contribution. Though no calibration can be perfect, it is clearly possible to eliminate major disparities in state capacity by the ways in which federal financial contributions are structured.

Similarly, the federal financial contribution should be in the form of a block grant or capitated amount. States cannot make raids on the federal treasury by choosing luxurious health insurance benefits, if the total amount of the federal contribution for each year is fixed. Spending above that level will have to be done out of funds generated through state policies and the state political processes.

The problem of "inadequate" state systems is in many ways a non-problem. If we assume that the federal government is making contributions that substantially equalize state fiscal capacities, then claiming that a state has chosen an inadequate package of health care benefits says little more than that the speaker disagrees with the state's political choice. There is no agreed-upon "best" health insurance or care system a state could offer. Moreover, both needs and medical preferences vary widely across the United States. The question is why a national system should override a state's perceptions of its needs or, similarly, a state's expression of political preference about the shape of a health insurance package?

Virtually none of the arguments that usually justify national uniformity apply to health care. Certain forms of basic immunization may be required to prevent the spread of disease, but these "externalities" are a modest part of health reform. Moreover, preventive measures may be instituted quite separately from whatever insurance package is provided in particular localities.

There is little reason to expect a "race to the bottom" in health care provision. So long as health insurance is being made universal, the politics of health care in states will not resemble the politics of welfare or Medicaid. Universality can be reinforced by federal conditions that require state subsidy or supplementation for low-income persons—measures ensuring that everyone has access to insurance that is equally affordable to them.

Any argument that it is simply unfair to have state-by-state variations in health insurance benefits seems confused. To put the matter more charitably, it seems to assume some baseline of adequacy for health insurance coverage that is established apart from any process of collective decisionmaking about what adequacy means. In short, it is a criticism of a state's political process rather than a criticism of a state's health insurance program.

Alternatively, such an "unfairness" claim may be that strict equality of health care or (health care insurance) is an aspect of national citizenship. This is, to say the least, a controversial claim. There is a moral case for egalitarianism here, but it is not a necessary feature of acceptable reform. That a particular state wants to spend less on health insurance and more on other things expresses a political judgment with which one may disagree, but it is hard to see how it violates some transcendental right to a specific level of health insurance coverage equal to some other state whose system we happen to prefer.

Finally, there is very little reason to believe that some variation in health benefits from state to state will have major impacts on location decisions either of individuals or of firms. There is a huge literature attempting to discover that one or another social program has some major impact on migration or location. To date, no single factor has any significant explanatory power. There is no reason to believe that health insurance will be any different from other state programs for highways, education or welfare benefits.

In short, a strong form of federalist system would leave very wide discretion among the states to determine the "basic" or "comprehensive" benefits package for themselves.

A separate argument has to do with the terms of competition in states that want to implement the Clinton plan's scheme of managed competition. Some fear that in the

absence of a uniform national benefit package, competition would drive plans to vary their benefits to attract enrollees rather than concentrate competition on the cost and quality of the services provided. The truth is that regulating the terms of competition will be difficult in any event. The implementation of risk-adjusted premiums is a far more difficult task than American reformers realize, as known by anyone familiar with the five years of frustration in the Netherlands over trying to do just that. There is less reason to insist on uniformity of benefits (beyond a basic package) and more reason to worry about the implementation of risk-adjustment, we believe.

Moreover, part of the concern here is the predictable struggle of various service providers to have their work included in state benefit packages. Some believe that a uniform benefit package will insulate states from this struggle. We doubt that, but we believe the National Health Board should oversee the activity by sorting out such issues as what is worth including for reimbursement purposes in the national plan and what is not, who should be regarded as medical providers under the national plan and who should not be, and so on. Regardless, this should not lessen the role states now have in regulating the terms of insurance coverage and medical practice.

D. State accountability. The only national standard should be one requiring each state to have a designated agency of accountability. Citizens should know whom to address with complaints, but the authorities need not be uniform across the states. We know from the Canadian experience with health insurance federalism that a largely uniform package or benefits and eligibility is compatible with substantial variation in precisely who is accountable for the provincial administration of universal coverage.

E. Cost Controls. The central question here is whether national reform—with the goal of reducing America's rate of inflation in medical care—requires uniform rates of growth in medical expenditures. We think not, but emphasize that the design questions here are tricky.

One method is to control the rate of increase in federal contributions to state operations. Where this has been done, the relevant lesson is that subnational units must face the full financial consequences of the decisions they make. In short, you can legitimately control the funds flowing to states as part of national policy, but must structure the rules such that states face the political and economic consequences of either expansionary or contractionary policies. What is wrong is to have one unit of government pay and another administer.

On the other hand, if employer-employee contributions are to fund the bulk of medical care expenditures, the fiscal arrangements are a bit more complicated than when ordinary income or payroll taxes are involved. The architecture here requires attention; the models are numerous and each brings with it special difficulties. For now, we would urge concentration first on what would count as the desired performance an second on what levers of reward and penalty the national government can impose. Draconian measures are only apparently attractive; they are largely useless in practice. Modest signals are attractive to states, but are not responsible responses to the national goal of constraining expenditures over time.

CONCLUSION

The case we have made is for a strong version of federalism. How one proceeds depends on whether one begins with a strong federalist model and treats a variety of stat plans as options or whether one presumes the Clinton plan is the preferred model and structures "options" to it. This is the issue we take up now.

STATE FLEXIBILITY UNDER THE PROPOSED PROVISIONS OF THE CLINTON HEALTH SECURITY ACT

I. INTRODUCTION

The proposed Health Security Act offers states the option of adopting a single-payer system (or an alliance-specific single-payer system) if it meets the various conditions of the Act. There is a catch, though. Those conditions narrowly constrain most of the areas in which a state might wish to exercise programmatic discretion.

For instance, the state must provide the comprehensive benefits specified in the Act. While a state may reduce co-payments, it may not compensate for those reductions by increasing co-payments for other goods or services. The state's overall expenditures are limited to a sum that will not exceed an amount determined (by §6003 of the Act) on the assumption that the state is simply a single regional alliance for that particular year. As defined in the Health Security Act, the state must cover everyone who is alliance-eligible and must function like an alliance itself—offering, for instance, reductions in cost-sharing for low-income individuals, data collection quality and anti-discrimination requirements.

Moreover, states are locked into employer-based financing as a principal source of revenue. They are required to raise at least as much from employers as those employers would have been required to pay in premiums for their alliance-eligible employees. Presumably, states have some discretion over how they would phase in their single-payer system during the transition period, but that period is quite short. All states must be participants by 1998; is not, the federal government takes over and administers the Health Security Act's version of managed competition for the state in question. The question, then, is: What amount of flexibility do states have under the Clinton plan?

II. AREAS IN WHICH TO MANEUVER

The major "wiggle room" provided by the single-payer alternative comes in two areas: The extent of delivery system reform and the state's choice of administrative and regulatory arrangements. Even here, however, the state discretion allowed is rather modest. Only a single-payer arrangement is permitted—or the Clinton plan plus one "alliance specific single-payer" arrangement. To be sure, this leaves the state some considerable discretion in how it approaches cost-control (capitated payments, prospective payments or whatever) and quality assurance activities Nevertheless, it excludes systems that would use multiple, but perhaps highly regulated, payers, as in the current New York or Maryland hospital payment systems. It also excludes other major alternatives such as a system of individual mandates and subsidies combined with small market insurance reforms.

Moreover, while the single-payer approach does not commit a state to the Clinton Administration's health plan delivery system, the statute's highly specific coverage provisions give states little freedom to experiment with major shifts of health care resources (perhaps toward preventive care and palliative care)—at least if they plan to finance those shifts by downplaying some other parts of the comprehensive benefits package. In short, while the single-payer arrangement allows states to leave the traditional fee-for-service medical system largely in place, the combination of cost-control constraints and benefits entitlements probably leave them a modest practical opportunity for profoundly rethinking the role and shape of medical care in population health.

III. IDEAS FOR BROADENING THE CHOICES

It may well be that the level of uniformity and federal control central to the Act's single-payer opt-out provisions are politically necessary to its acceptability. If one takes that as a political given, then the question becomes whether additional and parallel "opt-out" arrangements could be provided to broaden the menu of state discretion and thereby overcome some of the objections to the Clinton plan itself.

Broadly speaking, there seem to be two alternative systems of universal comprehensive care, in addition to the single-payer option, that might be provided as corollaries to the Clinton Health Security Act. The first system could be called "multiple regulated payers." In such a system the state would function, not as a single payer, but as a regulator. It could cover all applicants, provide an identical comprehensive basic package of insurance, ensure that all payers play by the same rules, and simplify administration through unified billing procedures, specified fee schedules and other cost-containment measures. This, as we have said, is the way that Maryland and New York currently handle hospital payments and the Federal Republic of Germany handles its whole national insurance program.

To some, the advantage of the multiple regulated payer scheme will surely be the preservation of much of the existing insurance industry, although in a highly-regulated form and one in which most small players eventually will have to merge or drop out of the business. Like the single-payer system, it preserves the existing delivery system more or less intact. The multiple regulated payer system also builds on our several decades of experience with price setting for the medical care industry under Medicare, Medicaid, and several state systems.

Such a scheme could seemingly be made an option in very much the same way as the single-payer system in the current Health Security Act. Obviously some changes would have to be made. For example, the enrollment and issuance of health security card obligations would have to be put on insurers or self-insuring employers rather than on the state as a single-payer. There would be no need to permit states to fold self-insuring employers or Medicare recipients into a multiple-payer system other than to provide the states with the power to regulate these payers as they regulate others. (For Medicare this would of course require the usual waiver, such as the one under which Maryland currently operates for hospital care.) And, because the state would not be the insurer, there should be no exemption from the Health Security Act's requirement that states provide a plan for financial solvency of the regulated payers.

The other major alternative is an individual mandate system with subsidies. It is trickier to design as a state option. If done at the national level, the individual mandate operates by translating the employer tax deductibility of employee health care benefits into personal, refundable income tax credits for the purchase of the defined basic benefits health insurance package. In so doing, it

maintains the federal fiscal effort that is now concentrated in the tax code in the form of employer deductibility of health care expenses for their employers. It also translates that federal fiscal effort into a fully portable benefit for individuals. Because states do not have control over the Internal Revenue Code, this feat of fiscal alchemy is more difficult to accomplish on a state-by-state basis. Nevertheless, the situation does not seem hopeless. The question is whether it is worthwhile.

For example, it might be possible to allow states to elect an individual mandate approach if they permitted the individual mandate to be satisfied by an employer's purchase of insurance (or employer self-insurance) that delivered the comprehensive benefits package. Employers who use this device would of course receive the usual tax deductibility, capped at an appropriate level. For those who were not covered by their employers, there could be an individual tax credit, funded by a special tax on employers not providing health care benefits. The tax would be equal to the amount that they would otherwise have paid into an alliance for their alliance-eligible employees under an employer mandate system.

It is hard to believe, though, that this approach would be very attractive as a state option. As described, it begins to look very much like the old "pay or play" system. It is, in substance, an employer mandate disguised as an individual mandate. And, if employer mandates are the objectionable feature of the Clinton plan, this state option hardly removes that feature. In short, if one wants to move to comprehensive insurance coverage via an individual mandate and tax credits, this is probably better done as a national plan, rather than as a state option.

IV. CONCLUSION

In summary, then, the existing opt-out provisions of the Health Security Act provide some room for states to experiment or avoid features of the Clinton proposal that some find objectionable. This option could readily be expanded to include schemes employing multiple regulated payers as well as single payers. Its usefulness does not extend, however, to states that wish to diverge more radically from the Clinton or single-payer approaches.

[From the New York Times, June 12, 1994]

50 LABS FOR REFORM

(By Jerry L. Mashaw and Theodore R. Marmor)

NEW HAVEN.—The debate over health care reform has reached a critical juncture. There is significant opposition in Congress to the Clinton plan without anything like consensus on an alternative.

How can a workable version of national reform be enacted when there's no majority for any single plan? The challenge for reformers is to find a strategy that reflects the political agreement on the goals of health reform as well as the disagreements on solutions.

The reformers are split into factions favoring managed competition, a single-payer system, expansion of Medicare and various hybrids of these approaches. But these divisions should not obscure the broad agreement among reformers on fundamental principles: universal coverage, reliable cost containment and radical reform of health insurance practices.

If a legislative proposal can be developed that brings together all those serious about health reform—no matter what option they favor—a majority can be created to overcome the resistance of reform's opponents. The trick, then, is to pursue legislation that builds on the reformers' common goals while recognizing their differences on how to achieve them administratively. One solution is the federalist option.

After all, the states have already achieved more on reform than Congress has. There is no reason to stop their progress, and every reason to encourage it. The federalist approach would set national standards for health insurance—that it be universal and portable (not based on residence or employment), cover all medical necessities and have effective cost-containment methods plus clear accountability for the quality of the overall system.

Having done that, the Government could promise to continue its current financial contributions to health care so long as the states met its conditions for acceptable plans. That would free states to experiment with any of the options the Administration has outlined—or any others, either existing or under development around the country.

In short, Mr. Clinton and Congress could acknowledge that medical organization and practices vary substantially in different geographical areas, as do demographics and political beliefs. They could develop a plan that motivated state experimentation, rather than mandating a single system for the entire country.

Mr. Clinton could insist that national legislation—Medicare, Medicaid, the Employee Retirement Income Securities Act and the Internal Revenue Code—not get in the way of state innovation, but nonetheless impose sanctions on states that did not conform to broad national standards.

This approach recognizes that the nation does not yet know what works or will work everywhere. It would help the nation learn from successes and failures while avoiding the possible total failure of a plan imposed from Washington.

If Congress adopts an unproven and untested version of the Clinton plan and it turns out to be the health care equivalent of a train wreck, it would be sensible not to have the whole country on the same train at the same time.

[From the Los Angeles Times, July 7, 1994]

GIVE THE STATES A CRACK AT DEVISING REFORM

(By Theodore R. Marmor and Jerry L. Mashaw)

We have reached a point in the congressional struggle over health-care reform where there is enough opposition to defeat the Clinton Administration's plan but nothing like a firm majority for an alternative. With proposals emerging from the House Ways and Means Committee, Senate Finance Committee and three other committees, the press reports are confusing, the policy issues are unintelligible to most Americans and the chances of deadlock are considerable.

Can a workable version of national reform be enacted when no majority exists for any single plan? The answer is yes, but you'd never know it from the compromise proposals now making the rounds. The real challenge for reformers is to find a strategy that reflects whatever agreement there is on the goals of health reform and accommodates the disagreements on means. Instead, in the search for a plan that can pass, the compromisers focus on what seems doable politically rather than what is substantively desirable.

Three of these political compromises—which look appealing on the surface but are badly thought through—current crowd the agenda:

Amending the definition of "universal coverage." Debates on this issue mask a substantive disagreement about how great a role public compulsion, of either individuals or businesses, should play in ensuring coverage. A group in the Senate Finance Committee including John Chafee (R-R.I.) and John Breaux (D-La.) suggests giving up President Clinton's nearly 100 percent goal and substituting a 95 percent coverage "target" by the year 2002. This approach is misguided because it fails to confront either the large-scale insecurity or the cost escalation problems that have driven reform. Who will the 5 percent left uncovered turn out to be? You? Me? The chronically ill? The usually well? Only if we know whether reform was likely to achieve its major goals. The methods proposed to increase coverage if it falls below the target percentage may also be misaimed—either ineffective (another study of the problem) or pointed in the wrong direction (employer mandates, which would fizzle if the uninsured were not workers).

A continuing aversion to straight talk about paying for reform. This was evident in President Clinton's original proposal that employers pay for the health insurance of their employees, reinforcing the delusion that because employers write checks for health insurance, they bear the costs. Then and now, it is we citizens who bear the costs, whether it's through direct taxes, increased prices or forgone wages and employment. The only relevant questions—then or now—concern the fairness and sustainability of the distribution of the costs. We will keep paying a steep price in confusion and discord until this crucial matter is understood. Those who want to avoid all mandates—individual or employer—have given us a scheme that is truly illusory: Tax 40 percent of the most expensive health-insurance plans to provide subsidies for low- and moderate-income Americans. But people in expensive plans may be there because they are ill, not because they are rich. And the game-playing that will go on by people trying to stay below the 60th percentile ought to reemploy any insurance company personnel laid off by other reforms.

Forgetting about the cost-control problems that prompted the reform movement in the first place. The continuing escalation of health costs, which still threatens the affordability of health insurance, has dropped out of the vocabulary of compromise. Words like moderate or centrist typically appear in descriptions of senators like Breaux, Chafee, David Durenberger (R-Minn.), Kent Conrad (D-N.D.), David Boren (D-Okla.) and others, but they don't fit the reforms sponsored by them, because they contain no serious approaches to cost control. Just as it does not make sense to cross a chasm in two steps rather than a leap, it is impossible to have workable health reform without slowing the rate of expenditure increases.

Is there a compromise that builds on agreed goals but permits enough variation of means to assemble a majority for reform? One possibility is state-led reform (in this, California is a leader, with its modified single-payer health-reform initiative on the November ballot). Congress could pass legislation that provided federal assistance to states that enacted universal coverage, insurance law reform and reasonable controls on costs. This would leave states free to choose which administrative and health-delivery changes they wanted to implement. By mandating basic reform principles without imposing their administration, state-led

reform builds on the reformers' consensus about goals while allowing for wide differences in the means of achieving them.

States already have a significant track record in health reform, including Hawaii's near-universal coverage and employer mandates. Given the diversity of states, their varied experience with health care and intense local preferences, why enact a single brand of national health reform, especially if it's the poorly considered compromise that we seem to be headed toward?

By moving compromise in the direction of preserving goals rather than defining means, we can allow states the further thought and experimentation that are needed for effective implementation.

HOW WOULD LEGISLATORS DO IT?

(By Carl Tubbesing)

What, if state legislators were constructing it, would a final health care reform plan contain?

Flexibility.

Delaware Senator John Still summarizes the notion of flexibility this way: "There's a perception that states have flexibility in the proposal, but they really don't. The final plan should allow for diversity and accommodate differences among states. Achieving flexibility and protecting against unfunded mandates should be the two primary goals for states as the proposal moves through Congress. The plan should be changed to accommodate state reforms already in place."

Arizona Senate Minority Leader Cindy Resnick emphasizes the need for experimentation at the state level. "Why are there just two choices—managed competition and single-payer? Why not five or six? Would all states be comfortable with the managed competition approach? Arizona is a managed care state. But others have little experience with it and may like it a lot less. States have been aggressive about reform. The federal government needs to encourage experimentation," says Resnick, citing recent efforts in Florida, Washington, Hawaii, Minnesota and others.

Ohio Senator Grace Drake says simply, "I think we should let the states come up with their own solutions. You can't regulate all the states the same way. I met with Speaker Douglas Chamberlain, who's developing his own plan for Wyoming. I asked him, 'How many people live in your state?' He said, '470,000.' I have 330,000 in my Senate district. I said, 'You have more sheep than people.' You can't have an overall plan that tries to force all states into the same plan."

Represenative David Richardson of Pennsylvania and Missouri Representative Chris Kelly, chair of the House Appropriations Committee, wonder why the federal government doesn't just let the states take the lead. "I think most states will adopt major reforms before the federal government will," Richardson predicts. "Why not just let the states decide what approach they want to take?"

"Why should the federal government be doing it?" Kelly asks. "We can learn from each other. Maybe Missouri will screw it up. But maybe North Carolina will get it right. Missouri could learn from North Carolina and make adjustments."

One way of providing flexibility would be for the federal government to establish a framework, but allow for diversity among state plans. This approach echoes through several of the interviews. Senator Drake: "I prefer a Jeffersonian approach. Let the federal government provide a pattern with plenty of room for states to develop plans that suit their needs." Senator Still: "I would prefer that the federal government establish a basic structure. The model should define basic issues, but leave it up to the marketplace and the states to work out all the details." Senator Resnick: "Some would argue that you need a federal framework. Give us a federal outline and let the states provide the details."

What should the framework include? Senator Still provides the most comprehensive list: universal access, portability, no exclusion for preexisting conditions, provision for catastrophic illness, reduced administrative costs and guaranteed renewability. Senator Resnick adds a minimum benefit package to the list; Senator Drake includes coverage for the working poor and the uninsurable.

Some legislators have other ideas for an ideal final package. Illinois Senator Judy Baar Topinka feels strongly that the plan should place limits on the use of technology: "How many MRIs do we need on one block? How many heroic actions to save a life? Where do we put our resources?"

She believes the package should include tort reform. "I feel some resentment toward the president and Mrs. Clinton for taking a powder on tort reform," she says. "If we want health reform to work, we have to address it. They have to have the gonadal fortitude to take care of this." Senator Still, however, does not make tort reform a high priority, and Representative Jeffrey Teitz of Rhode Island believes this traditional state responsibility should remain with the states.

Pennsylvania Senator Allyson Schwartz believes "it is very important that the plan address questions of distribution of services and health professionals in urban and rural areas." Representative Charlene Rydell of Maine prefers a system with much simpler, income-based financing.

These legislators are sure that there will be plenty of opportunity to make their views known to the administration and Congress. They expect the plan to change. And they plan to influence it when it does. Representative Teitz predicts, "Any proposal of this enormity will go through a series of refinements. Even the designers of the plan expect it to change."

"I'm taking them at face value—that this is just a proposal and they are willing to modify it, to do whatever is necessary to get a workable system," says Baar Topinka. Senator Still predicts, "The Clinton plan will change significantly as it moves through Congress. And it should."

Rydell is confident that "the proposal sets the stage for states to work together and with the federal government. I'm optimistic the administration will work with the states and that a consensus will emerge."

Kelly is less optimistic and asserts he will oppose the plan if it is not changed to accommodate state interests. "We are not going to let them cram this down our throats. We could wind up saying 'don't pass it.' I'm not inclined to do that today. But they could force us to go to someone else if they don't negotiate."

All would agree with West Virginia Speaker Robert Chambers that the states should be involved in shaping the final outcome and "ultimately will look at it and judge if the good outweighs the bad."

[From the U.S. General Accounting Office, Sept. 9, 1992]

STATE HEALTH CARE REFORM—FEDERAL REQUIREMENTS INFLUENCE STATE REFORMS

(Statement for the Record by Mark V. Nadel, Associate Director Human Resources Division)

SUMMARY OF GAO TESTIMONY

GAO reported in "Access to Health Care: States Respond to Growing Crisis" (GAO/HRD-92-70, June 16, 1992) that states have taken a leadership role in devising strategies to expand access to health insurance and contain the growth of health care costs. Their approaches range from narrowly focused efforts to reform the health insurance market or contain hospital costs to comprehensive initiatives to achieve universal access to health care coverage.

States attempting comprehensive solutions are hampered by restrictions imposed by federal programs, particularly Medicaid, and by the Employee Retirement Income Security Act of 1974 (ERISA), which preempts state regulation of employee benefit plans, including health plans provided by self-insured employers.

GAO presented testimony on states whose reform plans are affected by federal laws. Hawaii, the only state requiring employers to provide health insurance, is able to enforce this mandate because the Congress exempted the state's 1974 law from certain ERISA provisions. The exemption, however, limits the law to its original form and prohibits changes state officials believe are necessary to improve the effectiveness and equity of Hawaii's system.

In enacting a health care reform package in 1992, Minnesota officials tried to design a plan that would not require relief from federal restrictions, thus limiting the state's options. To fund a state-subsidized health plan for lower-income uninsured residents, the state levied a provider tax that hospitals may pass on to all payers. The provider tax is currently being challenged on the basis of ERISA.

Florida's health plan, enacted in 1992, would require statutory changes to Medicaid and also might require an ERISA exemption. If employers do not voluntarily offer coverage to their employees by the end of 1994, the law contemplates a mandatory system, which could be affected by ERISA. State officials would also like to expand Medicaid coverage to people without employment-based insurance who are near poverty but ineligible for Medicaid.

If Congress decides that reform at the state level is an appropriate path, it should consider reducing the potential barriers to comprehensive state reform. States considering reform perceive restrictions associated with ERISA and Medicaid as potential obstacles. Congress could facilitate state reform efforts by developing approaches that provide states with early assurance that they will receive the federal cooperation necessary to implement change.

Mr. Chairman and Members of the Committee: This statement discusses our report, "Access to Health Care: States Respond to Growing Crisis" (GAO/HRD-92-70, June 16, 1992). Providing health care to every American has become one of the most serious problems facing the nation. The number of individuals without—or with inadequate—health insurance is increasing, while the cost of providing care is growing. Our report responded to a request from Representatives John Dingell and Ron Wyden to describe state initiatives that address the problems of

access and affordability in the health care system and to report on federal barriers that limit state options for achieving universal access to health care. Recently you asked us to provide additional information about the need for states to obtain changes in federal laws to implement innovative health care reform.

Several states are developing programs designed to expand access to health insurance and contain the growth of health care costs. None has found this to be an easy process. State political leaders must assemble coalitions of supporters from the variety of interest groups involved in—or affected by—their health care system. To do so, they must frame proposals that will win the support of—or at least be acceptable to—health care providers, employers, taxpayers, and a patient population ranging from those currently well insured through those currently underinsured to those who have no insurance at all.

One barrier these state political leaders face is the preemption provision of the Employee Retirement Income Security Act (ERISA) of 1974. Another is uncertainty over the particular terms that the federal government will require as a condition for a Medicaid waiver. Oregon's recent experience illustrates this latter problem. State officials worked for several years to develop a proposal capable of garnering the political support necessary, but their effort was recently derailed by denial of their request for a Medicaid waiver.

In my statement, I would like to provide some background information on the federal laws that might restrict state efforts to achieve comprehensive reform. Then I will present the results from our recent report describing the reform efforts of several states. I will close by updating the legislative efforts of four states in this rapidly changing health reform environment.

BACKGROUND

When enacted in 1974, ERISA was designed to correct serious problems regarding the solvency of employer-sponsored pension plans, but ERISA covers all employee welfare benefit plans, including health benefits. ERISA established federal standards for these employee benefit plans—although it imposes few requirements on health plans—and preempted their regulation by states. Although preventing states from regulating health insurance plans, ERISA confirmed the states' authority to regulate insurance companies.

ERISA's preemption provision[1] enables employee benefit plans to serve employees in many jurisdictions without becoming subject to conflicting and inconsistent laws of various state and local governments. However, it has also produced a divided system in each state: the federal government has authority to regulate health plans provided by employers who self-insure but not health policies sold by insurance companies, and states can regulate health insurance companies and their policies but not the plans provided by employers who self-insure.

Under the Medicaid program, states receive federal funds only if they meet all relevant federal requirements, including eligibility and benefit plan standards. Medicaid eligibility is primarily tied to eligibility for the Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) programs. Due to the eligibility restrictions of these two programs, young single people and childless couples are generally precluded from Medicaid coverage.

In addition to categorical eligibility requirements, Medicaid recipients must meet specific income and resource criteria. The income level that states set for welfare programs is usually the standard that applies to Medicaid eligibility. Medicaid eligibility levels vary across states, with only 16 states offering Medicaid to AFDC-eligible families with incomes over 50 percent of the federal poverty level.[2]

Some state reform plans that do not comply with existing Medicaid laws can be implemented by obtaining a waiver from the Health Care Financing Administration (HCFA). HCFA has the authority to grant Medicaid waivers and does so regularly. Some waivers, such as for managed care programs, can be renewed indefinitely. In addition, states can obtain demonstration waivers from HCFA that give them greater latitude to modify their Medicaid programs, but these waivers are for a limited duration and cannot be renewed.

STATES ACTIVELY PURSUE HEALTH CARE REFORMS

State governments have a major stake in financing and providing health care. States are a major purchaser of health care services in this country. On average, over 13 percent of a state's budget is used to fund Medicaid, which, in 1990, grew by 18 percent. An average of 20 percent of a state's budget goes to fund health care programs.

This has led to state governments' taking an increasingly active role in the search for solutions to our national problems of constructed access to health care and rising health care costs. During the first few months of 1992 alone, three states—Florida, Minnesota, and Vermont—enacted ambitious plans to reform their health care systems.

In some states, debate no longer centers on whether to set a goal of ensuring universal access to health care coverage, but on how to achieve it. Hawaii was the first state to try to extend coverage to all its residents, and its uninsured rate is the lowest of all the states. The principal tool that has allowed Hawaii to approach universal access is its 1974 law requiring employers to provide health insurance for employees working at least 20 hours a week. State requirements that virtually all employers provide insurance and that insurers cover all employees result in less uncompensated care and cost shifting. For most residents not covered by employers or Medicaid, the state has a subsidized insurance program, known as the State Health Insurance Program (SHIP), with less extensive benefits.

Minnesota, Florida, and Vermont are among the most recent states to pass laws aimed at providing coverage to all state residents. Minnesota's 1992 Health Right Act phases in several programs to extend access to health insurance to many of the state's uninsured. Key features of the act include creation of a state Health Care Commission, which is responsible for devising a plan to set targets for reducing the growth of health care expenditures, and a state-subsidized, managed-care health plan for lower-income residents not eligible for Medicaid.

Florida's 1992 legislation set a December 31, 1994, goal for universal access to a basic health care benefits package. It created the Agency for Health Care Administration to develop and administer a plan with specific goals and timetables for ensuring access, cost containment, and insurance reform.

Vermont's 1992 Health Reform Act proposes to provide universal access to all state residents by October, 1994. The legislation created the Vermont Health Care Authority, which is charged with preparing two comprehensive reform proposals—one based on a single-payer system and the other based on a multiple-payer system—to be voted on by the legislature. In addition, the Authority is responsible for administering the insurance reform, data compilation, and cost containment provisions contained in the law.

Instead of adopting comprehensive plans, some states have opted for programs targeted to specific uninsured groups, such as low-income children and adults. These states have expanded access to coverage for these populations either through state-subsidized private health insurance, such as Washington's Basic Health Plan, or expanded Medicaid eligibility, such as the Maine Health Program.

Most states have also adopted measures to make it easier for people with high-cost health conditions and for small business owners and employees to obtain affordable health insurance in the private market. Almost half the states have created high-risk pools to make insurance available to the medically uninsurable—people who cannot obtain conventional insurance because of their medical conditions—and to spread the risk of covering them among all insurers in the state.

To address problems in the small business insurance market, states have adopted a broad range of initiatives, including subsidies and regulatory reforms, that attempt to make insurance more affordable and accessible. Thus far, most of these efforts have had only a modest effect on the number of small firms newly offering health insurance to their employees.[3]

While most states have focused their attention on expanding access to coverage, some have made efforts to control increasing costs. Through changes in methods for reimbursing providers, these states attempt to limit the health care system's cost growth and administrative burden. For example, since 1972, Maryland has operated a hospital rate-setting system that reduces hospital costs and provides for nearly uniform payments by all insurers, both public and private. During this period, Maryland's hospital costs per admission fell from 25 percent above the national average to 10 percent below.

In an attempt to reduce administrative costs, New York State is now implementing a system to coordinate health care billing and payment procedures. The state's Single Payer Demonstration Project is expected to reduce claims-processing costs for participating hospitals.

FEDERAL BARRIERS HINDER STATE EFFORTS

One barrier to state health reform efforts is the budget problems experienced by many states, since many of these reform proposals require additional state resources. But states that overcome these budget problems find that their reform efforts are also hampered by federal laws and regulations. ERISA is a barrier because it preempts state authority to regulate employee health benefit plans. While ERISA was primarily intended to correct problems with the solvency of employer-sponsored pension plans, its impact on employer-provided health benefits has grown as more firms have self-insured for health benefits. Over half of U.S. workers are employed in firms that self-insure, and states cannot require such employers to provide a specific health plan or pay state-imposed premium taxes. The funding base for state-sponsored high-risk pools, for example, is limited because the insurance assessments that supplement individual premiums do not apply to

Footnotes at end of article.

self-insured companies. Without more flexibility in dealing with self-insured firms, states' reform options are limited.

On the other hand, many large employers and union groups fear that any diminution of ERISA could undermine the structure of existing employer-provided health insurance plans. Employers with operations in more than one state are concerned that alternations to ERISA might increase their administrative costs if they must comply with different requirements in different states. Some unions are also concerned that changes to ERISA may lead to limitations of their benefits plans or an increase in cost-sharing burdens.

Medicaid's rules and requirements also present obstacles to state reform efforts. States wishing to implement reforms may need waivers or legislative action to modify Medicaid requirements. Examples of such reforms are integrating the Medicaid program with a state health insurance plan or creating a single organization to administer all payments to health care providers. States find the process of obtaining Medicaid waivers and subsequent renewals to be cumbersome.

However, those administering this process have legitimate concerns that protections contained in the law not be compromised without careful thought. Medicaid regulations exist to ensure that state reform activities do not diminish minimum standards or quality of care for program recipients. In addition, the federal government is concerned that state reform efforts that expand health programs to a broader population might generate additional expenses for Medicaid. For example, some states that want to expand Medicaid to groups that are currently ineligible are seeking additional federal funds, thus increasing costs for the federal government.

In the remainder of this statement, I will discuss the experience of several states, primarily Hawaii, Minnesota, Florida, and Vermont, whose efforts to expand access to health insurance have been affected by federal constraints.

Hawaii needs Federal legislation to refine system

Hawaii is the only state that now requires employers to provide health insurance to employees. Hawaii is able to enforce this requirement because the Congress passed legislation exempting the state's 1974 law from certain ERISA provisions. In part because its law took effect before ERISA was enacted, Hawaii is the only state with such an exemption. The exemption, however, has frozen the Hawaiian law in its original form. The ERISA exemption is limited to Hawaii's Prepaid Health Care Act as it was passed in 1974; the state cannot amend the act unless specific legislation is passed by the Congress.

Hawaii officials believe they have made great progress in their quest toward achieving universal access, but they also told us that they need to improve the effectiveness and equity of the state's system. A small percentage of the population remains uninsured. The state cannot modify the mandated benefits package for employer-provided insurance, require coverage for dependents, or change the cost-sharing formula for premiums. Hawaii is currently seeking amendments to ERISA to permit it to respond to implementation problems or to improve the employer-mandate law.

Other states that have tried to move toward coverage of all their citizens have had to work within ERISA's constraints. States adopting universal access plans more recently than Hawaii did not have the option of requiring employer-provided insurance and had to devise other approaches. One strategy, enacted by Massachusetts and Oregon but not yet implemented, has been to create "play-or-pay" systems that rely on the state's power to tax. Employers are required to pay a tax to help finance state-brokered insurance; if they provide health insurance to employees, they generally receive a credit for the amount they spend on coverage. These laws, however, are expected to face legal challenges based on ERISA, and the outcome is uncertain.

Minnesota's options limited by federal constraints

When Minnesota officials considered different methods of reducing the number of uninsured residents in the state, they decided to construct a plan that would not require relief from federal restrictions. Avoiding federal constraints, however, was itself an approach that limited their options. One reason for ruling out a play-or-pay system, for example, was uncertainty about whether such a system would withstand an ERISA challenge.

A key component of the health package that Minnesota adopted is a state-subsidized, managed care health plan for lower-income residents who are not eligible for Medicaid. In addition to collecting premiums from enrollees, the state will fund the plan with a 5-cent increase in the state cigarette tax and a phased-in provider tax: (1) a 2-percent gross revenue tax on hospitals (effective 1993) and on physicians and other health care providers (effective 1994) and (2) a 1-percent tax on HMOs and nonprofit health service companies (effective 1996). Hospitals may pass the tax through to payers during 1993, to the extent allowed under federal law.

Minnesota officials decided to use a provider tax so that financing would come from within the health care system. Because ERISA preempts states' ability to regulate employee benefit plans, other financing mechanisms, such as a premium tax, would not have reached self-insured employers.

State officials told us that ERISA precludes their taking other actions that could enhance the effectiveness and fiscal soundness of their program. For instance, they would like to discourage employers who currently provide health insurance from dropping coverage for employees who could be eligible for the program, and have discussed techniques such as taxing these employers. They are concerned, however, the ERISA may bar such an approach.

Another idea Minnesota officials are considering is collecting the premiums of program enrollees through a payroll deduction mechanism. They are not sure whether ERISA would prevent them from requiring all employers, including those who self-insure, to collect the premiums for the state. In addition, their fears that their plan might be contested were realized when a self-insured union health plan recently announced that it would bring suit under ERISA to challenge the provision allowing hospitals to pass the provider tax through to payers.

Florida seeks Federal action

In contrast to the Minnesota approach, Florida policymakers enacted a health reform plan whose full implementation would require statutory changes to Medicaid and also might require an ERISA exemption. Florida's Health Care Reform Act stipulates that the state's 2.5 million uninsured should be offered coverage primarily through an expansion of Medicaid and an extension of employer-based insurance. Because the expansion of employer sponsored coverage is initially voluntary, an exemption from ERISA requirements is not needed immediately. Florida officials believe, however, that obtaining such an exemption now would provide a catalyst for voluntary expansion of coverage.

The Florida law asks employers in the state voluntarily to offer coverage to all of their employees by December 31, 1994. A newly created state agency will establish interim targets, by firm size and industry, regarding the percentage of employees and dependents insured and the number of employers offering insurance. In this way, Florida hopes to challenge its business community to expand employee health insurance on a voluntary basis. If substantial progress has been made towards insuring all employees by the end of 1994, the state will continue this voluntary approach. However, if target levels are not met, Florida officials will consider implementing some type of mandatory employer-sponsored health insurance system.

A potential obstacle to the expansion of employer-sponsored coverage is ERISA's preemption of state regulation of employee benefit plans. ERISA precludes Florida from mandating employer-based coverage. In addition, Florida could not levy a premium tax or specify a minimum benefits package for all employers because the state could enforce these requirements only with respect to employers that purchase health insurance, not those who self-insure. Florida officials are considering a play-or-pay requirement, but recognize that employers could challenge such a system under ERISA.

State policy makers think that if the state has the ability to compel all employers to provide health insurance, employers might be more inclined to provide coverage voluntarily. Therefore, Florida officials have proposed that the Congress amend ERISA's preemption clause with respect to health plans.

Another element in Florida's strategy to provide universal coverage is to expand Medicaid to people without employment-based insurance who are near poverty but ineligible for Medicaid. Because approximately 600,000 Floridians are in this category, state officials would like to implement a Medicaid buy-in program that de-couples economic assistance from medical assistance. Medicaid coverage would then be expanded to those who may not be categorically eligible and who have incomes below 250 percent of the federal poverty level. Under this program, state officials expect that participants would share in the cost of premiums and would be offered a benefits package that is less comprehensive than Medicaid's.

It is possible, though unlikely, that this proposal could be implemented through a 5-year non-renewable demonstration waiver. Florida officials, however, told us that they need congressional legislation because limiting the duration of such a complex program to 5 years would not justify the difficulty and expense of implementing it.

Medicaid requirements also may constrain Florida's efforts to control the cost of its health care system. Part of Florida's cost containment strategy is to place its Medicaid population in managed care settings. HCFA is authorized to grant waivers that allow states to implement such programs, but the law also stipulates that Medicaid and Medicare beneficiaries cannot constitute more than 75 percent of an HMO's patient population.[4] In some parts of Florida, this requirement is difficult to achieve, thus hampering the state's attempt to provide more care through HMOs.

Florida officials are also seeking changes to Medicare laws. They would like the Congress to amend the laws to permit wide-scale demonstrations of alternative payer systems, including state administration of all Medicare benefits through a single-payer system.

Vermont anticipates need for Federal relief

Vermont's reform proposal is similar to Florida's in that it defers immediate need for relief from federal restrictions. The cornerstone of the plan is the implementation of either a single-payer or multi-payer universal system by October, 1994. The legislature will decide which system to implement after November 1, 1993. Key components of any Vermont system will include universal coverage, uniform and portable benefits, capital expenditure controls, and global budgeting for hospitals and providers.

Vermont officials believe that ERISA is the largest hurdle for implementing their universal access plan. They are concerned that as the state gains more control of the health system, more employers will self-insure, removing themselves from the system. In addition, they realize that if the state were to implement a single-payer system, at some point they may want to include Medicare within the system. State and federal officials are uncertain whether Medicare could be integrated into such a system under current law.

CONCLUSIONS AND MATTERS FOR CONGRESSIONAL CONSIDERATION

An increasing number of states are trying to expand access to health insurance while controlling increases in health care costs. Their approaches range from narrowly focused efforts to reform the health insurance market or contain hospital costs to comprehensive initiatives to achieve universal access to health care coverage.

Comprehensive state reform solutions have proved challenging to formulate and implement. States not only are having difficulty in building support for their reform efforts, but also are hampered by federal laws and regulations that make it difficult to design and implement innovative health care reforms. State officials have commented that the uncertainty associated with receiving permission to circumvent federal requirements has hindered comprehensive reform.

There is widespread agreement that our health care system needs major changes. Some believe that such change can be achieved most effectively through national reform. Others contend that states should take the lead on reform efforts either;

(1) To gain information on the feasibility of incorporating such changes into a national plan, or

(2) To permit states to design unique plans that are most appropriate for each State's particular characteristics.

If the Congress decides that reform at the state level is an appropriate path, it should consider reducing the potential federal barriers to comprehensive state reform. For a state that is pursuing the difficult process of comprehensive reform, ERISA eliminates some options, such as mandated employer coverage. Additionally, some states are struggling to implement approaches specifically designed to circumvent ERISA, but still fear that their plans might not survive a challenge based on ERISA.

Congress could facilitate state reform efforts by developing approaches that provide states early assurance that they will receive the federal cooperation necessary to implement change. For example, states would need assurance that they could obtain a limited waiver from ERISA's preemption clause in order to develop certain innovative universal access systems. The Congress could define minimum standards—governing such factors as benefits packages, extent of coverage, accountability, and terms under which the waiver application might be revoked—that a state must meet to receive and maintain such a waiver.

Additionally, if the Congress is interested in state demonstration projects that achieve universal coverage through an approach entailing the use of Medicaid funds, the Congress might consider amending or streamlining the waiver process for Medicaid restrictions. This would facilitate the integration of the Medicaid program into state comprehensive reform efforts.

FOOTNOTES

[1] 29 U.S.C. section 1144 (1988).

[2] Recently Congress has passed legislation that expands and enhances Medicaid maternal and child health services. Medicaid eligibility has expanded to improve the access of low-income women, children, and infants to needed health care by not only broadening the allowable service coverage to these groups but also severing the traditional link between Medicaid and AFDC income eligibility criteria.

[3] For a more detailed discussion of state efforts to modify the health insurance market for small businesses, see "Access to Health Insurance: State Efforts to Assist Small Businesses" (GAO/HRD-92-90, May 1992).

[4] A state can request a demonstration waiver that would permit them to increase this percentage.

Mr. GRAHAM. Thank you, Mr. President.

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

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

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. Mr. President, what is the business at the moment?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska [Mr. KERREY] is recognized to speak for up to 30 minutes.

Mr. KERREY. Mr. President, I yield such time as necessary to the Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, I am going to speak briefly this morning on health reform and some of the issues that we talked about Tuesday morning in terms of cost containment and coverage.

At the end of it, I hope to have a couple of comments relating to the subject that my colleague from Florida discussed also in terms of State flexibility, and they will probably be very different from my colleague, but it does not in any way reflect on the respect that I have for him because, in many ways, we are of one mind on the failure of this Nation to sort out responsibilities between various levels of government in order to meet the needs of people.

But in health care and in the reform of health care, particularly when we are talking about access to medical services, I think it is a very, very different problem, a different situation, which calls for a different solution, and the Federal missions become very, very important. Even though they are not well understood, they really are very, very critical.

Let me begin where I left off on my comments on Tuesday with trying to distinguish in the whole debate about health care reform, what is reform or change and what is an extension of coverage?

As we all know, there seems to be a great deal of confusion here not only in this town but I suspect across this country, as to whether or not reform is all about extending coverage or whether reform is about changing the current system. It seems to me that most problems people are experiencing are with the current system. Obviously, what they like is also in the current system. Trying to balance that right now is the challenge of health care reform.

But the reform and all of the efforts of the reform, no matter whose plan you might choose, is designed to reduce the costs in this system, maintain and enhance the quality, and increase the affordability; in other words, make it possible for every single American to have what the wealthiest of Americans believe they can have simply because they can afford to buy it. That is reform.

The coverage side means to expand the benefit of this high-quality care, to every single American.

Yesterday in the Washington Post there was an interesting article by Steven Pearlstein entitled "Containing Spiraling Medical Costs Isn't Popular Topic With Reformers," and points out the obvious, which is most Americans—and I will just quote the cut line under the Reischauer picture. Bob Reischauer of CBO says, "Cost containment hurts * * * access makes people happy."

We all know that in this town, change or the prospect of change creates apprehension. Promise of more creates good feelings.

That is the real challenge that we face in reforming the current system.

There are two basic ways, as this Steven Pearlstein article points out, to contain costs of health care or medical care or practically anything else in this country. One is to increase competition among providers and increase choices on the part of consumers. And the other one is to have the Government control the prices. Those are the two basic choices.

In America, if I were to try to state a goal that we would hold out for ourselves in health care, we would say we want access for all Americans to the highest quality care at a lower cost than we are presently faced with today.

So you can contain the costs under either of these two options: Competition, choice, markets; or Government. But under the Government approach, you simply cannot get the high quality because the only way you can get to have more and have better at a lower cost is through productivity, doing things better. And Government productivity is an oxymoron, two mutually inconsistent words.

So the only way you can get more productivity and more affordability is from competitive markets where consumers have the leverage of informed choice. Government price controls simply are not an option.

Now, the article in the Post points out very succinctly that President Clinton last year tried to have it both ways.

He advocates more choice and more competition, but then he regulates the new system that is designed to do it—premium control, fixed expenditure budgets, government alliances, employer mandates, Government boards and commissions, overlaid on top of what he describes as a new functioning market. It does not work.

The premium controls are gone in most plans. In most of the plans that I have seen, the budgets are gone, government alliances are going, employer and individual mandates, we hope, are gone.

So what does that mean? That those of us who advocate competition and choice can declare victory and go home? No. No, we cannot. Why? Because we cannot get to our new goal unless we also change the Government-run, price-controlled system that today in America drives the health care costs right here in the current U.S. system.

Now to understand this, Mr. President, you must understand this: At about the same time 30 years ago when the first Canadian Province went to universal coverage by creating a single-payer system, the provincial government decided they would set fees for the doctors, they would set fees for the hospitals, and they would pay the bills. About the same time the first Canadian Province did that, a single-payer system in Canada, we did the same thing in the United States of America. And while Canada now has a government-run, price-controlled system for the whole country, we, unfortunately, installed a system only for people 65 and older, for the disabled, and for welfare dependent low-income persons.

We know that Government program, the Canadian system, in the United States as Medicare and Medicaid. The unfortunate thing is that it is run in the heart of every community in America. Unfortunately, it is surrounded by an American system in every one of these communities. And in the American system in each of these communities, the Government does not set the fees for the services. The Government does not control the prices to be paid.

So in every community in America today, we have one-fourth of our citizens in a Canadian system and three-fourths in an American system.

So you say, "What's wrong with it?" Well, nothing, until about 10 years ago. So long as the Government paid the same fees for the same services for the Canadian system that the employers and private insurance companies were paying in the American system, there was no problem. No problem. But in 1983, right here on the floor of the Senate, we passed something called the Prospective Payment System, and we said in the government-run Canadian system we are now going to set fixed prices for all the 468 hospital procedures. That meant that the Government was going to control prices for the elderly, disabled, and low income for all of the hospital procedures. At that point, the problems began. Now, the hospitals were only going to make so much money for all of these patients.

So what happened? The doctors saw their patients someplace else and they got paid under the second part of the Canadian system, here in Medicare called part B. If you put your patient in the hospital, you could only get so many dollars from the Government. But if you saw your patient somewhere else under part B, you could get as much as you wanted. Whatever you charged you got paid. And what happened? The hospital payments under part A started to level off and our payments, our subsidy payments, under Medicare part B exploded.

So when the Government froze part B payments in 1985 and 1986, the doctors all responded by seeing twice as many patients or doing twice as many procedures. That is what happened. So that is the effect of price controls in a Government-run system.

What happens then, let us say you try to see twice as many patients or do twice as many procedures. You can get away with that only so long and as the Government starts to reduce its payments to you, as compared with what your actual costs are. You can make up some part of that by doing twice as much, but at some point in time you run out of hours and you have to see patients who are not in the Government system.

So the smart thing is, you see only so many Government patients, and then you see the people that are in the American system. And then what you do with this difference between what it costs you to open your doors and see people and what the Government will pay you, you take that difference and you add that to the bills of the American system patients that you see. And that is what has been going on.

Doctors will see the one-fourth of their patients in the Government system at 59 percent of what they get for other patients, which is what the Government pays the doctors, and they pay the hospitals about 71 percent. As a result, the doctor and the hospital take that difference and try to put it over on their private-paying patients.

So when we in the Government decide we are going to save Medicare money or Medicaid money when we want to get budget savings by cutting Medicare and Medicaid, what happens? We make this cost shift even worse because we are reducing the payments to the doctors and the hospitals and accentuating the shift, where it is possible, over on to the private-paid patients.

Late in the 1980's, all the employers, or many of the employers, said, "Hey, stop. We have had enough of this. It is enough to pay the bills for our own people, our own workers. Don't add on everybody else's payments on top of it."

So since then, we have seen a change. And let me just show you on this chart the nature of that change.

In the 1980's, the payments were roughly the same in both of the systems, but clearly starting in the early 1990's, the lines started to diverge. And if you follow this line, this is the growth in the cost of the Government-run system, just one of them. That is Medicare. And up to 1993, it goes up at the rate of about 10 percent and after that it is now going up at the rate of 11.5 percent a year.

Remember, this is a price control system. The growth in expenditures is not because we are giving providers 11.5 percent more money. It is simply because, in order to see these patients, they are going to do a lot more services and procedures, they are going to charge the system as much as they possibly can in order to pump money into this system.

By contrast, what is going on in the American system? Here is the private insurance line. That line is starting to come down. Here is the Mayo Clinic, which has 1,100 doctors in a huge system, coverage for much of America, but providing care for many of Americans. That line, since the 1990's, has been averaging about a 3.8-percent-a-year increase and in the last 2 years it is less than 1 percent.

So you see, in the American system where three-fourths of the people are, the costs are coming down. But in the Government-run system—the one we run for the elderly, the disabled, and the low income—the costs are going up even faster, even though our payments to the system may not be.

And so, I tell my colleagues to take a look at this, as we get close to the

end of health care reform; that if we really want to reform this system, one of the essential ingredients is to do something about the President's promise that every American could have a private health plan that could not be taken away from him.

It is essential to reform that we end the Canadian system that we are running in America—not overnight; allow the people to help us do it. But at least give people in our communities the option to get out of the Canadian system in their community and into an American system that will hold the costs down at a pace as good as the Mayo Clinic to less than 1 percent a year.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, I have a speech I will give. I just want to point out that what the Senator from Minnesota has done with his speech, and what I will attempt to do with mine as well, is to refocus attention away from this current public question, which is, "Are we going to have a soft trigger, hard trigger—what kind of mandate might be in there?"

I must say, though I find myself arguing against the mandate of insurance, what is far more important is whether or not the bill we discuss and the bill we debate and the bill we write will reduce the regulatory requirements of the Federal Government and give the market an opportunity to work. There will be many people who are already coming to us asking to be protected from the market, asking to be protected in some way, shape, or form. I believe strongly we cannot make the mistake of driving initial Government demand into the system while simultaneously restricting the supply by protecting people in one way, shape, or form. So, far more important to me in this legislation the majority leader is drafting right now—far more important than the question of a mandate, which I have already indicated I do not like—far more difficult for me will be the presence of lots of regulations that make it difficult for the market to work.

THE GRINCH THAT STOLE HEALTH CARE REFORM

Mr. KERREY. Mr. President, I have a title for this particular speech. It is entitled "The Grinch That Stole Health Care Reform." I want to make it clear I do not have the Republican leader in mind this morning, unless of course he has filibuster in mind. I have in mind, instead, some rather difficult economic and political facts about health care and health care reform.

The difficult economic fact is that we spend too much on health care not too little. And the more we spend the more difficult it becomes for lower income Americans to afford health care services. The difficult political fact is that our most significant Federal post World War II actions have had the unintended effect of adding to health care inflation. Thus, a great double barrelled paradox: Our demand for more and more expensive care and our effort to extend coverage have contributed to the numbers of Americans for whom being uninsured is a dangerous way of life.

The Republican leader may still come grinch-like to this floor to delay action. However, he is not the chief villian here. The grinch I have in mind is all of us. Our collective appetite for health care services and our collective will to do good.

Let me be clear. I want every American to know with certainty that they will get continuous, high quality health care as a birth right. There should be no doubt and no requirement of groveling to prove some special status other than being an American under color of law.

There are tens of millions of Americans who are involuntarily uninsured and tens of millions more who wonder if they will be next. They ration the care they receive because they cannot afford to pay the bills. They deny themselves and their children good health. They do not enjoy the tremendous benefits of access to continuous health care. There is, as a consequence, a moral urgency to end this American fact of life.

However, let me also be clear: Our capacity to afford high-quality care is directly proportional to our productivity. Saying that you have a right to care does not guarantee high quality. That we Americans are going to have to earn. If our non-health-care economy does not make productivity driven gains, our appetite for quality will not be satisfied. No Federal law can guarantee the quality of our care. Only our willingness to work and produce can accomplish this task.

Further, good health is not just an issue of making certain that all Americans know they can get good care. While it is painfully obvious that accidents result in unavoidable and expensive tragedies which will require us to pass the collective hat, it is just as obvious that many of our costs are associated with self-inflicted abuse.

The horror story of an American child born with high medical bills should be balanced with the horrible tragedy of a society where women afflicted with AIDS or addicted to cocaine bring babies into this already difficult world. Rather than encouraging the idea that we are all victims of a system which is unfair we should be encouraging the idea that we are responsible for correcting our destructive personal weaknesses.

After making it clear that I believe health care should be a right, but that high quality care will have to be earned, let me throw one more bucket of cold water on our ardor for reform: Americans spend too much on health care. That is the problem. We spend too much because we spend too little time trying to understand how we could spend less. Except for those who have been given hospital, doctor, or pharmacy bills they cannot pay, most of us do not worry about how much we are spending because someone other than us pays the bills.

Instead of insisting that we be given information about the price and quality of services and products, we have been insisting on getting more of the product which shelters us from worrying about such things: Insurance. The whole battle cry of the health care debate—universal coverage—is a request to be protected from the requirement of having to understand and pay the bills.

Like the boys in the story Pinocchio who were enticed into having a good time at the fair, we have grown sick on the sweets and have become jackasses in our pursuit of better technology which can make us young again. While we have asked for more, more, more, we have simultaneously insisted that our Government erect a barrier between ourselves and the price of the goods.

How have we done this? In many ways. The four horsemen of the health care cost apocalypse are four Federal laws which were enacted to do good things, as they unquestionably do. However, in addition to helping they each drive additional demand into the system and reduced personal accountability to cost.

The four are tax treatment of employer provided health benefits, Medicaid, Medicare, and the dishonest budget methods used by the Federal Government. By treating health benefits as a fringe we encourage individuals to buy expensive plans which look less costly after taxes are paid. By collecting taxes and paying the bills for poor Americans on Medicaid and elderly Americans on Medicare we reduce misery, but we redistribute $280 billion into health care spending. Worse, because we allow the Federal Government to budget without balancing health spending with dedicated health revenues, citizens neither know what they are spending nor who is paying the bills.

I do not believe there is a villain whose activities are singularly responsible for our rising health care costs. There is no doubt that greed causes us to spend more than we should. There is no doubt that money has corrupted the decisions that are made by some providers, some institutions, some lawyers, some businesses, some politicians, and some patients. However, I believe the principal problem is that we have been simultaneously asking

for things that are in conflict with one another, and that the central argument of this debate will be whether or not we are going at last to trust that market forces can in fact produce sufficiency in health care, that market forces can in fact accomplish good things. That will be the central question that we need to answer.

Unless you are honestly arguing that the Government should take over health care, and some are honestly doing this, then we must in the spirit of honest disclosure tell the American people that the most important change which must occur if we are going to make this work is to change our behavior. We must learn more, work harder, and lower our expectations of the perfect medical outcome.

I sincerely believe if we reform the market correctly it can help provide citizens with the information they need to obtain high-quality care at a lower price. It will also provide incentives for health professionals to deliver care in a more efficient manner.

By using market forces, we can create an equitable health care system which allows us to subsidize those individuals who need help paying the bills. To be clear again, I am an advocate of interfering with the market to help people who cannot afford to pay the bills. For most people in this country, health care is not a frill. It is a life-or-death necessity.

My hope is that in this debate, we will come and at the end of the day, we will enact legislation that will provide the security Americans are asking for, provide that security in an environment where we recognize honestly that the market has been doing an unprecedented job in the past 3 years and that we ought to use those market forces to do even more good in the future.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH CARE AND NATIONAL UNIFORMITY

Mr. DURENBERGER. Mr. President, I think we are waiting for a couple of our colleagues to come to the floor to speak on other matters. But I want to rise to thank my colleague from Nebraska, not only for that statement but to tell my colleagues that when he arrived here as a former Governor, I did not know what to expect.

I was very surprised when, as a member of the Pepper Commission, Senator KERREY took me aside—he was not a member—and asked: "Do you suppose I could come to one of your meetings?" I said, "I don't know why not." He actually showed up and began coming to the meetings. While he could not participate as an active member, he attended those meetings, and he has since reflected not only the commitment that took him to those meetings but also a commitment to deal the imperative that the American people need some leadership from Washington, and the U.S. Senate in particular, to set a vision for the future of health care delivery and universal coverage.

I am so grateful for the last number of months that we have been working together in a bipartisan fashion to craft a bill that reflects not only that vision and that goal but also a practical bipartisan, bicameral way to get there. I am so grateful to him for the leadership that he is providing on the other side of the aisle.

Now that I have made reference to Governors, as I did in my earlier comments, another one of our colleagues who is a former Governor, our colleague from Florida, Senator GRAHAM, spoke earlier this morning on the role of the States in health reform.

As I indicated earlier, if there is a federalism issue around, this has to be it: How do you spend a trillion dollars out of the economy every year, and what is the role of Government in doing it?

Senator GRAHAM and I have spent a lot of time talking about issues of community health, public health, the way in which the medicalization of health care in this country is depriving Governors, depriving local communities, depriving families and people of the opportunities to do community-based health care the way we need to do it. However, I must say that I have a slightly different view than he has on the most appropriate role for State governments in helping all Americans gain access to medical services.

I think there is a critical role within States and in communities to enhance public health, community health, environmental health, housing, nutrition, immunization—all of the basic health needs. But when it comes to access to medical services, people get their medical services in local communities; they do not get them in States. Medical markets and communities are not confined to State borders. Therefore, we desperately need national rules by which these medical markets are going to work in the future.

If you look at where the anticompetitive, anticonsumer laws are in medicine today, they are all at the State level. Every one of them is at the State level because what has happened at the State level is that insurance companies, doctors—all kinds of medical professionals—have used State laws to protect their speciality from competition and to shield medicine from the consumer.

Look at State-legislated mandates, for example. Every insurance plan sold in the State of Tennessee must include chiropractic or must include podiatry. Or, in my State, insurance plans must include coverage for hair loss and for facial reconstruction. You name a new medical speciality, you name a new service, and somehow or another the servers have found a way to enshrine their service and their speciality in our State medical practice acts, called licensure, and in our State legislation, called insurance.

And when someone comes along and says, "We are going to practice medicine differently by sharing the risk, by enhancing the quality of services, by giving consumers more information and more choices," then the fee-for-service indemnity system rises up and enacts laws that say you cannot do that.

There is a current phenomenon called "any willing provider," which means that an integrated health care system, a clinic, the Scott White Clinic in Texas, the Cleveland Clinic in Ohio, or wherever, cannot decide which doctors can associate with them and which cannot. "Any willing provider" says you have to take them all. If some doctor applies, you have to take him. This sort of thing has been enshrined in State legislation all over the country, and it has given us a $1 trillion a year system, on the way to being a $2.2 trillion a year system.

So, Mr. President, as we debate what is the solution to the reform that is before us, I suggest we take an example of one national law that has made it possible for employers and employees working together to bring down the costs of health care.

That law is ERISA. We have the ERISA preemption rule which says that State legislation cannot impact employee benefit programs. So what has happened in health care is that all of these employers, rather than having to buy a $500 or $600 plan filled with all these State benefit mandates, filled with all of these contrivances from the medical industry, have said, "We are not going to buy insurance; we are going to self-insure. Our company will take responsibility, will bear the financial risk of caring for our own employees." Then they go out and hire benefit administrators, third-party administrators, HMO's—whatever the case may be—integrated systems, to change the way medicine is practiced, to improve the quality of access, to improve the services, to improve the prices for their employees.

That is why we see private sector health spending in the chart I referred to earlier, that line decreasing—because we have one national rule that protects people who want to have better care for less money from burdensome State regulation.

As we debate health care in the coming weeks, and begin to talk about why

we need a uniform benefit set at the national level, why we need national antitrust rules, why we need national liability rules, that sort of thing. Remember, it is because people do not get their medicine in States, they get it in local communities and those communities overlap—Tennessee and Kentucky; North Dakota and Minnesota; South Dakota and Minnesota, and so on. So people buy their health care in communities, they do not buy it in States. We need national rules so these local markets can provide more and better health services for less money for all of our citizens.

Mr. President, I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Wisconsin.

NOMINATION OF JUDGE STEPHEN BREYER

Mr. KOHL. Mr. President, I come here this morning to speak in behalf and to support the nomination of Judge Stephen Breyer to the U.S. Supreme Court, and to speak briefly—but critically—about the process that I believe will result in his confirmation.

Judge Breyer came before the Judiciary Committee with a reputation as a brilliant legal scholar and a fair-minded judge.

For the most part, the committee's hearings confirmed these judgments. Judge Breyer impressed us with his ability to simplify complex legal doctrines and cut to the heart of fundamental constitutional questions. His answers revealed that he is a moderate, that he is a reasoned man of principle with a commitment to the rule of law; a man who is likely to strengthen the center of the Supreme Court, rather than polarize it.

Throughout the hearings, two main criticisms were levied against Judge Breyer. First, many charged that Judge Breyer acted unethically because he ruled in cases that may have indirectly affected his investments.

I do not believe Judge Breyer acted unethically and I do not doubt his integrity in the least. If judges had to recuse themselves in every case that presented a possible conflict of interest, our courts would become paralyzed. But Judge Breyer could have taken more significant measures to dispel any appearance of impropiety. I am pleased, therefore, that he has promised, at the very least, to divest himself of all insurance holdings as soon as possible, although it is not clear exactly when that will occur.

It was also suggested that because Judge Breyer has spent most of his life dealing with books and theories, he lacks Justice Blackmun's empathy for "the poor, the powerless and the oppressed."

Well, it is true that Judge Breyer did not have an underprivileged upbringing. And it is true that he has spent much of his life as a legal scholar, rather than a hands-on practitioner. But we should not assume that because Judge Breyer has been fortunate, and enjoys the life of the mind, he is unable to care about others.

Judge Breyer seemed to recognize during our confirmation hearings that his actions as a Judge have very real consequences for the lives of the people the law governs. And he appears to be aware that beyond the marble columns of the Supreme Court is a world in which the politically powerless are entitled to as much justice as those Americans who hire the best lawyers and lobbyists.

It may be that Judge Breyer still has to demonstrate his professed commitment to making the law work for the average person. But I believe our confidence in him will be justified.

Having said this, there was much we did not learn about Stephen Breyer, and—despite my confidence in him—this concerns me. Judge Breyer's eloquence often gave him the appearance of answering questions when, in fact, he actually side-stepped them with sugar-coated generalities.

For example, he would not give an opinion on whether courts should be required, at the very least, to consider public health and safety before allowing for secrecy in civil litigation. And he refused to discuss many subjects, including voting rights jurisprudence, gender-classifications, and his own decision on abortion counseling—Rust versus Sullivan—with any degree of specificity.

Whenever Judge Breyer felt the need to avoid answering a question, he would cloak himself in his black robe and claim that the issue was within Congress' domain or that the question took him out of his role as a judge. Yet, at the same time, he did speak openly and freely on other issues which were just as likely to appear before the Court, or just as easily characterized as issues for Congress rather than the courts.

Why? The answer is by now well known: nominees seem only to answer questions when they want to—or when they feel they need to.

I point all this out not to chastise Judge Breyer, whom I respect. But I cannot ignore a nominee's unwillingness to answer reasonable questions. Indeed, the process demands that we should not.

Mr. President, we all know that because a Supreme Court Justice has life tenure, the confirmation process is crucial—it is the public's only opportunity to learn what is in the heart and mind of a nominee. Of course, we also recognize that there are limits to what a potential Justice of the Supreme Court can say before the Senate.

But these limits do not justify the type of hedging that we have seen from some past nominees—evasion that erodes the Senate's ability to faithfully carry out its advise-and-consent responsibilities.

Judge Breyer was probably more straightforward with the members of this committee than many nominees in recent history. In fact, Senator SPECTER went as far as to coin a new standard for nominees to live up to: the Breyer Standard.

In my opinion, however, we still have a way to go before we achieve the candor that the confirmation process demands and deserves. So I would like to impose an even higher standard on future nominees than perhaps would Senator SPECTER.

In the meantime, I commend President Clinton for nominating Judge Breyer—a man of great ability, who has demonstrated an enduring commitment to public service and to the law. I look forward to his tenure on the Court.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized to speak for up to 30 minutes.

REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

Mr. GORTON. Mr. President, I join Senator SHELBY today in calling on the Clinton administration and this Congress to move promptly to enact a significant reform of the Endangered Species Act. The act must be changed to require better science in listing decisions, greater protection for private property rights, and more balance between species protection and human impacts.

To many of my colleagues, the reauthorization of this act may seem to be just another policy debate—one that we can tackle whenever space opens up on the Senate calendar. But for many families and communities in the State of Washington and across the Nation, every day that goes by without a reform of the act means more jobs lost, more mills and factories closed, and more demands on social service agencies already under extreme stress.

We simply cannot afford to wait much longer, Mr. President.

Regrettably, the current administration does not share this sense of urgency. President Clinton and Secretary Babbitt have said that the act is flexible enough to provide for the needs of both people and other species. They have suggested that the ESA only needs minor changes.

But the administration's own experience with the ESA contradicts this point of view.

President Clinton came to the Pacific Northwest during his campaign, promising balance in the application of the ESA to the management of timber harvest on Federal lands. He promised to reconcile the needs of the ecosystem

with the needs of the humans whose lives and communities depend on the ecosystem.

The plan he delivered last year is in no way balanced. It does not take into consideration the human element. The plan provides for virtually no new timber sales or harvesting from Federal lands this year or next. It will be years before the minimal and inadequate harvest levels included in the plan are reached.

I should like to believe that President Clinton was sincere when he said he wanted balance. But no amount of sincerity or goodwill can change the fact that the ESA is an expansive, loosely worded statute that preservationist groups have used to bring any number of beneficial activities to a grinding halt.

Mr. President, perhaps the administration's experience with the northern spotted owl has been instructive. Secretary Babbitt and Secretary Brown recently proposed an ESA initiative designed to improve the quality of science used in listing decisions, and to provide greater balance in ESA-related processes. I am gratified to see the administrations adopting policies that I have advocated for a long time.

But even with the best of intentions, I do not think that the President can bring true balance to the ESA process under the existing law. The act is too broad, and the stakes simply too high, to risk on the vagaries of an administrative initiative.

The act itself needs major reform. If we do not act soon, there will be more disasters like the one that has befallen our timber communities. In fact, there already are.

The Northwest is already embroiled in a highly complex debate over how to save threatened and endangered runs of Pacific salmon. While the vast majority of the people in the region badly want to save those salmon runs, some of the recovery measures that have been proposed are exorbitantly expensive, and would devastate many communities that depend upon the Columbia River system.

We have tried within the region to develop a salmon recovery plan that will satisfy the requirements of the ESA without costing hundreds or thousands of jobs. We may yet be successful.

But throughout this planning process, the bar that any recovery plan must clear has repeatedly been raised. We dramatically changed operation of the Federal Columbia River Power System at a cost measured in hundreds of millions of dollars, but a Federal judge said this wasn't enough to meet the requirements of the act. River managers then ordered a costly and controversial spill of water over the Columbia River dams—a spill that many scientists said was likely to kill more fish than it saved. The judge was not impressed.

It is anybody's guess how the courts will rule when the National Marine Fisheries Service issues its final salmon recovery plan. But that is precisely the point—we should not have to guess. There should be some sanity, some predictability, some balance in the ESA process.

Mr. President, we cannot wait any longer. We must have reform. We cannot simply go on funding ESA compliance activities in appropriations bills while ignoring the problems at hand. With many of my colleagues from impacted States, I am losing my patience.

I urge the administration and the leadership to move forward with reauthorization of the ESA—an ESA that treats human values as of at least equal importance as it does species values.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mrs. HUTCHISON] is recognized.

Mrs. HUTCHISON. Madam President, are we in morning business?

The PRESIDING OFFICER. We are in a period of morning business.

THE WATER SUPPLY IN SOUTH TEXAS

Mrs. HUTCHISON. Madam President, we debated and passed unanimously my sense-of-the-Senate amendment to the Interior appropriations bill earlier this week. In my remarks I said, "Not since the Alamo has San Antonio and south Texas been under siege from a faraway Government as it is today."

In fact, the Edwards aquifer is the sole water supply of our Nation's 10th largest city, the city of San Antonio. It is also the very important water supply for a large area of south central Texas. It supplies the farmers and ranchers who create much of our food supply, and it is certainly important to the residents of all of the south central Texas counties.

I want to tell you the catch-22 that the people of south Texas are in because of the Endangered Species Act. The Sierra Club filed a suit to protect the five endangered species living in the Edwards aquifer. They are a blind salamander that is about a inch-and-a-half long, another salamander, and two fish of about that size.

The Edwards aquifer level is going down because we have not had enough rainfall in Texas this year. Only .3 of an inch of rain has fallen since May; normally, they receive 8 inches during this time.

So a Federal judge has said that, under the Endangered Species Act, we may have to limit pumping from the Edwards aquifer. The State legislature, which should have the power to settle differences over the water supply in this area did, in fact, come to a resolution by debating proposals from many counties, from the ranchers and farmers, from the city of San Antonio, and all of the people who depend on that Edwards aquifer. The State legislature created a board appointed by the elected officials, to monitor and determine how the water would be allocated. However, the Justice Department decided that the solution put forward with all of the people involved violates the Voting Rights Act.

We should permit the State and local government's solution to this problem to be put into effect. They do not need help from the Federal Government, or a Federal court to tell them what to do. But because we have had overregulation under the auspices of the Endangered Species Act, we have had Federal intervention.

So Texans are caught between the Justice Department saying that under the Voting Rights Act they cannot have a local resolution to this problem, because board appointed by elected officials replaces some directly elected public officials, and the Fish and Wildlife Service saying, as ordered by a Federal court, that they may have to limit pumping from the aquifer to protect Endangered Species.

What I think we ought to be doing is saying to the State and local government that this is your problem. You have found a solution, a solution that reduces dependence on the aquifer over the long term, and you do not need our help and advice. Most important, you do not need the Federal Government to intervene by limiting the water supply of the tenth-largest city in America, which would have a devastating impact on Air Force bases and on the farmers and ranchers throughout South Texas. But, nevertheless, that is what we have. We are caught in a catch-22.

The Senate passed my sense-of-the-Senate amendment to say let the State and local government handle this, and to say to the Secretary of the Interior that he should be looking for ways to minimize the economic damage and the damage to people in the solution to this problem. He should use his powers to grant an emergency incidental taking permit so that the local government can manage the water without being in violation of the Endangered Species Act.

We have too much Federal encroachment in the name of the Endangered Species Act. There is a second siege on a different specie that is happening simultaneously. The same Fish and Wildlife Service said publicly that they were looking at 33 counties in Texas, over 20 million acres, as the critical habitat of the golden-cheek warbler. This could limit the cutting of cedar, which is a tree that absorbs water in the ground. It takes the water from other crops and other uses that ranchers and farmers need it for. We are talking about restricting use of possibly 20 million acres for this one bird.

Madam President, it is time for us to put some common sense into the Endangered Species Act. The Edwards aquifer was down to a low level in the 1950's, and we were endangering this same fountain darter then, but they had a commonsense solution. They restocked the fountain darters from another spring in the aquifer, and they put them back where they had been before. The fountain darters flourished. The water level came back up naturally, and they have been there ever since.

That is common sense. And it also says that people matter, that economics matter, that jobs matter, that we have to have the ability to go forward with progress, with jobs, and with development, in addition to trying to save species in different ways. We need to consider putting them in safe places, by making sure that we protect them in another environment.

My colleague from the State of Washington has seen the spotted owl do terrible economic damage to a very important industry in his State. Similary, in east Texas we have a woodpecker that is severely hampering the timber industry.

We must keep the overly strict Endangered Species Act from hurting our country. It is do for reauthorization; I hope we will take it up soon. I hope that we will make commonsense amendments to the Endangered Species Act. But I also hope, Madam President, that we will have regulators that have common sense, that we will have regulators who say people are important in this process. Sometimes I think the only endangered species on this Earth that is not being protected is homo sapiens, and that is ridiculous. We must have commonsense solutions.

So I support my colleague from the State of Washington when he says we must take this bill up, we must reauthorize the Endangered Species Act with some commonsense amendments, and that means that we must include economic benefit analyses. We must make people part of the equation, we must make jobs part of the equation, and we must look at protecting species by putting them somewhere else; perhaps for a short period of time, perhaps for a long period of time.

But you know sometimes in nature a species does go extinct. It is survival of the fittest, and sometimes animals themselves kill each other off. Perhaps we can help, but to do that we might have to make more transfers.

I am not saying that I have all the answers, but I am saying we need to address this problem; I am saying that the problem involves making sure that people are part of the equation.

I am going to be here as soon as we can take up and consider the reauthorization of the Endangered Species Act, and I am going to try to make sure that the private property rights in our Constitution are absolutely adhered to, and that our people's property will not be taken without just compensation.

I appreciate the leadership of the Senator from Washington on this issue, and I look forward to seeing if we can put people in the equation once again.

Thank you, Madam President.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to speak for not to exceed 10 minutes, if need be.

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

IN TRIBUTE TO HUGH SCOTT

Mr. BYRD. Mr. President, the U.S. Senate is a unique fellowship in which but a handful of men and women throughout the history of our country have been privileged to serve.

Mr. President, in my thinking, even retirement or electoral defeat do not sever the gossamer strand that ties a man or a woman to this incomparable assembly, and death itself cannot erase the indelible prints that membership in this body leaves on the Senate or on the memories and reputations left by those who have been addressed with the more than honorific title of "Senator."

These truths were again underlined these past few days when former U.S. Senator, Hugh Scott of Pennsylvania, passed away, full of years and memorialized in the hearts of those who admired and remembered him.

In every sense—bearing, intellect, manner, speech, political acumen, and instinct—Hugh Scott was a U.S. Senator.

Hugh Scott and I were both elected in 1958 to the U.S. Senate, and we, therefore, entered the Senate in the same class. Similarly, neither of us was a native of his adopted State—Senator Scott having been born in Virginia, and I having been born in North Carolina. Likewise, both Hugh Scott and I served simultaneously in the Senate leadership, he as the Minority Leader at the same time that I served as Majority Whip.

But Hugh Scott did not enjoy the electoral security that some Senators enjoy, with solid partisan majorities to back them through election after election.

Men's evil manners live in brass.
Their virtues we write in water.

(Mrs. BOXER assumed the chair.)

Some observers have asserted that Pennsylvania is, in truth, two States, with interests as varied, east to west, as Philadelphia and Pittsburgh are, one from the other.

Nevertheless, through three elections, Hugh Scott succeeded in straddling the Appalachian divide that carves Pennsylvania into two regional constituencies, adroitly compromising as successfully as have few politicians in the annals of American political history confronted by such divergencies.

Legislation is the art of the possible. Legislation is the art of compromise. When circumstances demanded it, Hugh Scott could be a politician's politician, staking out a common terrain between opposing positions, where others less perceptive might locate no terrain at all.

A committed ideologue might find little to praise in such a course, but, Mr. President, if politics is indeed "the art of the possible," then Hugh Scott was a master of possibility, for throughout his long and distinguished career in the Senate, again and again, he helped to create resolution in the face of seemingly overwhelming political odds.

Indeed, Senator Scott did not serve in a placid era in American history.

Review with me but a few of the political crags of that tenure: the assassination of President Kennedy; the Vietnam War; the 1964 election campaign; the civil rights struggle; the assassinations of Robert Kennedy and Martin Luther King, Jr.; the Watergate crisis; and the resignation of President Nixon, to pinpoint but a few dramas that beset our country during Hugh Scott's term in office.

That America survived that era is attributable to the wisdom of many people.

But I contend that Senator Hugh Scott contributed immeasurably, through his statesmanship and patriotism, to untangling the mesh and gridlock of that era, to lowering the wrangling voices, and to drawing citizens back to their central allegiance to the well-being of our country as a whole.

Madam President, I know that I speak for all of my colleagues, and especially all of my colleagues who knew him, and for our wives, for Erma, in extending condolences to the family and friends of Senator Hugh Scott on the occasion of their loss, and in again commending the people of the Commonwealth of Pennsylvania for their wisdom in lending the late Hugh Scott to America during a turbulent period in our national history.

Around the corner I have a friend,
In this great city that has no end;
Yet days go by, and weeks rush on,
And before I know it, a year is gone,
And I never see my old friend's face,
For life is a swift and terrible race.
He knows that I like him just as well
As in the days when I rang his bell
And he rang mine.
We were younger then,
But now we are busy, tired men,
Tired with playing a foolish game,
Tired with trying to make a name.
"To-morrow," I say, "I will call on Jim,
Just to show that I'm thinking of him."
But to-morrow comes—to-morrow goes,
And the distance between us grows and grows.

Around the corner!—yet miles away . . .
"Here is a telegram, sir, Jim died to-day."
And that's what we get, and deserve in the end:
Around the corner, a vanished friend.

Madam President, I yield the floor.

Mr. KERRY. Madam President, I ask unanimous consent that I be permitted to proceed for such time as I might consume in morning business.

Mr. KENNEDY. Madam President, reserving the right to object. Would my friend and colleague indicate how much time he is going to use? We have tried, in accordance with the majority leader's instructions, to set times to accommodate Senators. I would be glad to have a reasonable period.

Mr. KERRY. I think no more than about 15 minutes in total.

Obviously, if my colleague wants to proceed on the bill, I do not want to slow that up.

Does he have somebody with an amendment ready to go?

Mr. KENNEDY. Why do we not just try 10 minutes?

Mr. KERRY. Sure.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 10 minutes.

STATUS OF THE WORLD'S FISHERIES

Mr. KERRY. Madam President, I would like to take this time to discuss an issue of grave concern to myself, my colleague from Massachusetts, the Senator from Rhode Island, and others. It is an issue of growing importance, not just to the United States but to countries all over the world; that is the increasing threat to the status of the world's fisheries and the management of our marine resources.

It was not long ago that most people thought that the supply of the ocean resources was inexhaustible. Since the end of World War II, the world's seafood harvests have multiplied nearly fivefold, growing from an annual global catch of about 18 million metric tons to a peak of nearly 100 million metric tons. Scientists tell us today, however, that we are currently harvesting close to the maximum that the oceans will support.

Since 1989, the United Nations Food and Agricultural Organization, known as the FAO, has reported that the world catch is in decline. Fishery statisticians tell us that they have seen a worldwide shift in catch to less valuable species, and most gains in the world harvest levels of the last 10 years have come from increased landings of smaller, lower value species, such as anchovies or mackerel.

Taking this fact into account, the decline in fisheries and the harvest of fisheries all across the planet is extremely alarming. There is one simple fact that every industrial nation needs to address—and not enough are—and that is there are simply too many fishing vessels chasing too few fish.

Even more telling is the fact that, today, despite a signficant increase in the number of vessels at sea and an increase in their fishing effort, there has been a decline in the world's catch. The size of the world's fishing fleets have increased three times in the last decade and modern vessels are now bigger and more efficient than those on the oceans 10 years ago.

Today vessels are equipped with extraordinary state-of-the-art electronics, including sophisticated satellite navigation. They often employ advanced fishing techniques, such as helicopter spotting. This increase in the number of vessels and efficiency has simply outstripped the capacity of the oceans.

Here in the United States, we are struggling to address the problem of overfishing off our own shores. Probably the best known example—and one of particular concern to myself and other New England Senators—is the collapse of the traditional groundfish stocks of cod and haddock in the North Atlantic.

Just last year, the Commerce Department had to implement a very draconian amendment, amendment 5, in order to reduce the amount of time that our fishermen can fish, and, as a consequence, we had to seek emergency economic aid to help those fishermen affected.

The failure of the longstanding New England fishery is having a devastating effect on the economies of coastal communities like Gloucester and New Bedford. I know the Senator from Rhode Island would agree that their fishermen are under enormous pressure, as would the Senator from Maine, our majority leader, and other Senators from other fishing States—California, Louisiana, the Carolinas, and others.

Last week, another traditional fishery in New England made the front page of the Boston Globe. The headline read, "Lobstermen hauling up empty traps; Many fear overfishing." The lobster is a venerated part of New England gastronomy and among our most unique and valuable natural resources. However, like many other New England fishing traditions, it could become part of our past, unless immediate steps are taken to strengthen the conservation of the stocks including more effectively limiting the amount of fishing effort. The answer to the question of who is responsible for the current sad state of our fisheries is not a simple one and has a long history. The New England lobster fishery, for instance, is subject to oversight and regulation by numerous State and Federal bureaucracies, including the State of Massachusetts, the State of Maine, the New England Fishery Management Council, Department of Commerce's National Marine Fisheries Service, and the Atlantic States Marine Fisheries Commission.

The length of the list will tell you why some fishermen say they are overregulated. The fact is, despite being overregulated, tough decisions have not been made; people who have been responsible for trying to curb the process have not done so; and most importantly, fishermen themselves, who for years under the management councils were given the responsibility to make the decisions to conserve, have not been conserving.

So the system has obviously failed. It has not just failed here, it is in great jeopardy in other parts of the world. We have factory ships off our coast that come from all parts of the world. They sit several hundred miles off the coast just outside of our 200-mile exclusive economic zone where they simply stripmine the oceans.

These are enormous problems. My hope is we can work together internationally to identify workable solutions. But we have to address the core of the problem, which is there are too many boats chasing too few fish all around the globe. In the last 20 years, the promise of profit from fishing and government-subsidized building programs by industrialized countries has overcapitalized the fleets in almost all fisheries of the world. I am told Iceland and the European Union could cut their fleets by up to 40 percent, and Norway could cut its fleet by 50 percent, and all three nations would still be able to maintain the fishery harvests at today's level.

That is an extraordinary statement. You could have 50 percent fewer Norwegian ships fishing and they could still come up with as much harvest as they have today.

The other interesting point to note is that, as nations have increased their efforts in an attempt to increase the catch, we have created a perversely uneconomical system, where the world's fleets are now operating at a loss. The FAO reports that in 1989 fishermen spent $92 billion to land $72 billion worth of fish. So not only do we have an uneconomic, perverse market, but we also have a market that is disappearing by virtue of the amount of fishing effort. The FAO now estimates that 13 of 17 major ocean fisheries are in trouble and that roughly 60 percent of the stocks which they monitor are fully utilized, overexploited, or depleted.

I think it ought to be clear to my colleagues why we should be concerned about this particular issue. Obviously, fish rank as one of the primary food sources in the world. There will be social and economic consequences of disastrous proportions if industrial fishing fleets are not controlled. We may have food shortages in developing countries worse than those we already witnessed, where fish already supply up

to 40 percent of the dietary protein. If we want to look at crises in the making that we should proactively be doing something to prevent, this is one of them.

Another concern is that we will lose the valuable renewable resource itself, and the associated economic opportunities that go with it. If managed properly, coastal fisheries are a sustainable industry that could be much more productive and much more profitable. But we are going to have to manage them properly in order to make that happen. Many of the most valuable species in the world's seafood markets are becoming harder to find and more costly as the fish stocks are depleted by pollution, by habitat destruction, and the relentless pursuit of the modern fishing fleet. This decline in population of fish has increased the competition among fishing nations for these particular resources.

Nations and fishing fleets have responded to the increased competition in various ways—not all of them positive. Coastal nations have extended their management authority to 200 miles. Now, with diminishing fish stocks, tensions between nations have risen. Just 2 days ago, Canada attempted to extend jurisdiction in the Atlantic beyond the 200 miles in a frustrated attempt to protect its fisheries resulting in the Canadians arresting two New Bedford, MA fishing boats. I believe the Canadians are wrong because the vessels were involved in harvesting scallops which are not a sedentary species as the Canadians claim and, therefore, do not fit under the little-used provision of customary international law that they have tried to make this arrest on. I have called on the State Department to take immediate action to obtain the release of these fishermen and to lodge a formal protest against the Canadian Government. Despite their actions, the Canadians have underscored the need for all countries to work together to protect the world's vital fish stocks. We need to work to make that happen.

In addition to the problems at our borders, distant water fishing fleets are now traveling the world, fishing legally and illegally in an effort to locate the dwindling stocks of valuable species such as bluefin tuna and swordfish. The race for these fish supplies has resulted in a dangerous worldwide trend in which routine fishing disputes are now escalating into major international incidents.

In the Mediterranean and on the high seas, violations of the U.N. moratorium on the use of large-scale driftnets are a continuing concern. The world united in 1992, thanks to the efforts of Senator STEVENS, myself, and the administration, with the United Nations, and banned the use of large-scale driftnets. But regrettably in the Mediterranean today, a large number of the Italian fishing fleet continues to use illegal driftnets, which are miles and miles of monofilament net that simply sweeps the ocean, entrapping all kinds of fish and other marine life. I am sickened to learn of their continued use in a desperate attempt to harvest the remains of once plentiful stocks. I am even more disheartened to hear reports that countries like Italy are attempting to take steps to legalize these activities in the world forum.

Today, the Commerce and State Departments should be put on notice that I and others intend to press for action under the High Seas Driftnet Fisheries Enforcement Act to identify and notify nations suspected of conducting large-scale drift operations. In addition, we must be prepared to implement trade sanctions should such nations not agree to cease their illegal activities. The administration cannot afford to drag its feet. I echo the sentiments of the Senator from Alaska with respect to illegal Italian driftnetters—"All we need is one. If we have one confirmed driftnet that exceeds the limit in use in the world, I think that we ought to tell the United Nations we are prepared to help enforce the moratorium." That says it all.

While worldwide depletion of fishery stocks is a very real threat, we must not underestimate our ability to address the problem. Nor must we fail to recognize that there are success stories on which we can build. First, despite the recent setbacks, we have made substantial progress in eliminating wasteful and destructive driftnets. Second, we now have in place a long-term agreement to allow U.S. tuna fishermen access to the rich tuna resources of the South Pacific. Third, the Senate currently is considering a new treaty and implementing legislation that will establish an international system to license, report, and regulate all vessels fishing on the high seas. Fourth, the United States recently joined with Russia and several other fishing nations to complete a new convention for managing fisheries in the central Bering Sea. Finally, although the condition of Atlantic bluefin tuna stocks is still a concern, I am optimistic that the U.S. investment in strengthening the International Convention for the Conservation of Atlantic Tunas [ICCAT] eventually will pay off in restoring depleted tuna stocks.

With respect to other international efforts now underway, I am encouraged by the efforts of the United Nations Conference on Highly Migratory and Straddling Fish Stocks, as well as FAO efforts to develop an international code of conduct for responsible fishing. Such a code will promote compatibility between the activities and economic interest of responsible fishermen and the ecological principles of conservation. Developing a set of guidelines is important, particularly to reduce overcapacity of world fishing fleets. Without effective efforts to reduce global fleet size, fishing vessels displaced from one fishery will continue simply to migrate to another fishery, often exacerbating overcapitalization problems already present. The heart of the problem is that, in order to prevent long-term environmental damage and develop renewable fisheries, governments must be willing to enforce rules and regulations that forgo short-term unsustainable economic gains and the political pressures that they bring.

The United States must exercise strong leadership in facing the challenge of building sustainable fisheries, not only in U.S. waters, but as a shared world heritage. We have a number of upcoming opportunities for demonstrating that leadership. First, we can complete action on a strong Magnuson Act reauthorization bill, ensuring the recovery and continued use of our domestic fisheries.

Second, I applaud the efforts of the administration to renegotiate the Law of the Sea Convention and look forward to reviewing those efforts when the treaty comes before the Foreign Relations Committee and the Senate. Third, I think the time has come to reexamine the issue of U.S. participation in the Northwest Atlantic Fisheries Organization [NAFO]. Finally, we must push for effective domestic and global enforcement of the existing agreements and treaties. Without firm enforcement in the coastal waters and on the high seas, all of our well-intentioned efforts will be for naught.

We are at a crossroads. We still have time to reverse the current trends and ensure that vital living marine resources are preserved. We must, however, be willing to take the difficult steps both domestically and internationally to move down the path toward creating sustainable global fisheries.

I simply call my colleagues' attention to this extraordinary growing crisis which we must show leadership in trying to resolve.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I merely wanted to rise to congratulate the junior Senator from Massachusetts on his statement on fisheries. The fisheries today are being depleted, depleted, depleted, not only off New England, not only off the United States, but around the world.

I think the consciousness of that has to be impressed on all our people. In addition, there will be signatures on the Treaty of the Law of the Sea tomorrow, and this is very good evidence why a universal law of the sea will help in fishery regulations.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, just very briefly on the same issue, as my colleagues and friends Senator KERRY and Senator PELL have pointed out, we have had a very serious incident in which two boats from New Bedford were seized in Canadian waters in a legal dispute. The issue has not been resolved by the Department of State.

These boats are now being held by Canadian officials. That is a deplorable situation. If we are attempting to try to manage the George's Bank with our Canadian friends, this is just the wrong way for them to go about it. It may be politically popular in Canada to seize American ships before they are going to crack down on their own violations, but it is intolerable from the point of view of American men and women who, after consulting with the State Department, moved ahead to try to make a living.

This is a matter that I know many of us in New England are concerned about. I had the opportunity to talk with the American Ambassador to Canada, Tim Wirth, and I have been in touch with the Canadian Ambassador to the United States, to indicate that we find this to be an unacceptable, inappropriate type of behavior and we are going to work very closely with our President and the Secretary of State to try to address it.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Madam President, is leader time reserved?

The PRESIDING OFFICER. Leader time is reserved.

Mr. DOLE. Madam President, if I could take about 3 minutes of that?

The PRESIDING OFFICER. The Republican leader has that right.

WHITEWATER

Mr. DOLE. Madam President, as the Whitewater hearings get underway, the American people should understand that what they will be watching is a limited and tightly scripted account of only a small piece of the entire Whitewater puzzle. It is like going to a movie theater, paying $6 for a ticket, and getting to see only one 60-second movie preview. That is what this Whitewater hearing is all about.

Will the hearings examine the RTC's internal investigation into Madison Guaranty? No.

Will the hearings cover the Justice Department's handling of the RTC criminal referrals? No.

Will the hearings take a look at Paula Casey's delayed recusal from the Madison case and the David Hale prosecution? No.

Will the hearings cover the diversion of SBA funds to the Whitewater partnership? No.

Will the hearings examine why White House officials rifled through Vince Foster's office shortly after his death? No. Earlier this month, Mr. Fiske apparently changed his mind, telling Congress that his area of inquiry was off-limits, at least for now.

Will the hearings explore the activities of the Arkansas Development and Finance Authority? No.

Will the hearings take a look at whether any of Madison's federally-insured funds were used to pay off campaign debts? No.

And will the hearings examine the Whitewater transaction itself? You guessed it: The answer, of course, is "no."

During the past several months, independent counsel Robert Fiske has been masterful in his role as congressional traffic cop. He has commanded Congress when to go and when to stop, insisting that hearings take a back-seat to his own investigation and exercising an almost complete veto over congressional oversight in the process. To our own discredit, both the Senate and the House have willingly gone along with this charade.

In fact, when historians look back on the year 1994, they will see one of the few occasions in American history when one branch of Government, the Congress, willingly forfeited power to another branch, the executive. Mr. Fiske may be a fine person and a fine lawyer, but he is, without a doubt, one of the most powerful bureaucrats ever seen in American history.

Earlier this week, White House Counsel Lloyd Cutler insisted that no administration official violated any ethical standard as a result of the nearly 30 behind-the-scenes contacts in which insider information about the RTC criminal referrals was shared. Mr. Cutler's ethical dispensation may or may not be justified, but what is beyond dispute is that no ordinary American would have received the same preferential treatment. No ordinary American, cited in an RTC criminal referral, would have received the same advance-warning "head's-up" from the very people charged with conducting the investigation—from the very people charged with conducting the investigation.

And Madam President, if the contacts were on the up-and-up, as Mr. Cutler claims, what was their public purpose? What legitimate investigative goal were they designed to serve?

Madam President, I ask unanimous consent that two editorials—one from the Wall Street Journal and one from today's New York Times—be printed in the RECORD immediately after my remarks.

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

(See exhibit 1.)

Mr. DOLE. Madam President, I particularly call the attention of some of my colleagues to the editorial in the New York Times called "Censorship, Gonzalez Style." If you watched, as I did, the House hearings on C-SPAN, it was a disgrace. It was a total disgrace. I hope when the Senate Banking Committee starts hearings tomorrow, we will have some serious look at some of the problems.

We are not going to go away. We are going to continue to press for full hearings so the American people can make a judgment on the facts. The New York Times said maybe this is not a cover, maybe it is a question of which word you use. It is certainly an effort not to reveal anything. The majority in Congress is certainly responsible for it, and I think the American voters will know that between now and November.

EXHIBIT 1

CENSORSHIP, GONZALEZ STYLE

Henry B. Gonzalez, the Texas Democrat who heads the House Banking Committee, never really wanted to hold Whitewater hearings in the first place. Now that they are under way he seems determined to make them as unenlightening and unthreatening as possible.

Bowing to Robert Fiske, the independent counsel, Congress had already agreed to exclude the central matter in Mr. Fiske's continuing investigation—whether money from Madison Guaranty Trust, an Arkansas savings and loan, was improperly funneled into the Whitewater land venture or President Clinton's gubernatorial campaigns. That limited the committee to one question: Did Administration officials try inappropriately or unethically to rein in a Federal investigation by the Resolution Trust Corporation into Madison's collapse?

Mr. Gonzalez's devotion to this agreement was demonstrated Tuesday when a Republican asked if the Clintons had paid in full for their share of Whitewater. Lloyd Cutler, the White House counsel, appealed for protection from this important question, and Mr. Gonzalez speedily ruled that he did not have to answer. Mr. Gonzalez was within his rights to silence questions on Whitewater's "Arkansas phase." But the irascible Texan has twisted the already stringent rules to make it virtually impossible for members to develop a continuous, productive line of inquiry into even the narrow matter at hand.

First, he has awarded each member only five minutes of continuous questioning. Further, when a Republican finishes, he must yield to a Democrat and vice versa. This format will surely produce chaos when 10 White House officials appear simultaneously this afternoon, including George Stephanopoulos, Harold Ickes and Thomas McLarty. Republicans will want to know whether they tried to meddle with the R.T.C.'s supposedly independent investigations. But the Republicans will be hard put to mount a sustained cross-examination.

There are 51 committee members; it is therefore conceivable that someone like Jim Leach, the Iowa Republican who has spent the last eight months studying Whitewater, will have just one five-minute shot at 10 people—or 30 seconds per witness. Mr. Leach can "borrow" time from fellow Republicans willing to yield it. But before he uses the extra time, he must yield to a Democrat who could run the questioning off in a different direction.

Mr. Gonzalez is a partisan who believes that Whitewater is simply a Republican political sideshow. His efforts to protect the White House from sustained questioning place a special burden on Donald Riegle, a Michigan Democrat, to open up the Senate

hearings that begin tomorrow. They also oblige the Republicans to deploy themselves wisely in the future. They squandered valuable time on Tuesday complaining about Mr. Gonzalez's restrictions, rather than probing Mr. Cutler's odd assertion that he should be regarded as an objective investigator. On the first day, Mr. Cutler and especially Mr. Gonzalez got by with far too many nonanswers and thwarted questions.

THE FISKE HANGOUT

We don't recall offhand whether it was H.R. Haldeman or John Erlichman who suggested dealing with Watergate by a "limited, modified hangout." But the wonderful phrase captures the essence of the Whitewater hearings about to begin today—an exercise intended to create the illusion of openness while revealing as little as possible.

Provided essential political cover by independent counsel Robert Fiske's grandiose view of his own prerogatives, Congressional Democrats have officially limited the hearings to preclude such interesting areas of inquiry as Bill Clinton's Arkansas slush fund for legislative initiatives, Hillary Clinton's commodity trades, Dan Lasater's drug convictions and whatever happened at Mena airport. Questions will be allowed only on matters Mr. Fiske has already certified as nonindictable. Rep. Jim Leach estimated this at 5% of Whitewater. He lowered the number to 2% to 3% when Mr. Fiske declined to bless Congressional nosiness about the handling of Vincent Foster's office papers after his suicide.

The sliver of the case remaining, to be sure, is pregnant with embarrassment for the Administration. It concerns Washington contacts on the regulation of Madison Guaranty Savings & Loan, and press leaks over the past week depict an Administration with a progressive case of mutual recrimination. Will Deputy Treasury Secretary Roger Altman take the fall? Which of various high officials is lying? What did the President know and when did he know it? Amid the often contradictory denials by Washington officials, one thing should be kept in mind.

To wit, that investigators in the field clearly feel they were sat upon to suppress the Madison investigation. A proper investigation would start with RTC Kansas City attorney L. Jean Lewis, and work its way back up the chain of command. It would certainly include the handling of Madison by Paula Casey, the Friend-of-Bill implant as U.S. Attorney in Little Rock, and the circumstances of her appointment. Instead, the hearings will start with denials at the top and work down, maybe. As of yesterday, House Banking Chairman Henry Gonzalez had formally scheduled only one witness: White House 130-day counsel Lloyd Cutler.

To get a sense of the coverup being conducted, consider that Rep. Leach has felt it necessary to bring suit in federal court in an attempt to get documents on Madison from the Resolution Trust Corp. and Office of Thrift Supervision. Such documents were routinely provided to the minority banking staff in previous S&L scandals—Lincoln, Silverado, Centrust, Columbia and others. But when it comes to Arkansas, the supposedly independent regulatory agencies have gone into a protective crouch.

The ranking minority member of the House Banking Committee is entitled only, John E. Ryan of the RTC wrote Mr. Leach, to those documents "otherwise available to the public pursuant to the Freedom of Information Act." Mr. Ryan is the deputy in charge of the RTC after Mr. Altman recused himself. Jonathan Fiechter, longtime acting director of the OTS, took the same position. When Mr. Leach requested the documents for oversight hearings mandated by statute, Chairman Gonzalez wrote the regulators instructing them not to comply. Mr. Leach brought suit for the documents, and Judge Charles Richey is to decide whether the agencies can ignore the law if a chairman tells them to. Lawyers for the agencies now urge the court not to interfere in a dispute within the Congress.

What you have here, it could scarcely be clearer, is a Democratic Congressional majority protecting a scandal-ridden Democratic executive branch, and bending banking regulators to this purpose (assuming they need to be bent). The Congressional majority has a monopoly on Congress's right to learn the truth, lest the minority inform the voters. Judge Richey plainly understands the danger of this doctrine, but in oral arguments said he was troubled by an appellate precedent, even though I thought it was dead wrong then. I'll go to my grave thinking it's dead wrong.

Judge Richey, also, wrote Glenn Simpson in the July 18 issue of Roll Call, "denounced Whitewater independent counsel Robert Fiske for his efforts to limit the scope of the Whitewater hearings that will be held by the Banking Committee later this month, saying Fiske was infringing on constitutionally guaranteed Congressional rights and obligations." The Judge said directly, "I don't believe the independent counsel has the power to tell Congress what they have the power to look into, and when."

It is too much to hope, we suppose, that Judge Richey's view is held by the panel actually overseeing the independent prosecutor law—headed by Judge David B. Sentelle of the D.C. Circuit and including Senior Judges John D. Butzner Jr. of the Fourth Circuit and Joseph T. Sneed of the Ninth Circuit. Interestingly, however, they have not acted on Attorney General Reno's nomination of Mr. Fiske, forwarded July 1, a day after the signing of the new Independent Counsel Act.

That afternoon Senator Lauch Faircloth took the Senate floor to urge "a new, truly independent counsel," who might of course retain Mr. Fiske in some capacity. Senator Faircloth cited Mr. Fiske's involvement in defending Clark Clifford and Robert Altman in the BCCI case, in collaboration with Robert Bennett, the President's lawyer in the Paula Jones case. Also Mr. Fiske's firm representation of International Paper Co., which had land dealings with Whitewater Development. And Mr. Fiske's role in the appointment of Louis Freeh as FBI chief and his private legal work with former White House counsel Bernard Nussbaum. This is not a trivial list; in our own view no one with any role in BCCI should be appointed to anything until we know the full story.

Yet Judge Sentelle's panel should think even harder about whether it agrees with Judge Richey on the balance between prosecutorial and Congressional prerogatives, or whether it wants to endorse Mr. Fiske's view by reappointing him. Does the Judicial Branch really want to take responsibility for the farce about to unfold in Congressional hearing rooms and the nation's TV screens?

JUDGE INGE JOHNSON: BLAZING TRAILS FOR WOMEN LAWYERS

Mr. HEFLIN. Mr. President, in this day and age, when women make up nearly half the student population in our Nation's law schools and practice in large numbers throughout the country, it is hard to imagine a time when they were a rarity in the judiciary and the legal profession. Inge Johnson came on the scene at just such a time, and her story is one that has inspired many over the years.

When Judge Johnson came to the United States in the late 1960's, she had already earned a law degree from the University of Copenhagen in her native Denmark. With the help and guidance of then law school dean at the University of Alabama, Dan Meador, who is currently a professor at the University of Virginia Law School, Inge enrolled in Alabama's comparative law master's degree program in 1969. It was highly unusual to have a foreign student attending Alabama's law school, and this made her something of a curiosity. Dr. Meador remembers the other students being keenly interested in her background. She sparked great interest in the field of comparative law, and developed many close friendships. One of those friendships happened to be with a bright and personable young man from Tuscumbia, AL, by the name of Bill Johnson. This friendship ripened into a courtship and eventually marriage.

After completing the comparative law program at Alabama, Inge returned to Copenhagen, where she practiced law for a while, but soon returned to America to fulfill her dream of practicing here. However, she soon found that one of the requirements for admission to practice in the United States was to have a degree from an accredited American law school. Her determination was great, so she enrolled in the University of Alabama Law School for her juris doctor degree. When she finally received the degree, she had completed the equivalent of 7 years of legal education.

Mrs. Johnson then applied to take the bar examination, but soon found that she had yet another obstacle to overcome in her path to becoming a practicing lawyer in the States: She had to be a naturalized American citizen. She had previously applied for citizenship, but had to meet the residency requirement, which she would not meet for a few more months. The Supreme Court of Alabama came to her assistance by allowing her to take the bar exam since she demonstrated she would become a citizen shortly. After overcoming hurdle after hurdle, Mrs. Johnson became a full-fledged lawyer and shortly thereafter a full-fledged American citizen.

In 1973, Mr. and Mrs. Johnson returned to his hometown of Tuscumbia, AL. Bill's forebearers, particularly the Johnsons and Helen Keller's family, were among Tuscumbia's early settlers.

For many years, Inge was, incredibly, the only woman practicing law in all of northwest Alabama, and very possibly

the only one practicing north of Birmingham. She and her husband practiced law together for a number of years under the firm name of Johnson and Johnson.

Sixteen years ago, Inge was elected presiding circuit court judge of Colbert County, of which Tuscumbia is the county seat. Now in her third consecutive term, she did encounter some resistance when she entered the political arena in 1978, when some voters said she should be at home with her children and that a woman could not measure up to the demands of a judgeship. All this was said to a woman who had first gone to school in a country where half the practicing lawyers were women, and where it was not considered at all unusual for a woman to enter the profession. In spite of these sentiments, however, her abilities, qualifications, and determination allowed her to persevere and succeed. And attitudes have changed to the point where statements like this would be almost unheard of today. Besides, she has proven herself to be a nurturing and caring mother.

Inge Johnson and hundreds of other trail blazers like her have enhanced the legal profession in many positive ways that are difficult to measure. There is no doubt that they opened the doors through which some of the brightest legal minds have been able to enter and begin making valuable contributions to society.

I ask unanimous consent that an article appearing in the Times Daily, a daily newspaper for Florence, Muscle Shoals, Sheffield, and Tuscumbia, on the life and career of Judge Inge Johnson be printed in the RECORD at this point.

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

JOHNSON PROMPTED CURIOSITY WHEN SHE ARRIVED

(By Robert Palmer)

TUSCUMBIA.—She didn't begin her law career with the intent to change the perception of female lawyers in the Deep South, but in a roundabout way, Inge Johnson did.

After 16 years on the bench as Colbert County's presiding circuit judge and a decade of experience in private practice in Denmark and Tuscumbia, Johnson believes her presence has had a positive effect on women entering the legal profession in the Shoals.

A native of Denmark, she came to Tuscumbia in 1973 after marrying William T. Johnson Jr., also a lawyer, whose family has had its roots in Tuscumbia since antebellum times. For several years, she was the only woman practicing law in Northwest Alabama and possibly the only woman practicing north of Birmingham.

She said she was surprised by the small number of women enrolled in the University of Alabama Law School when she enrolled there in 1969 to obtain a comparative law degree. In her native Copenhagen, where she had already earned a law degree, almost half the practicing attorneys were women, and it was not considered unusual for a woman to enter the legal profession, she said.

"It didn't dawn on me that being a female in law would be different here, but it was," she said.

After earning a juris doctorate from Alabama, she moved to Tuscumbia with her husband, and they entered practice together. She said her appearance in the courtroom of a Deep South steeped in old traditions attracted curiosity from her male peers rather than hostility or quiet discrimination.

"My peers did not discriminate, though I was worried about it," she said. "They were more surprised than anything else. It was not like trying to break into a fraternity."

However, she soon became frustrated. Her daytime hours were devoted to her work, at night, her time was spent with their first child. Two more would follow over the years.

Johnson said she was in a Colbert judge's office one afternoon and complained that she wasn't hearing the lawyer "gossip" she needed to know because she was not well-known. She also expressed frustration because she did not mingle socially very often with other women because she was devoting her time to establishing her practice.

A seasoned Tuscumbia attorney in the judge's office at the time laughed and told her he would keep her posted on all the "good gossip," she said.

"And he still does to this day," she added.

When she ran for election as judge, her gender became an issue in the campaign, though she said she had hoped to avoid it as unimportant.

WOMEN HAVE EARNED RESPECT

Over the years, she has talked with many area high school students interested in the law profession, especially girls.

"I hope that I've inspired them in some way," she said. "A law career ties in well with family values."

The acceptance of women in law in the Shoals can be attributed to a number of things, she said.

"There have never been any radical feminist lawyers around here. All those I've dealt with have been very cordial and professional. There has been no sticking together and fighting their male colleagues," she said.

"What has characterized women attorneys here is competency, capability and respect. That encourages respect from their male colleagues," she said. "They (women) are darn good attorneys first."

IT IS EASIER TO PREVENT DISEASE THAN CURE IT—PREVENTION IS BASIC TO HEALTH REFORM

Mr. KENNEDY. Mr. President, as we turn our full attention to health care reform, it is important for all of us to remember that it is easier to prevent disease than to cure it. Universal coverage is essential to prevention. Without it, preventive services will not reach many of those most in need.

This idea is so simple and so obvious that it often gets lost in the complex debate on health reform. Prevention is good health policy and good economic policy. It is the stitch in time that saves millions and billions—millions of lives and billions of dollars. Preventive techniques can stop epidemics before they start, or stop them after they begin. Imagine the difference it will make to the Nation if we develop more effective ways to prevent cancer and heart disease, or prevent an epidemic that would kill millions, or prevent low birthweight babies.

We have the potential today, through our community-based, public health care system, to accomplish much of this and more. To succeed, prevention must be a central part of our health system, and it will be under genuine health reform.

To achieve a healthier America, over 130 organizations of business leaders, policy-makers, health-care professionals, academicians, and researchers have agreed on five key prevention principles which should be included in health reform. I ask unanimous consent that this consensus statement may be printed in the RECORD.

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

PREVENTION IS BASIC TO HEALTH REFORM CONSENSUS STATEMENT

Universal access to health and medical care is essential. Without it, preventive services may not reach those most in need. But prevention must be an integral part of our health system, if we are to seriously progress toward reducing the toll of preventable disease and injury and saving taxpayer money. As the debate over health reform intensifies, business leaders, policy-makers, health-care professionals, academicians, and researchers have forged a national partnership to support prevention's health system role. The following key steps should define that role in health reform legislation.

All standard benefit packages should include full coverage of clinical preventive services and appropriate prevention counseling and education.

Stable and adequate funding should be provided to revitalize and support community-based preventive services as well as core public health activities. Funding must include the training and education of public health professionals and support for service delivery infrastructure.

Federal prevention coordination processes should be established to ensure that investments to improve the public's health are based on the best evidence from research and population health data. This may be done through structures such as expert panels addressing (a) clinical preventive services, including benefit plan revisions, (b) community-based preventive services, and (c) prevention-oriented social and economic policies.

A coordinated, confidential public-private data system should be established to assess Americans' health and measure its improvement. The system would identify the most cost-effective means of data collection, and would release only aggregate information, not personal data. Population-based data, gathered across all economic and ethnic groups, would include information on health plans, community health needs, health status, quality of care, etc. This would allow measurement of health outcomes, effectiveness of services, and national changes in health status and health risks.

An incentive-based system should be established to reward employers who successfully implement qualified disease prevention, health promotion and safety programs, and to provide incentives to health plans to improve the health of the communities they serve. Incentive programs should be adaptable by the size and function of different employers.

SIGNATORIES TO THE CONSENSUS STATEMENT

Aetna Health Plans.
AIDS Action Council.
Alliance for Aging Research.
Alliance To End Childhood Lead Poisoning.
Ambulatory Pediatric Association.
American Academy of Pediatric Dentistry.
American Academy of Pediatrics.
American Academy of Orthopedic Surgeons.
American Association for Dental Research.
American Association of Colleges of Nursing.
American Association of Colleges of Pharmacy.
American Association of Dental Schools.
American Association of Occupational Health Nurses.
American Association of Public Health Dentistry.
American Cancer Society.
American Clinical Laboratory Association.
American College Health Association.
American College of Nurse-Midwives.
American College of Occupational and Environmental Medicine.
American College of Physicians.
American College of Preventive Medicine.
American College of Sports Medicine.
American Council for Drug Education.
American Council of Life Insurance.
American Dietetic Association.
American Heart Association.
American Lung Association.
American Medical Student Association.
American Nurses Association.
American Optometric Association.
American Pediatric Society.
American Physical Therapy Association.
American Podiatric Medical Association.
American Psychological Society.
American Public Health Association.
American Running and Fitness Association.
American Speech-Language-Hearing Association.
Arkansas Department of Health.
Association for Health Services Research.
Association for Worksite Health Promotion.
Association of Academic Health Centers.
Association of Junior Leagues International.
Association of Maternal and Child Health Programs.
Association of Medical School Pediatric Department Chairmen.
Association of Reproductive Health Professionals.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Association of State and Territorial Public Health Laboratory Directors.
Association of Teachers of Preventive Medicine.
Association of University Programs in Health Administration.
Blue Cross of Western Pennsylvania.
Bureau of Public Health, West Virginia Department of Health and Human Resources.
Campaign for Women's Health.
Catholic Health Association.
Cecil G. Shaps Center for Health Services Research, University of North Carolina at Chapel Hill.
Center for Consumer Health Education, Inc.
Center for Corporate Public Involvement.
Center for Science in the Public Interest.
Center for the Advancement of Health.
Central States Health & Life Co.
Citizens For Public Action on Blood Pressure and Cholesterol, Inc.
Colorado Department of Public Health and Environment.
Community Health Accreditation Program.
Connaught Laboratories.
Council for Responsible Nutrition.
Division of Health Promotion, Bureau of Public Health, West Virginia.
Employee Assistance Professionals Association.
Every Child By Two.
Florida Department of Health & Rehabilitative Services.
Georgia Division of Public Health.
Health Decisions, Inc.
Health Education Center, Inc.
Health Industry Manufacturers Association.
Health Insurance Association of America.
Health Management Corporation.
Health Net.
IBM Corporation.
Institute for Advanced Studies in Immunology & Aging.
Institute of Science, Technology & Public Policy.
Johnson & Johnson Advanced Behavioral Technologies, Inc.
Kansas Department of Health and Environment.
Lederle-Praxis Biologicals.
Mississippi State Department of Health.
Missouri Department of Health.
National Association For Public Health Policy.
National Association of Black County Officials.
National Association of Community Health Centers.
National Association of Counties.
National Association of County Health Officials.
National Association of Meal Programs.
National Association of Nurse Practitioners in Reproductive Health.
National Association of School Nurses.
National Association of Social Workers.
National Association of State Universities and Land Grant Colleges.
National Business Coalition on Health.
National Black Caucus of State Legislators.
National Black Nurses' Association, Inc.
National Council on Family Relations.
National Family Planning and Reproductive Health Association.
National Foundation for Infectious Diseases.
National Hispanic Council on Aging.
National League for Nursing.
National Mental Health Association.
National Multiple Sclerosis Society.
National Nurse Practitioner Coalition.
National Osteoporosis Foundation.
National Organization on Fetal Alcohol Syndrome.
National Public Health Information Coalition.
National SAFE KIDS Campaign.
National Women's Health Network.
Nevada Division of Health.
New Mexico Department of Health.
New York State Association of County Health Officials.
Older Women's League.
Partnership for Prevention.
Public Health Information Services.
Public Voice for Food and Health Policy.
Prudential Center for Health Research.
Society for Pediatric Research.
South Carolina Department of Health and Environmental Control.
Society for Adolescent Medicine.
Sporting Goods Manufacturers Association.
Summit '93 Health Coalition.
The Congress of National Black Churches, Inc.
The National Black Caucus of State Legislators.
The National Council on the Aging's Health Promotion Institute.
The Society of Behavorial Medicine.
Voluntary Hospitals of America.
Washington State Department of Health.
Worksite Health Promotion Alliance.
YWCA of the U.S.A.

TRIBUTE TO DR. RICHARD GIBB

Mr. KEMPTHORNE. Mr. President, it is with sadness that I note the passing of the former president of the University of Idaho, Dr. Richard Gibb, who died this weekend at the University of Washington Medical Center at Seattle after a brief battle with cancer.

Dr. Gibb is probably best known for successfully guiding Idaho's land-grant university through a difficult financial period. Facing high inflation and a tax limiting measure when he first became U of I president in 1977, Dr. Gibb was still able to develop and implement a core curriculum that earned national recognition for excellence.

He successfully competed against nationally recognized engineering institutions and universities and was awarded a major project by National Aeronautics and Space Agency grant to develop special microchip technology to be used by NASA in guidance systems and to correct computer errors in space. He created the Lionel Hampton School of Music and the college of art and architecture, and led a celebration of the institution's 100th birthday that touched every corner of the State and garnered more than $40 million in donations.

His tenure as president was marked by several major campus construction projects, including the Kibbie Activity Center East End Addition, the J.M. Martin Agricultural Engineering Laboratory and the new wing of the life sciences building, which was named in his honor last year.

Dr. Gibb stepped down from the presidency in 1989 to return to teaching. In the classroom, he was known for actively engaging students in discussions about real life experiences and was available to them outside the classroom as well.

He was active in the Moscow Kiwanis Club, and was also a member of numerous professional and scholarly organizations. Dr. Gibb was an enthusiastic participant in a variety of events at the university.

Dr. Gibb, and the contributions he made to the University of Idaho and the opportunities he provided to Idaho's young people will be greatly missed.

CRIME

Mr. DOLE. Mr. President, earlier this morning, the crime conference completed its deliberations. Unfortunately,

it appears that parts of the conference report could have been concocted by a university sociology department, rather than by those concerned with effective law enforcement.

The conferees have apparently resurrected last year's defeated stimulus package by earmarking a staggering $9 billion for more than 15 so-called prevention programs. Midnight Basketball, the Ounce of Prevention Council, drug courts, the Local Partnership Act, the Model Cities Intensive Grants Program—these are just several of the multimillion-dollar pork-barrel projects that are masquerading under the anticrime banner.

On Tuesday, Republican conferees successfully earmarked $3.6 billion for the Edward Byrne Memorial Grant Program, which provides critical assistance to State and local law enforcement, the very people who are on the front lines in the war against crime. Yet, a mere 24 hours later, the Democrat conferees reversed this success, stripping the Byrne Grant funding and tossing it in the prevention pork barrel.

Unfortunately, several important tough-on-crime proposals that passed the Senate last year also didn't make the final conference cut:

New Federal rules of evidence making it easier to prosecute vicious sex offenders. Gone.

Tough mandatory minimum penalties for those who use a gun in the commission of a crime. Gone.

New legal tools designed to assist Federal prosecutors in combating violent gang activity. Gone.

The Terrorist Alien Removal Act, which would have made it easier to deport vicious terrorists who are in our country illegally. Gone.

The mandatory HIV testing of those charged with sex offenses. Gone.

And a proposal requiring violent criminals to make restitution to their victims. Believe it or not, gone.

Many of the tougher provisions are gone.

But, perhaps the biggest cut of all, Mr. President, is in the area of prison funding. Although the House of Representatives authorized $10.5 billion to help the States create more prison space for violent criminals, the conference report takes a far softer approach, reducing the level of prison funding and loosening up the truth-in-sentencing requirements.

And, Mr. President, there are gimmicks: more than $2 billion of the money allegedly allocated for prisons is not financed through the Violent Crime Reduction Trust Fund. So, it is anyone's guess if this funding will ever be appropriated or ever reach the States, where it is needed.

Mr. President, I will take a close look at the final conference report, but from what I see so far, I am afraid that Congress may have just flunked its most important crime fighting challenge, as we have done in the past. From all appearances, we have done just that.

I yield the floor.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,634,714,547,116.98 as of the close of business Wednesday, July 27. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,777.21.

TRIBUTE TO LARRY ARGIRO

Mr. SARBANES. Mr. President, I rise today to pay tribute to Mr. Larry Argiro, a longtime Federal servant and creative leader in acoustics research and design for the U.S. Navy. Mr. Argiro recently retired after a remarkable 47 year career, and we in Maryland will truly miss his leadership and technical expertise at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment [NSWC].

Larry Argiro began his career with the Navy in 1947 as a P–1 electronics engineer and immediately became involved in noise reduction research. From the start, Mr. Argiro demonstrated a strong commitment to assisting the Navy in meeting the increasing need for acoustic technologies in the post-World War II era, a time when the submarine was fast becoming an integral part of our Nation's approach to naval warfare strategy. In the years since, Mr. Argiro has immersed himself in this growing demand for acoustic technology by devoting his enthusiasm, creativity, and an exceptional technological knowledge to enhancing Navy submarines, nuclear submarines and antisubmarine warfare ships.

Mr. Argiro took over as head of the trials and analysis branch at Annapolis in 1963, where he and his staff of over 50 scientists and engineers conducted various research projects and developed innovations in acoustic signal processing and machinery noise technology. Three years later, Argiro was named director of the machinery silencing division at the Center where he spent 21 years managing 100 engineers in noise reduction research for nuclear submarines and antisubmarine warfare ships. Larry's colleagues and supervisors not only attest to his tremendous commitment, but also to the number of important breakthroughs in acoustics technology that emerged from the Annapolis laboratory during his tenure as director of the machinery silencing division.

In 1986, Mr. Argiro assumed the leadership of the machinery research and development directorate in the Center's propulsion and auxiliary systems department. There, he not only maintained his pattern of outstanding progress in machinery dynamics and silencing, but he also became involved in several other important innovations and projects including the analysis and design of new power systems, ship automation control, shipboard energy availability and conservation, electrical integration, and electric and magnetic sensing.

During Larry's tenure, the Machinery Research and Development Department at the Naval Surface Warfare Center has developed a substantial portion of the most advanced, environmentally sound, and affordable machinery for surface ship combatants and submarines in the world.

I have had the chance to get to know Larry through working and visiting with him on several occasions at the Annapolis laboratory. I know firsthand of his commitment to preparing the Navy for the 21st century and I am pleased to have this opportunity to express my appreciation for his incredible depth of knowledge and gracious demeanor. His career is certainly one marked by achievement and I know his leadership will be missed.

THE REASSIGNMENT OF COLONEL WASHABAUGH, AIR FORCE LEGISLATIVE LIAISON

Mr. MACK. Mr. President, I rise today to recognize an individual who has provided outstanding support and assistance to the U.S. Congress. Col. Mark Washabaugh, Office of the Secretary of the Air Force, legislative liaison, Inquiry Division, was reassigned from the Pentagon to Randolph AFB, TX, on May 31, 1994. Many of my colleagues and I have directly benefited from his exceptional service in the Air Force's congressional inquiry office.

As a branch chief in the Inquiry Division, Colonel Washabaugh demonstrated the utmost competence and efficiency in handling a variety of unique situations and constituent concerns. His skillful leadership resulted in the successful resolution of numerous cases during an 18-month tour.

A seasoned traveler, escorting myriad congressional members and their

staffs, Colonel Washabaugh upheld the highest standards of professional conduct. His thorough and efficient planning assured these trips were a complete success.

Mr. President, I congratulate Colonel Washabaugh for a job extremely well done and wish him the very best in the future. His commitment to excellence brings great credit upon himself and the U.S. Air Force.

TRIBUTE TO CHRISTOPHER FISH

Mr. D'AMATO. Mr. President, I rise today to pay tribute to Christopher Fish. Christopher Fish joined my staff in October 1991 after having worked as an intern. During his tenure in my office he worked in the mailroom and later became my executive assistant and intern coordinator. His service and loyalty to me was invaluable. Chris will be leaving our staff to attend Syracuse University Law School. My best wishes to Chris as I know his future will be a bright one. Mr. President I would like to submit the following comments in the CONGRESSIONAL RECORD from members of my staff.

Chris: Based on my experience, you will encounter many high pressure, stressful situations during law school and as a practicing attorney. There will be countless times when you would gladly give your last dollar to be anywhere else. Let me assure you, though, nothing will compare with your experience in trying to find Dulles Airport with the Senator that Friday afternoon! We'll miss you. Best wishes.—Phil Bechtel

Chris Fish is a person that leaves a positive impression on most people he meets. My first encounter with Chris was in January 1994 when I started my fellowship in Senator D'Amato's office. Chris was one of the first people I met and as he worked in the desk next to mine, he taught me how to get the job done efficiently and effectively. His mere presence, hard work and dedication flows from his persona and fills the office in a productive manner. Many times I witnessed his unique ability to focus on the highest priority tasks at-hand despite the many distractions. I am glad to have the opportunity to work with him. I know he will continue to make us proud.—Manny Cappello

From interns to staffers we have had many fun times, and some very trying times, but things have seemed to always work out in the end. The years have flown by so quickly. It was only yesterday that we started as interns with David, Megan and "Big Red", but things change and people move on. It is easy to let friendships fade away so let's work hard to prevent that from happening. When you are studying late at night just remember we are probably still at our desks pulling the late shift. Don't forget us little people and that the road to Syracuse Law School begins at the Dulles Toll Road. Good luck.—Mike Giuliani

Chris Fish, what a "class act!" It was a pleasure to be one the same team with you. My days here in the office were brighter only because of your presence, which I will sorely miss. My very best wishes to you in all of your future endeavors.—Tina Gray

CF—Remember the trips: Where is this place, again? Claudia needs a what? Doesn't Design Cuisine deliver? This treadmill looks fine. Why don't we take Salamone, so we don't get a ticket? Senator, we've crossed border into West Virginia, now what? You want me to drive over what?! Claudia, the car needs brakes, a battery, a radiator, new taillights, new tires, and there's something wrong with the phone. You are the man. Good luck and let's go Orange!—Joe Kolinski

The good time, fun loving role that Chris played in the office will be hard to replace. His sense of humor made the long work days easier to get through. He was a good coworker and an even better friend. I wish him the best of luck in Law School and beyond. Drop by often!—Rich Mills

When I arrived in Washington to begin my internship in Senator D'Amato's office I did not know anyone in the entire city of Washington, D.C. let alone my new office. But thanks to Chris, who accepted me as an intern, the transition to a strange city and a new environment was made exceptionally easy. Chris was always available to answer questions and his friendly demeanor was ever-present. I soon came to value the friendship of Chris and to this day I owe a great deal of gratitude to him. The absence of his presence in our office will certainly be felt, and I wish only the best in all of his future endeavors.—Rob Ostrander

In January of 1992 I started as an intern for Senator D'Amato. The first person in the office that opened up to me was Chris Fish. This became symbolic for how Chris was as a person. He was more than a fellow staff member and good friend. He had that rare quality of walking into a room and getting everyone motivated to do something. A lot of the staff looked to Chris as a catalyst for action. He reached out to many and was great at organizing and hosting many of the office social events. He was a good friend who will be missed by our office. I know that in law school he will bring the same energy and enthusiasm to the people around him that he brought to our office. Chris thanks for being a truly unique individual. We will miss you.—Roger Panetta

Good luck in your future. Your service will not be forgotten.—Mike Petralia

Chris Fish came to us a few years ago eager to learn, ready to help, and willing to give his best. Over the years, these are the qualities that have gained him the respect and admiration of his friends and colleagues. It is no doubt that Chris will do well as he pursues a law degree and that he will excel in the years to come. I wish you well, Chris, and we'll all miss you.—Peter Phipps

When it is Saturday night and you have been studying tort reform for nine hours just remember one thing * * * You're the man!! Good luck kid.—John Salamone

There is a certain bond that grows out of standing in the mail room together. It can't be explained, and no one should try. Chris Fish is a great friend. There are many times when he was there to help me out of tough spots, and I will always be grateful for his friendship. Good Luck.—Kraig Siracuse

When I first came down to Washington and didn't know anybody he made sure I was part of the group. I'm not sure that was a good thing, but thanks for doing it. Thanks also for your help in coordinating the schedule when our paths collided. Best of luck at Syracuse. Remember—it's tort, not tart.—Harvey Valentine

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1513, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1513) entitled the "Improving America's Schools Act of 1994."

The Senate resumed consideration of the bill.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2418

(Purpose: To provide local school officials control over violence in classrooms and on school property, and for other purposes)

Mr. GORTON. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. LIEBERMAN, Mr. BURNS, Mr. CRAIG, Mr. BOND, Mr. MURKOWSKI, and Mr. BENNETT, proposes an amendment numbered 2418.

Mr. GORTON. Madam 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:

At the end of title IV, insert the following:

SEC. . LOCAL CONTROL OVER SCHOOL VIOLENCE.

(1) IN GENERAL.—In any school that receives Federal funds, if a student brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of, school policy, or has demonstrated life threatening behavior in the classroom or on school premises, then the student shall be subjected to the disciplinary actions as determined by the local educational agency.

(b) INDIVIDUALS WITH DISABILITIES.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

(1) by striking "During" and inserting "(A) Except as provided in subparagraph (B), during", and

(2) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of, school policy, or a child with a disability who has demonstrated life threatening behavior in the classroom or on school premises, then the child may be placed in an interim alternative educational setting for not more than 90 days.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(c) SUNSET PROVISION.—This section, and the amendments made by this section, shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals With Disabilities Education Act.

(D) DEFINITIONS.—For the purposes of this section, the term "life threatening behavior" is defined as "an injury involving a substantial risk of death: loss or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent; or an obvious disfigurement that is likely to be permanent."

Mr. GORTON. Madam President, this amendment is presented on behalf of myself and the distinguished Senator from Connecticut [Mr. LIEBERMAN].

I ask unanimous consent that Senators BURNS, CRAIG, BOND, MURKOWSKI, and BENNETT be added as cosponsors.

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

Mr. GORTON. Madam President, during the final vote on Goals 2000, after the conference committee on that bill had summarily dropped a school violence amendment which I proposed and which was accepted by the Senate, I vowed to press for legislation during the next education bill to come before the Congress to make it safer to walk the halls and sit at the desks of our Nation's schools.

On behalf of parents, educators, and students, I am here today to fulfill that promise. Violence is tearing our society apart and is destroying educational opportunities for America's young people.

It is time we took the steps necessary to regain control of our Nation's schools. In Washington State, for example, violent crimes by youths have doubled in number in the past decade, despite a 3-percent reduction in the youth population. Our superintendent of public instruction recently released her annual report of weapons in Washington State schools for the 1992-93 school year. A total of 2,237 incidents of possession of firearms or dangerous weapons on school premises were reported by school districts and approved private schools.

The prevalence of such incidents is constantly increasing, as is the variation and types of weapons. We must address this problem now. We must ensure the safety of our children in school and provide a learning environment free of violence and disruption.

According to the national crime survey, each year nearly 3 million thefts and violent crimes—1 crime every 6 seconds—takes place on or near school grounds. The same study suggests that 67 out of every 1,000 teenagers are victims of a violent crime each year.

I have a strong personal stake in the debate over education reform and school safety. My wife, Sally, and I have just been blessed with the birth of our sixth grandchild. As a grandparent, I am deeply apprehensive about their safety in our schools and on our streets. Perhaps in the Halls of Congress we can feel immune from what is going on in our local communities. The threat of violence in our schools and communities is tragic. While we in Congress simply debate this issue, teachers, and school officials have lost the right to control their classrooms. Violent and disruptive students who prevent others from learning cannot be disciplined effectively by reason of Federal rules and for fear of lawsuits.

According to the Washington State Parents and Teachers Association, Federal regulations make it difficult to create a safe, orderly environment in our schools. Educators are unreasonably hampered when they try to prevent or reduce violence. They find that Federal regulations inhibit their ability to design and implement commonsense discipline in their schools. This call for reform came through loud and clear earlier this year in a statewide education conference I held in Fife, WA. The primary concern expressed to me by the almost 200 parents, teachers, principals, students, business people, and other community leaders was the growing problem of violence in our schools.

The participants urged the need to get the Federal Government off the backs of local educators and to let them do their jobs. Educators must be allowed adequately to address the problems of violent and criminal behavior in their schools. They must be able to restore discipline and reduce violence in our schools and in our communities. It is time for us to make school violence a top priority and to stop inhibiting its suppression. We must regain control of our classrooms now. We can begin by giving the authority to school officials to do their jobs.

Madam President, this local-control-over-school-violence amendment, cosponsored by Senator LIEBERMAN and several others at this point, does just that. It increases the authority of the educators and our local schools to address serious disciplinary problems. Today, our education system provides a dual system of discipline. Some students who are involved in bringing dangerous weapons to class or who demonstrate life-threatening behavior are properly disciplined while others are not.

It is destructive and discriminatory to have one set of rules for regular students and another for special education students protected under the Individuals With Disabilities Education Act. This sends an unclear and unfair message to all our students. Educators in Washington State emphasized to me that the stay-put provision of section 615 of the Individuals With Disabilities Education Act is a source of discontent and frustration. These educators who deal with disciplinary problems on a daily basis tell me that their hands are tied by the stay-put provision.

The stay-put provision in part B of IDEA was established to protect the educational placement of students with conditions that require them to receive special education and related services. It established a mechanism to place students in an educational program within the school system. Once placed, the student cannot be removed for more than 10 school days without parental consent or unless the school obtains a court injunction for a permanent change in placement for the student.

Court interpretations of a well-intended provision of the Individuals With Disabilities Education Act make it extremely difficult to remove or suspend any IDEA protected student from the classroom more than 10 days without lengthy and expensive special hearings. The protections for IDEA students were created in 1975 when acts of violence that occur in today's schools across the Nation could not have been imagined. Today's reality combined with these IDEA protections leave all students, including others with disabilities, and teachers at risk.

In 1988, the U.S. Supreme Court ruled in Honig versus Doe that public schools may not expel or remove disruptive, emotionally disturbed children from their classes for more than 10 days, even to protect others from physical assault, unless they get permission from the parents or a judge. The decision, of course, is based on IDEA, not on the Constitution. If we amend the Individuals With Disabilities Education Act, as this amendment does, Honig versus Doe becomes irrelevant.

The stay-put provision in the Individuals With Disabilities Education Act makes it difficult to remove from the classroom a student with a disability who has attacked a teacher or a student or who has brought a weapon into the classroom. The reasoning behind the provision—to protect students with disabilities from having their educational placement changed without regard to their individualized education plan—is impossible to defend when the disabled student threatens the life and safety of other students and teachers. These 1975 protections were enacted at a time at which it could not have been known students would be bringing dangerous weapons into the classroom. School safety is seriously jeopardized by this rule now that guns and violence are widespread.

To my colleagues, I implore you to join with me in confronting this dual system of discipline in our schools. By

supporting this amendment, we will be providing educators with tools to remove from the classroom seriously violent students who are currently protected from this change of placement under IDEA. Rather than having to readmit a student after the statutory maximum 10-days waiting period or obtain a court injunction, educators will have the authority to place such a student in an interim educational program until the school district determines the appropriate educational placement, which it must do within 90 days.

This "local control over school violence" amendment applies to all students, not just to those with educational disabilities. It increases the disciplinary power of our local school officials to deal with weapons offenses and life-threatening behavior. The section addressing the Individuals With Disabilities Act makes it permissible immediately to remove a student who brings to a school or a school-sponsored event a weapon that violates school policy. It also allows the removal of a student who has demonstrated life-threatening behavior in the classroom or on school premises. It requires that the child be moved and put in the interim alternative setting until a decision is reached. If parents call for a due process hearing, the child stays in the interim placement rather than in the classroom where further disruptions could occur. Again, this provides our teachers and the school districts much-needed local disciplinary control.

Opponents claim that this attacks the disabled. This is just not true. This amendment is not designed to deprive anyone of his or her opportunity to learn. It is designed, rather, to protect the majority of the students in our Nation's schools from the threat of serious violent behavior.

Some argue that we should wait until next year when all of the Individuals With Disabilities Education Act is reauthorized to offer this amendment. Why should we neglect the pressing safety problems in our Nation's schools today? How many more destructive incidents must occur before Congress takes action? But even so, in order to address some of my opponents' concerns, we have included a sunset provision in the amendment. This amendment will sunset when the Individuals With Disabilities Education Act is reauthorized unless, of course, it is extended and expanded.

In my opinion, and I believe my colleagues will agree, no student, whether or not he or she is disabled, has the right to bring a dangerous weapon to class or to school property or to a school-sponsored event, nor should any student be able to engage in life-threatening behavior in the classroom without appropriate disciplinary action being taken. This type of behavior is destructive to the learning environment of all our children and must not be tolerated. We must ensure the safety of the students in our Nation's schools. No student can learn in an environment of fear. The ability of school districts to remove these students increases the safety for all students. As Members of Congress, we have the authority to restore a balance to the current dual system of discipline in our schools.

Madam President, this Senator has discussed this problem with a large number of educators in my State. Those educators have shared incident after incident of violence and disruption taking place in their schools every single day. Let me share a few examples to demonstrate the dual system of discipline. Take, for example, the situation in Washington State where a first grader brought a large screwdriver to school, put it to the throat of another first grader and said he was going to run it through the child's throat. The student was a special needs student and special education laws came into play so that the child was put back into the same classroom. The parents of the traumatized student withdrew their child and threatened to file a lawsuit. The offender was able to continue subsequent acts which continued to terrorize other students.

Or a fourth grade student who concealed a knife in her backpack, extorted lunch money from other students by threatening that she would use it on them. When she did pull the knife and physically intimidated a schoolmate, the school was able to begin the disciplinary process, only to discover when the parents came in that she had been a special education student 2 years earlier in a previous school district and the present school had no record of the placement. The parents appealed the disciplinary action and the girl was sent back to class pending settlement.

Or a fifth grade physically handicapped student in the regular classroom, special education qualified due to physical disability, threw tantrums and hit a teacher for up to 40 minutes at a time. Again, the school was severely limited in potential sanctions because of the special education mandate.

Or a sixth grade student who brought a gun to school, used it to threaten and intimidate, waving it around and telling students who he would kill. The gun turned out to be a facsimile, though it is metal, dark in color, and looks very real. Parents claim, because of his learning disability, he was "just joking around." Here again is a situation where, due to special education status, the student was returned to class.

More instances: A behaviorally disturbed special education student physically abused his classmates. On one occasion the teacher restrained the child and was herself kicked and punched several times. After a lengthy process, the student was suspended for 5 school days. Upon his return, the same activities began again with the addition of threats to the life of the teacher. The student could be suspended only for short periods of time during the remainder of the year. The teacher resigned her teaching position with the district.

Madam President, these unfortunate incidents are occurring in school districts across the country. Let me share with you an article that appeared less than 2 months ago in the Los Angeles Times describing a situation in Orange County in which a 6-year-old kindergartener who allegedly bit teachers, threw a desk, hit and spit at students, and sent a teacher and her aide out on medical leave and was sued by the Huntington Beach School District. The injuries were not found serious enough for the student to be removed. As a result of the stay-put provisions in the IDEA, a judge forced the school to keep this student in the classroom. Parents of 12 of the 31 children in the class temporarily removed their children for fear of endangerment. In this case, as in others, the right of all schoolchildren for a violence-free classroom was not taken into account.

In some cases IDEA is manipulated by students who have never been recognized as having a disability but receive protection after engaging in unacceptable school behavior. For example, in February of this year, a 17-year-old student at El Capitan High School in a California district who took a handgun to school in clear violation of State law and school district rules was allowed to stay in school pending resolution of a disability issue.

The school would have to prove that there was a high likelihood that the boy's presence on campus would create a violent situation in order to remove him for longer than the mandatory 10 days. It must also be determined whether the student is a victim of "attention deficit disorder" and, therefore, deserving a special education status.

In other words, Madam President, the very antisocial actions are claimed to demonstrate disability and to prevent discipline by schools.

This ingenious legal theory will allow dangerous students to remain on campus simply because of an allegation of disability, and all they may have to do is to allege entitlement for special education. Because the school district's decision to deny special education, and appealed as high as the Supreme Court, a student using the loophole may stay in school indefinitely.

In this respect, we have the same or similar situation which was discussed to the shock of other Members on the

floor here not long ago about the fact that disability payments are made under some portions of the Social Security Act to children who are disruptive in school because the disruptive activity itself is considered evidence of disability and, therefore, allows for an extra Social Security subsidy for those students and their parents.

Our schools, and our school authorities, need help now, and the help they need is the authority to do their own jobs without being interfered with from Washington, DC. But we are not going to provide the proper educational atmosphere for our students until we restore authority to our school authorities to do the job that they need to do.

Madam President, this is an extremely limited amendment. School authorities in my State and across the country wish to be freed from Federal regulations on school disruption on a very, very broad basis. With a great deal of caution however, we have limited this amendment to weapons violations, and to life-threatening behavior which in turn is defined as it is under the guidelines for the sentencing commission for those who are to go to prison.

I am certain that next year or the year after—whenever we get to the renewal of the IDEA act—there will be a debate on whether or not we should not grant more authority to our local schoolteachers and school board members.

This law, and the refusal to agree easily to this amendment, are an expression of mistrust in the people who teach our children and who run their schools. We give lip service to local control. But when it comes right down to it we do not want that local control to be followed. If we are to have safe schools, we must allow these decisions to be made by the authorities and in the communities most affected by them.

As a result, five national educational associations have strongly endorsed this amendment.

They include the National Association of Secondary School Principals, the National Association of Elementary School Principals, the National School Boards Association, the American Federation of Teachers, and the American Association of School Administrators. Strong support from the education community in Washington State where the push for this amendment began is widespread. I have the support of the Washington Association of School Principals, the Washington School Directors' Association, the Washington State PTA, the Committee for the Right To Keep and Bear Arms, the Clover Park School District, and the Wapato School District.

Madam President, I submit for the RECORD the letters of support that I received from these groups and I request that the RECORD include them as if they were read.

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

July 26, 1994.

Re Support for Senator Gorton's local control over school violence amendment to S. 1513.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The above national education organizations urge you to vote in favor of Senator Gorton's Amendment to S. 1513 which would modify the stay-put provisions on the Individuals with Disabilities Education Act (IDEA) to ensure school safety. With the growing wave of violent incidents in our schools, educators need to be able to take reasonable measures to protect all students, teachers and other school personnel from bodily harm while still meeting the needs of children with disabilities for a free appropriate public education.

While only a minority of the students commit violence, a troubling number of incidents occur where students with disabilities do assault or otherwise threaten the safety of other students and school staff for reasons that may or may not be related to their disability. Under current law, school officials do not have adequate authority in these situations to ensure school safety.

The stay-put provisions of the IDEA prevent school administrators from suspending students for more than ten days without the permission of a judge or the child's parents. And even if the school district goes to court, the school district's burden of proof is so high that they often cannot take the common sense steps they need to protect students.

When Judge Judith Keep recently ruled that IDEA forced her to order a school in El Capitan, California to readmit a student who had taken a gun to school, she stated IDEA is "a wonderfully noble Act [but] can * * * undercut a school's ability to discipline students." Indeed, the U.S. Department of Education has argued that even congressionally-mandated expulsion polices for students who bring guns to schools do not supersede the stay-put provisions of IDEA.

The Gorton Amendment provides a balanced and reasonable first step to correct these problems and protect the safety of all students—those with disabilities as well as those without. In cases where the disabled student demonstrates life threatening behavior, school officials could take a student out of the classroom and place the student in an alternative educational setting for up to 90 days. If the parents contested the placement, school safety would still be preserved; the student would remain in the interim educational placement until a final placement decision was made. The amendment also provides a means for Senator Dorgan's recently enacted mandatory expulsion and alternative education policies for students who bring weapons to school to apply under IDEA.

The inadequacies of current law are significant and dangerous and need to be resolved as soon as possible by the Congress. Waiting another year—or longer—for the regular IDEA reauthorization to be complete is not an adequate response to the pressing safety problems in our schools today. The Gorton amendment appropriately balances the needs of all students for a safe place to learn and strive to achieve the ambitious national education goals set by Congress in Goals 2000. We urge you to vote in favor of the Gorton amendment to S. 1513.

Sincerely,

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS.
AMERICAN FEDERATION OF TEACHERS.
NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS.
NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS.
NATIONAL SCHOOL BOARDS ASSOCIATION.

AMERICAN FEDERATION OF TEACHERS,
Washington, DC, July 20, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The American Federation of Teachers supports your amendment to S. 1513 with respect to modifying the stay-put provisions of the Individuals with Disabilities Education Act.

The AFT believes your amendment will not diminish the rights of disabled students under I.D.E.A. Rather, it will offer disabled and other students appropriate protection from violence by a small number of students who bring weapons to school or demonstrate life threatening behavior in the classroom or on school premises. Furthermore, it will continue due process rights and require continuing educational services in an interim alternative placement for any student exhibiting such behavior.

The AFT also supports your amendments concerning student records and parental responsibility. It is important to allow the transfer of disciplinary records among schools and to encourage the participation of parents in disciplinary actions affecting their children.

Sincerely,

ALBERT SHANKER,
President.

NATIONAL SCHOOL BOARDS ASSOCIATION,
Alexandria, VA, July 13, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The National School Boards Association (NSBA), on behalf of the more than 95,000 local school board members nationwide, would like to offer its support for your amendment to S. 1513 which would modify the stay-put provisions of the Individuals With Disabilities Education Act (IDEA). We also support your amendment which would clarify current educational privacy law so that educators can transfer student records more easily in order to insure student safety.

The plague of violence is having a growing impact on children and youth across America and in many schools is endangering student safety. We support the amendment to IDEA because, in some cases of violence by students with disabilities, school administrators do not have the authority to act decisively to insure the safety of other students.

Your amendment to the stay-put provisions of IDEA will allow school administrators to remove a temporarily violent student from the regular classroom while still providing the student with a free, appropriate public education. Because the amendment will protect the civil rights of students with disabilities while enhancing the ability of school authorities to insure student safety,

we support adoption of the amendment by the Senate.

We also support your amendment to the Family Educational and Privacy Rights Act which clarifies that school administrators can transfer the records of students who pose safety risks to other students. In this way we can be certain that other schools have the information necessary to take appropriate actions to insure student safety. We urge Senators to support this amendment.

We believe that these two proposed changes in law would enhance school safety and we urge the Senate to support them.

If you have questions regarding this issue, please contact me at 703-838-6704.

Yours very truly,

EDWARD R. KEALY,
Director, Federal Programs.

THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS,
Reston, VA, July 7, 1994.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORTON: On behalf of the 42,000 members of the National Association of Secondary School Principals, I want to express our support for the three amendments you intend to offer to S. 1513, "The Improving America's Schools Act of 1994." These amendments are an important step toward improving parental involvement in our schools, particularly regarding the issues of school discipline and providing greater latitude to school officials coping with violence on school premises.

First, your Sense of the Senate amendment is an important statement about the integral role that parents must play in ensuring an effective learning climate in our schools. Parents whose children display violent behavior toward teachers, fellow students, and school employees must not only be informed, but they must support school officials in their effort to effect appropriate disciplinary action. We strongly urge that this Sense of the Senate amendment be adopted and become a part of the Senate's ongoing consideration with regard to improving schools.

Second, the amendment designed to assure that school officials are fully informed about a student's past record of violent behavior must have the Senate's support. Principals across the nation are charged with the responsibility of assuring the safety and wellbeing of all those within the school facility. This amendment would give school officials the necessary information to enable them to fulfill that important charge. Too often schools receive students whose record of violent, even criminal, activity is not made available to principals. These record-keeping barriers must be broken and principals and other school officials must have access to information that has the potential of undermining their effort to ensure a safe school.

Finally, we strongly support the amendment to the Individuals with Disabilities Education Act (IDEA), addressing the violent behavior of some disabled children. This amendment seeks to allow school officials to separate violent children in a special education program from the classroom or the school premises should they demonstrate life threatening behavior. Currently, the IDEA grants parents veto power over the change of placement in a school's special education program. While this entitlement assures absolute parental involvement in a child's educational placement, it often hampers a principal's effort to provide a safe learning environment.

The nation's principals believe that this is a critical issue with regard to public confidence in our local schools. It is profoundly discrediting to our institutions for a dual system of justice to be administered on such a regular basis, with one system for our disabled children and an entirely different system to the other students. This duality must be halted if we are to genuinely assure our communities that their schools are safe havens of learning.

Although some would advocate waiting to amend the IDEA until next year, the nation's secondary principals believe that action should be taken now as part of an overall effort to make our schools safer. We look forward to working with you in assuring that these important amendments are adopted by the United States Senate and ultimately, are part of the final version of ESEA.

Sincerely,

Dr. TIMOTHY J. DYER,
Executive Director.

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS,
Arlington, VA, July 19, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: The American Association of School Administrators (AASA), would like to thank you for your proposed school safety amendments to S. 1513, the reauthorization of the Elementary and Secondary Education Act. Schools should be safe havens from the violence in the rest of our society. We hope that your amendments and the safe schools programs in S. 1513 will help make every school a warm safe place for children to learn.

The amendment regarding the "stay put" rule is of particular interest to AASA. We support your amendment. Stretching the suspension period to 90 days permits a more orderly process of fact finding and looking for alternatives than the 10 days in federal regulations. We, however, are concerned that your amendment will experience difficulty because the criteria for suspension are not precise enough. What constitutes a weapon or life threatening behavior will provide a basis for defeating the amendment.

If the amendment falls and the vote is close enough to initiate negotiations, we urge you to use terms that are defined in the code of federal regulations and observable behaviors as the criteria for suspension.

Sincerely,

BRUCE HUNTER,
Senior Associate Executive Director.

THE ASSOCIATION OF WASHINGTON SCHOOL PRINCIPALS,
Olympia, WA, June 17, 1994.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: We are beginning to sense a bit of optimism in the struggle to reduce youth violence in the state of Washington. One obvious key to our success will be the ability to share necessary information among agencies and between schools with respect to those students who have been convicted of a violent act or have a history of violent behavior. This sharing of information is essential in order for proper school placement and supervision of the student involved, as well as for reasonable protection of all other students. Parents, students and public demand and deserve safe schools.

The Association of Washington School Principals for your willingness and persistence in championing the cause of safe schools and communities as well as for your overall support for public education. We have met with other educators, parents, representatives of state government, the juvenile rehabilitation, and parent advocates to discuss the issues surrounding the sharing of student records, particularly as related to identified special education students. The principals' point of view follows.

We are very supportive of your three suggested amendments to current status language. Your recommendation provides a mechanism to appropriately remove violent or potentially violent students from school. No student, with or without handicapping conditions has the right to commit violent acts in our schools. The right of the parent to advocate for the child in interim/alternative placement is protected, while at the same time allowing professionals in the school to remove the violent offender where necessary.

Unfortunately, under current statute, in situations where parents refuse and agreement to the recommended alternative/interim placement cannot be reached, that violent student remains in the educational setting under provisions of "stay-Put." Interim placement for up to 90 days without parent consent allows adequate opportunity for final resolution while protecting the vast majority of our students.

We certainly support your proposal for involvement of parents of children who display violent behavior in determining their disciplinary action and enforcement.

Finally, we appreciate your addition to section 438 of the General Provisions Act which clarifies the right and obligation of school officials to share student discipline records as appropriate. Our request for such clarifying language is generated by the ongoing misperception regarding what FERPA does or does not permit.

These are significant changes which will greatly assist us in reducing incidents of violence in Washington's public schools. Again, thank you and best wishes.

Sincerely,

WALTER BALL,
Associate Executive Director.
BRIAN BARKER,
Associate Executive Director.

WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION,
Olympia, WA, June 17, 1994.

Hon. SLADE GORTON, U.S. SENATE, HART SENATE OFFICE BUILDING, WASHINGTON, DC

DEAR SENATOR GORTON: The Washington State School Directors' Association, representing the 1482 locally-elected school board members in our state's 296 school districts, is very supportive of your proposed student safety amendments to S. 1513.

These proposed amendments address three issues of importance to our members:

1. It clarifies that students may be removed from a classroom setting if their actions threaten themselves or others, while not specifying the precise duration of that removal (suspension or expulsion):

2. It assures that if the offending student is in a special education program that said student will not be denied an educational opportunity, but instead be placed in an alternative setting pending disciplinary decisions (due process must be followed); and

3. It also assures that federal laws on student discipline or weapons violations shall not supersede state or local regulations.

This is a good and helpful amendment. WSSDA appreciates the assistance and the willingness to seek our input that we have observed from your office, and specifically from Jennifer Parsons, on this important matter. And I might add that the other proposed amendments regarding school and parental responsibility also look very good to us.

Thank you very much.

Sincerely,

DWAYNE SLATE,
Associate Executive Director.

WASHINGTON STATE PTA,
Tacoma, WA, July 13, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: The Washington State PTA supports the School Violence Amendment to the Individuals with Disabilities Act which you are sponsoring. We appreciate your concern about the issue of violence in our public schools. As both parents and educators expressed at your Education Summit in January, the issue of youth violence is a priority for all of us who are advocates for children.

Educators and parents stressed that there are federal regulations which make it difficult to create a safe, orderly environment in our schools. Educators are unreasonably hampered in their efforts to prevent or reduce incidents of violent behavior. They find that regulations inhibit their ability to design and implement discipline in their schools.

As Section 602(a)(20) of the IDEA does include parents in the Individual Educational Placement team, which will determine placement for violent students, the Washington State PTA feels confident that parents' rights have been protected in this plan. Parents need to be involved in the decision making process, but also need to be accountable for the actions of their children who display violent or threatening behavior toward others.

We understand that parents of disabled children are concerned about the effect of this amendment on the rights of their children. However, parents and teachers have observed that when a student displays violent behavior in the classroom, which the teacher is unable to address by removing that student from the classroom, the educational performance of all students is adversely impacted. The educational performance of special needs students is severely diminished, as well. Thus, the Washington State PTA believes that this amendment will provide needed protection for all students.

We applaud your support for the safety and welfare of the students of Washington.

Sincerely,

CARA LOCKETT,
President.

WAPATO PUBLIC SCHOOLS,
Wapato, WA, July 8, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: The purpose of this letter is to support your efforts in amending S. 1513 and the Individuals with Disabilities Act. Though you will undoubtedly face strong opposition on the Senate Floor, your proposed amendments are timely and much needed in the educational community if we are to complete our task of restructuring America's schools.

Of particular interest is your proposal to amend the Individuals with Disabilities Act (IDA). No one in education will argue against the right of special education students to receive equal educational opportunities. However, it seems that in our rush to insure these rights we have forgotten the rights of other students to receive those same opportunities on an equal basis.

Inclusion models which place special education students in regular classrooms work well for the majority of children. They adjust well and participate with other students in mainstream activities. Unfortunately, a minority of special education children can and do become violent, abusive or disruptive. In these cases all children lose their opportunity for quality education.

Under current law schools have extremely limited options in dealing with these children. Extensive documentations and hearings generally result in short term removal. Once the child returns to the classroom the cycle begins again. This is particularly frustrating with students who tend to be violent.

Two examples of this type of situation come to mind. In the first a behaviorally disturbed special education student physically abused his classmates. On one occasion the teacher restrained the child and was herself kicked and punched several times. After a lengthy process the student was suspended for 5 school days. Upon return the same activities began again with the addition of life threats to the teacher. The student was suspended for short periods of time during the remainder of the year and the teacher resigned her position with the district.

The second incident involved a middle school boy with a long history of aggressive behavior toward teachers and students. Because of his special education qualification the district was again limited in its ability to provide optional learning environments. In this case the student was ultimately removed from school. Not by the school but the courts after he participated with some other youths in nearly beating a man to death in downtown Yakima.

There are thousands of stories similar to this taking place daily in our nation's schools. The result can be seen in an ever increasing exodus from public to private educational institutions. Your proposed IDA amendment might be the first step in helping to curb this trend.

It can be argued that the amendment does not go far enough, that we need even more options beyond the 90 day alternative. To this I would reply that any change which helps us do our job is better than the current situation. Also, the first step has to come before we are able to move further.

We applaud you in your efforts and wish you the best of luck in bringing about passage of these amendments. I know that at least the IDA amendment will meet with opposition, but hopefully its sufficiently moderate to meet with the approval of a majority of your colleague.

Again our support for your efforts on passing these amendments and our thanks for your work of behalf of public education.

Sincerely,

RICHARD FOSS,
Associate Superintendent.

CITIZENS COMMITTEE FOR THE
RIGHT TO KEEP AND BEAR ARMS,
Bellevue, WA, July 14, 1994.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORTON: Thank you for introducing the Local Control over School Violence amendment to S. 1513. This amendment addresses the very real problem of violent behavior in our schools. The Citizens Committee for the Right to Keep and Bear Arms fully supports your amendment to S. 1513 and other legislation that identifies and helps to control the type of dangerous behavior that has made many of our public schools more like war zones than educational facilities.

As you know, the Citizens Committee for the Right to Keep and Bear Arms has long been a supporter of bills that identify and restrict specific criminal and violent behaviors and activities. Bills of this type enhance public safety without treading on basic civil liberties.

The Individuals with Disabilities Education Act is a well intentioned act, but in many cases it has taken away from schools and educators the ability to control behavior that destroys the educational environment and places all of our youth at risk. The Local Control over School Violence amendment to S. 1513 will help to correct that flaw.

If there is anything we can do to help the Local Control over School Violence amendment along the road to passage, please don't hesitate to contact me.

Sincerely yours,

PAUL M. WILLIAMS,
Executive Director.

CLOVER PARK SCHOOL DISTRICT,
Tacoma, WA, June 28, 1994.

JENNIFER PARSONS,
Office of Slade Gorton, Hart Building, Washington, DC.

DEAR JENNIFER: At your request, several administrators have reviewed the draft language regarding Youth Violence. In our opinion, these changes will significantly increase the ability of school administrators to deal with violence/assaultive students. We commend the Senator for his interest in this important issue and his diligence in attempting to modify Federal law to deal with it.

Unfortunately, due to the end of the school year I was unable to get any antidotes for you. Good luck to you and the Senator as you work on this important matter.

Yours truly,

KAREN A. FORYS,
Superintendent.

Mr. GORTON. Madam President, let me share with you some excerpts from these letters of support.

AFT—The American Federation of Teachers believes that your amendment will not diminish the rights of disabled students under IDEA. Rather, it will offer disabled and other students appropriate protection from violence by a small number of students who bring weapons to school or demonstrate life threatening behavior in the classroom or on school premises. Furthermore, it will continue due process rights and require continuing educational services in an interim alternative placement for any student exhibiting such behavior.

National School Boards Association—Your amendment to the stay-put provision of IDEA will allow school administrators to remove a temporarily violent student from the regular classroom while still providing the student with a free, appropriate public education. Because the amendment will protect the civil rights of students with disabilities while enhancing the ability of school authorities to ensure student safety, we support adoption of the amendment by the Senate.

National Association of Secondary School Principals—We strongly support the amendment to the Individuals with Disabilities

Education Act, addressing the violent behavior of some disabled children. This amendment seeks to allow school officials to separate violent children in a special education program from the classroom or the school premises should they demonstrate life threatening behavior. * * * Although some would advocate waiting to amend the IDEA until next year, the nation's secondary school principals believe that action should be taken now as part of an overall effort to make our schools safer.

WA State PTA—We understand that parents of disabled children are concerned about the effect of this amendment on the rights of their children. However, parents and teachers have observed that when a student displays violent behavior in the classroom, which the teacher is unable to address by temporarily removing that student from the classroom, the educational performance of all students is adversely impacted. The educational performance of special needs students is severely diminished, as well. Thus, the Washington State PTA believes that this amendment will provide needed protection for all students. We applaud your support for the safety and welfare of the students of Washington.

Madam President, included in the committee amendments are two other of my proposals to address school violence. The first is a clarification of the current law explaining what information can be placed in the student's cumulative record and transferred to the next school the student will attend. The second amendment is a sense-of-the-Senate provision that encourages parental responsibility in connection with disciplinary actions involving their children.

STUDENT RECORDS

I have been told by many educators in my State that the maintenance and transfer of student records are often inadequate. These educators claim that student records indicating that the student is a serious disciplinary problem are often not being transferred among schools so that the cumulative student record often doesn't reflect the reasons why the student was expelled. For example: If a student brings a weapon to class or displays behavior that has the potential to inflict severe bodily harm and the student is expelled from school and enrolls in a new school—the new school is often not informed of the student's past discipline problems. Even more disturbing is the fact that the information is often not accessible.

Teachers and principals want to have this information on new students entering their school who have a history of bringing a weapon to class or the potential to cause serious harm to the teacher or other students. They need this information in order to control their classrooms.

The Family Educational and Privacy Rights Act [FERPA], deals with the release of educational records and protects the rights of students. There is definitely a problem with the statutory interpretation of this act. Many educators do not realize that Federal law [FERPA] already allows for the maintenance and transfer of records. School records are not being updated and transferred because school districts find the language unclear and are fearful of lawsuits. A clarification of FERPA will define the law to educators clearing up any misunderstanding surrounding student record maintenance and transfer. It states that nothing in section 438 of the General Education Provisions Act prohibits schools from maintaining records about students who pose safety risks or from disclosing such information to other schools attended by those students.

A clarification of the FERPA language will substantially assist our educators because it will now be clear what information can be placed in the permanent record and where this information can be transferred. This is an important step in allowing our nation's educators to know the background of the students entering their schools in order to prepare for discipline problems.

PARENTAL RESPONSIBILITY

As a parent and grandparent, I believe that parents should take responsibility for their child's actions and become involved in the school disciplinary proceedings. This amendment reaffirms the importance of parental involvement in the children's learning process. Parents of children who display violent behavior must be informed of the misbehavior and should support school officials in taking appropriate disciplinary action. The role of parents in both the education and discipline of their children is essential to enhancing learning and must be encouraged.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. DORGAN). Is there a sufficient second?

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

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

Mr. KENNEDY. Mr. President, I ask unanimous consent—with the approval of the author of the amendment—that this amendment be temporarily set aside so that we can consider the amendments of the Senator from Pennsylvania, [Mr. SPECTER].

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2419

(Purpose: To provide demonstration projects to test the effectiveness of private management of public education programs)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2419.

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

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

The amendment is as follows:

On page 538, on line 2, strike "; and" and insert the following: ", including contracts with private management companies;".

On page 538, on line 5, before the period add the following: "; and

"(IX) contracting out the management of troubled schools to private management firms".

On page 780, line 9, strike "and".

On page 780, after line 11, before the "." insert the following: "; and

"(I) establish partnerships with private educational providers whose comprehensive technology systems address the need of children in poverty."

On page 1000, line 10 strike the "and", and insert the following:

"(R) demonstrations that are designed to test the effectiveness of private management of public educational programs, with at least one demonstration carried out in each of the ten Department of Education regions, and with funds used to support planning, start-up costs and evaluation; and"

On page 1000, line 11, strike "(R)" and insert: "(S)".

On page 1165, before Part G, insert the following new section:

"SEC. . PRIVATELY MANAGED SCHOOLS.

"Nothing in this Act shall be construed to deny States or local educational agencies the opportunity to use Federal funds to contract with private management firms."

Mr. SPECTER. Mr. President, this amendment would establish at least 10 demonstration projects to test the effectiveness of private management of public educational programs.

The thrust of the amendment is to see how effective private management of public education would be in dealing with the very, very serious problems in the American school systems today. We have in our school system some 43 million schoolchildren, and there is no doubt that the educational programs in our schools are failing to meet the challenge.

We have seen a number of cities adopt private management of schools, such as Boston, MA; Worcester, MA; Lowell, MA; Wichita, KS; Austin, TX. The Baltimore experience, so far, looks promising, although the experience is not sufficient to be conclusive. The District of Columbia private school system had considered private management and decided not to because of some underlying political controversy.

Last Saturday's New York Times details the very serious situation in the Newark school system, where the State of New Jersey Education Department was preparing for a Newark's schools. What we have seen of privatization has been attractive, and it is the thrust of this amendment to have at least 10

pilot projects, 10 demonstration projects, to be able to test this out in some detail.

I first became interested in this whole approach when I found that the distinguished president of Yale University, Benno Schmidt, left his position to take an executive post with a private administrative operation for schools. When I first heard about the privatization of schools—running schools for a profit—my initial inclination was in the negative. And then, after a while, I thought it over and decided if a private administrative operation can attract the talent like the president of Yale University and various other talented people with other companies, why not give it a try. In the Goals 2000 bill, Mr. President, we have a limited provision that allows States, if they wish, to use some of that Federal funding to test out privatization.

But this amendment would go substantially further in allowing these 10 demonstration projects to come into existence to test the effectiveness of the private management of the public educational program.

It is not necessary to talk at great length about the problems in American education or about the need for improvement in American education to prepare the young people of our country for the 21st century.

Education may not be the panacea for America's problems, but nothing comes closer to giving us a very real and lasting solution. The challenge is to find new and better ways to teach the country's 43 million school children. That takes new ideas. It also means finding new approaches to free up teachers and school administrators from noninstructional duties, allowing them to devote more time and resources to the task of educating our children. As a member of the U.S. Senate subcommittee that this year recommended more than $27.4 billion for education programs, I take this challenge seriously. That is why in January, I called a hearing to learn more about an idea now being tested by a handful of school districts—contracting with private firms to manage some facets of public school education.

Among those at the hearing were school superintendents, union representatives, education policy experts, and the heads of two private management firms, including former Yale president, Benno Schmidt. Each gave his or her own unique perspective on the idea. In Baltimore City, 12 schools are currently being managed by a private firm. At the hearing, Baltimore city Superintendent Dr. Walter Amprey reported seeing an increased level of parent involvement and greater interest in computerized instruction. Perhaps most importantly, Dr. Amprey views the link between public education and business as a way to unite the hands of educators and at the same time instill accountability in our education system.

When I first heard of proposals by private companies to administer public schools for profit, my reaction was decisively negative. But, when I reflected on it, I thought: why not? If public school administration could attract talented people like Benno Schmidt, and have the benefit of his initiative and ability, it could be a decisive net benefit to the public schools.

Actually, the idea was not entirely new. The past several years have seen the emergence of a number of for-profit private firms offering to assume certain aspects of school operations, including day-to-day administration, teacher training, and other noninstructional activities. Typically, these companies manage the school for the same cost as is currently spent by the public schools, about $5,900 per pupil. Initially, the companies invest their own capital in upgrading the learning environment by repairing and modernizing the school building, cleaning, painting, and installing state-of-the-art computers. After that initial investment, the onus is on the companies to reduce school operating costs. A portion of the money saved through management efficiencies is returned to the school; the remainder is profit to the management firm.

But, as Albert Shanker, president of the American Federation of Teachers accurately points out, the concept of private management of public schools has yet to prove itself. And anyone who views this as a quick fix is bound for disappointment.

The amendment which I am offering today, will provide funds for demonstration projects to find out if private firms have something to offer today's schools. The amendment would authorize at least 10 demonstration projects to test the effectiveness of private management of public educational programs. Projects would be spread over the 10 Department of Education regions of the country, with funds being used to support planning and start-up costs. At the end of the demonstration program, an independent evaluation of each project will be done which will provide a true picture of how effective private management firms have been in educating children. The amendment will also amend other provisions of the bill to assure that State and local educational agencies could use Federal funds to contract with private management firms if they wish to do so.

Admittedly, any reform is difficult, and any change from past practice is likely to stir controversy. But given what is at stake for the future well-being of this country, a public-private partnership, such as that offered by private management companies, with input from teachers, students, parents, and administrators deserves careful consideration.

Mr. President, the managers of the bill, as I understand it, have agreed to the amendment. So I shall not spend any further time at this point elaborating upon it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I support the amendment of the Senator from Pennsylvania. I do have serious concerns about the idea of encouraging wholesale private management of schools. Schools are not businesses, and I do not believe competition is the answer to the problems of the public school system.

However, in some cases schools are badly in need of help. In these cases, schools may choose to take advantage of private management in a carefully controlled way, I think it is appropriate to allow schools to use the Federal education fund for this purpose, so, Mr. President, I urge that the amendment be accepted.

The PRESIDING OFFICER. Are there other Senators wishing to be heard on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2419) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

AMENDMENT NO. 2420

(Purpose: To establish a grant program to provide workplace and community transition training to youth offenders in prisons, and for other purposes)

Mr. SPECTER. Mr. President, I send an amendment to the desk on behalf of myself and Senator PELL 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 Pennsylvania [Mr. SPECTER], for himself and Mr. PELL, proposes an amendment numbered 2420.

Mr. SPECTER. 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:

At the appropriate place, insert the following new section:

SEC. . GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

(a) FINDINGS.—The Congress finds the following:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be derived from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) DEFINITION.—The term "youth offender" means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) GRANT PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants to the States to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continues through prerelease and while on parole.

(d) APPLICATION.—To be eligible for a grant under this section, a State agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that they include measures of—

(A) program completion;

(B) student academic and vocational skill attainment;

(C) success in job placement and retention; and

(D) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

(e) PROGRAM REQUIREMENTS.—Each State agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually of related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) LENGTH OF PARTICIPATION.—A program receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a high school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) EDUCATION DELIVERY SYSTEMS.—Correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this program.

(i) ALLOCATION OF FUNDS.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of eligible students in such State bears to the total number of eligible students in all States.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $18,000,000 for fiscal year 1995; and

(2) such sums as may be necessary for fiscal year 1996 and each fiscal year thereafter.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the thrust of this amendment is to provide for an authorization to allow Federal funds to be spent for educating youthful offenders up to the age of 25, who are eligible for parole or release within 5 years.

The recidivism in America is well known. The problems of career criminals are also well known, with career criminals committing about 70 percent of the offenses.

Career criminals commit two or three robberies or burglaries a day. When I was district attorney of the city of Philadelphia for some 8 years, I found this group of career criminals to be the bane of law enforcement, really wreaking havoc on law-abiding citizens. It is no surprise that when someone who is illiterate leaves jail, without a trade or a skill, that that individual returns to a life of crime.

There has been relatively little sympathy for the offender in terms of trying to take the offender out of the crime cycle. But there is considerable concern about taking the offender out of the crime cycle in order to protect the public.

The amendment here would provide up to $1,500 in education, for tuitions and books, and up to $300 for career development, and counseling on drugs and health education. This provision is necessary because the crime bill makes all prisoners ineligible for the Pell grant program.

There is a great deal of talk about "three strikes and you are out," which I believe is overly simplistic. I say that based upon the experience that I had as district attorney of Philadelphia, when I tried to get judges to impose life sentences on habitual offenders. When that moment of sentencing comes, unless there is a sense on the part of the sentencing judge that it is fair to impose a life sentence, it simply does not happen.

Where we have realistic rehabilitation—that is literacy training so someone who leaves jail will be able to read and write, and job training so there is a way for that individual to support himself or herself—then if the person gets into future trouble, becomes a second offender and a third offender, then I think it is realistic to have life sentences for career criminals.

We do have an effective bill in the Federal system providing for mandatory sentences up to life in jail for career criminals who are found in possession of a firearm. That was a bill which I introduced in 1981 and finally was enacted in 1984, and it was expanded in 1986.

This amendment is directed at a very limited segment of the population, those who are 25 or younger, and who are eligible for parole or release within 5 years.

The amendment provides for an authorization of $18 million for the first year. I believe that there will be funds available from the appropriations subcommittee where I serve as ranking

Republican, and I think that this amendment would be a very, very positive step forward in providing this realistic rehabilitation for a narrow target group—the young offenders, up to 25 years of age, who are eligible for parole or release within 5 years.

Mr. President, there are approximately 1 million people incarcerated in prisons, jails, and juvenile facilities in this Nation. Of these incarcerated individuals, more than 75 percent have not completed high school, and most have few if any job skills. In some States, 60 percent of prison inmates cannot read at the sixth grade level.

It is my belief that criminal offenders, especially the juvenile, first and second offenders, should be given a chance at rehabilitation and gainful employment. That chance can only come through education.

With the provision to eliminate Pell grants for prisoners, that is contained in both the House and Senate versions of the crime bill, other resources to break the cycle of recidivism are needed. Young nonviolent offenders need a second chance, and education is the only opportunity they will have to receive that chance.

The amendment which I offer today, would authorize $18 million to provide the young offender, up to 25 years of age, who is eligible for parole within 5 years, to acquire an education while incarcerated. Up to $1,500 per young offender would be provided to States for tuition and books. An additional $300 would also be available for career guidance, substance abuse counseling, health education, and parenting skills training. States would be required to evaluate the effectiveness of the education, and study the impact of that education on recidivism rates, in order to qualify for funds under the program.

Given the impact that education and job training can have on repeat offenders, this amendment will help save money in the long run.

It is my understanding that this amendment has been accepted by the managers.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. Mr. President, I would just like to congratulate the Senator from Pennsylvania on the offering of this amendment. I think it is an excellent one. It will lead to reduction in the rate of recidivism that is so apparent among our prisoners today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank both the Senator from Pennsylvania and the Senator from Rhode Island for this amendment. They have made a strong case for it.

Not long ago, I was up in Massachusetts at Mount Wachusett Community College, which had been providing the Pell grant programs for some State prisoners. I had a chance to talk to those who were involved in the educational programs. They recounted to me the numerical comparison between those who had some opportunity for continued education versus those who did not.

We made a judgment in this body to terminate these programs, and I believe that decision was regrettable. But it was an overwhelming vote here in the Senate.

This amendment is an attempt to target some resources on younger individuals who, as described by the Senator from Pennsylvania, are moving out into the community. To the extent that is possible, this amendment aims to at least give these individuals additional educational opportunity, so that they have a better chance of success in the world outside of prison. I think this amendment makes eminently good sense. As we all know, when you take the profile of individuals who are on death row, you will find that the great majority of them have never completed a high school education.

This is a very modest program. I think it is worthwhile. It is an important program, and I urge the Senate to accept it.

The PRESIDING OFFICER. Is there further discussion of the amendment.

If not, the question is on agreeing to the amendment.

The amendment (No. 2420) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

AMENDMENT NO. 2421

(Purpose: To authorize a demonstration to test the effectiveness of prenatal education and counseling on student pregnancy outcomes)

Mr. SPECTER. 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 Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2421.

Mr. SPECTER. 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 1,000, before line 13, insert the following:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students, emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development.

Mr. SPECTER. Mr. President, this amendment would address the problem of pregnancies in the teen population by authorizing a demonstration project designed to test whether involving schools in providing prenatal education and counseling to pregnant students could have a positive effect on pregnancy outcomes.

Mr. President, this is a subject that I have been concerned about for more than a decade, when I saw for the first time a 1-pound baby, which was a very startling revelation to me—a 1-pound baby, a child about as big as the size of my hand, 16 ounces, sometimes 18 ounces, sometimes 20 ounces.

Such a child coming into this world is a human tragedy, because at such a low birthweight, there are medical problems that stay with that child for the balance of the child's life.

It is also an enormous financial drain, with the costs for very low birthweight children running in excess of $150,000 per child, sometimes as much as $200,000, until the child leaves the hospital. The cost involved in these 1-pound babies, low birthweight babies, is multibillions of dollars.

It is a subject which my bill—Senate bill 18, on comprehensive health care—addresses; a bill which I introduced on the first day of the 103d Congress back on January 21, 1993, and a measure which I intend to press, if and when health care legislation comes to the floor. Parenthetically, I hope it is very, very soon.

This amendment is directed at the problem generally by providing for prenatal education and counseling to pregnant students in schools. There is a great deal of controversy on the overall subject of sex education, a very complicated subject which is left for another day. But there is no doubt but when a young woman is pregnant there is absolutely no reason why that young woman should not be counseled in what it takes to care for herself during the pregnancy and what it takes for the care of the expected child.

Dr. Koop has outlined a program of a minimum of four prenatal visits and one postnatal visit, which would vastly improve the problem of these low birthweight babies.

It seems to me that the community health centers simply cannot reach this teen population, and at a minimum there ought to be information and counseling to these young women, so that they have the basic information to get proper nutrition for themselves and their expected child.

Senator MOYNIHAN has been a leader in the Senate and has identified the problem of unintended teen babies, children giving birth to babies, as the most important problem facing our country, an issue which we have to address in many contexts.

This is a modest step in terms of the counseling. But it could be very, very important to tens of thousands of women, and tens of thousands of children to be born to these young women

who come into the world weighing 1 pound—16, 18, 20 ounces. It is tough enough coming into the world weighing 8 pounds 10 ounces, which I understand my birthweight had been, let alone coming into the world weighing only a pound.

I think this could have a very profound effect on many, many lives in America.

When one talks of social ills in America today, the problem of increasing numbers of births to adolescents is always at the top of the list. Between 1986 and 1991, the rate of births to teens aged 15 to 19 rose 11.9 percent, from 50.2 percent to 62.1 births per 1,000 females. We must find programs to address the teen pregnancy problem and to reduce the rising costs associated with teen births, particularly low-birthweight births.

Low birthweight is the leading and most preventable cause of infant mortality. Each year about 7 percent, or 287,000, of the 4,100,000 American babies born in the United States are born of low birthweight, multiplying their risk of death and disability.

Infants who have been exposed to drugs, alcohol or tobacco in utero are more likely to be born prematurely and with low birthweight. These children are at increased risk of dying in their first year of life or suffering from long-term disabilities. I became interested in this problem, after visiting hospitals in Pittsburgh and Philadelphia and seeing 1-pound babies, whose chances for survival were severely jeopardized. If you weigh 16 or 20 ounces, it is a human tragedy.

Beyond the human tragedy of low birthweight there are the financial consequences. In 1990, the hospital-related costs for caring for all low-birthweight newborns totaled more than $2 billion, over $21,000 on average. For infants of extremely low birthweight hospitals costs often exceed $150,000.

It is generally recognized that prenatal care that begins early, continues throughout pregnancy, and is appropriate to the mother's level of health risk can effectively prevent low-birthweight births and improve birth outcomes.

Because teenage mothers are less likely to eat nutritiously or to get prenatal care, and are more likely to smoke or drink than older mothers, they are also more likely to give birth to low-birthweight infants.

This amendment would help to address this problem by authorizing a demonstration project to test whether involving schools in providing prenatal education and counseling to pregnant students, could have a positive effect on pregnancy outcomes. Education and counseling would emphasize the importance of prenatal care; the value of sound diet and nutrition habits, and the harmful effects of smoking and alcohol and substance abuse on fetal development. It is essential that we take advantage of every opportunity to provide pregnant women with information to ensure a healthy pregnancy outcome. My amendment ensures that an opportunity to provide this information is not missed.

Again, I understand that the managers of the bill have agreed to accept the amendment.

Mr. KENNEDY addressed the Chair.

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

Mr. KENNEDY. Mr. President, I urge the Senate to accept this amendment. It encourages the Secretary, as part of the legislation to fund and support innovative and creative programs for schools, to undertake the kind of initiative described in the amendment.

In the health legislation that was passed out of our Committee on Human Resources, we have a very important provision for the development of school health information and services, which was worked out in a bipartisan fashion. I am very hopeful that that provision will eventually see successful passage.

I think that there is a great need for the services described in this amendment. The need is particularly great in the urban areas of this country, not only with regard to teenage pregnancy, but also with regard to young children who are exposed to both substance abuse and physical abuse. These children grow up in a very harsh and difficult climate, and have very important and serious health needs, both physical and mental.

We have shaped into our health legislation a modest but important down payment in terms of making a range of different health services available, with parents and community personnel to be involved in shaping the program. I think there is a great need for these services.

I am, therefore, very hopeful that we can have an even more expansive and elaborate program than the one outlined in this amendment. But this amendment will certainly give a clear indication that these kinds of initiatives will be supported. I think there is a very serious need for them and I welcome the opportunity to support the initiative.

I urge that we accept the amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Senator from Massachusetts for his support and comments.

This amendment would provide allowable use of funds for innovative education, as the Senator from Massachusetts states.

There has been a suggestion made that a slight addition be added to the amendment, the language "could have on students."

So at this time, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment (No. 2421), as modified, is as follows:

On Page 1,000, before line 13, insert the following:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students, emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development could have on students.

Mr. SPECTER. Mr. President, if there is no other debate, I ask that the amendment be adopted. I understand it is agreeable to the manager on the Republican side of the aisle.

The PRESIDING OFFICER. Is there further discussion of the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2421), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mrs. FEINSTEIN].

ZERO TOLERANCE FOR GUNS IN SCHOOLS

Mrs. FEINSTEIN. Mr. President, I rise to speak about an amendment which you authored and I cosponsored, Mr. President, which is entitled "Zero Tolerance for Guns in Schools." From the time that we presented this amendment publicly, I am very pleased that the chairman of the committee has accepted the amendment and that the Senator from Massachusetts has included that amendment in bill language.

I think it is appropriate, though, that we both speak about this amendment. I would like to make a few remarks and then replace you in the chair so that you will have an opportunity to do the same.

Mr. President, I took a look at the Congressional Research Service report on each State and what those States did with respect to guns in schools, what policies States had to regulate guns in schools. What I found was a wide variation, a wide panoply, if you will, of rules and regulations; some more effective than others.

So then I took a look at my own State. Do we really have a problem with guns in schools in California?

Mr. President, I must report to you, most sadly, we have a major problem of guns in schools, despite the fact that the California legislature passed a law which said schools have the right to put forward legislation. Again, the legislation varies and the penalties vary.

79-059 O—97 Vol. 140 (Pt. 13) 15

The thought has occurred to me that we should have a well-stated policy all across this United States that schools are for children to learn and that we will not tolerate guns in schools.

If you receive Federal money as a school, you must have in place a zero tolerance for guns in schools. If a youngster brings a gun to school, that youngster under this provision would be expelled for 1 year. Now, the principal has an ability, in our amendment, to make an exception if there is good reason to make that exception. But the point I believe we want to establish is that you cannot learn in school if someone is sitting next to you with a loaded .45 or loaded .38, or whatever the weapon may be.

The San Francisco Chronicle on July 11 did a poll. What they found—I do not have a big chart—but, "Bay High Schoolers Surrounded By Guns, Violence; Survey Finds Weapons In School." "Students in the San Francisco Bay Area who say they have carried a weapon to school: 22 percent." This is a national survey that finds that 13 percent carry weapons to school.

What our amendment would say is henceforth this is not permissible. Henceforth, if you carry a weapon to school, regardless, there is a penalty and it is expulsion for not less than 1 year.

I might tell you, 3 weeks ago I went into a classroom in Hollywood, CA. This was not a troubled community. This is Hollywood, CA. It was a fourth grade classroom. And every youngster in that classroom spoke eloquently about how afraid they were to go to school.

I asked the question, "How many of you hear gunfire?"

I thought maybe a sprinkling of hands would go up. Every single child's hand went up in that classroom.

I said, "How many of you have seen an adult attack another adult?" And 60 percent of the hands went up in the classroom.

What we are trying to do, Mr. President, and I believe you agree with me, is say in every way, in every shape, in every form, we need to begin to address violence in our society—whether it is in a crime bill now in conference, whether it is in an education bill now on the floor of the U.S. Senate, whether it is in Commerce bills or Ag bills or any other kind of bill. We know there is a problem out there with violence. I go home and I find the State legislature is talking about how much money they can appropriate for metal detectors in schools—metal detectors in schools. Youngsters should not have to go through metal detectors to go to school. What we are doing in this amendment—and I am so grateful to the committee chairman for accepting the amendment—is saying there is no place, there is no excuse, there is no rationale to have a gun in a public school in the United States of America.

It is legislation whose time has come. And I believe it is legislation for which legions of American children are going to be grateful.

In the $13 billion in this bill, every school will have to subscribe to a policy: No guns. If you bring a gun, you are out for a year.

So, I thank the Chairman for his leadership in this issue. I was pleased to join with him. I am thankful to the Senator from Massachusetts. I am also thankful for the many letters and phone calls I have had from all across this Nation saying thank you for finally doing something—at last—so our children can go to school in safety.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

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

Mr. CRAIG. Mr. President, let me associate myself with the remarks of the Senator from California.

I take this opportunity to do so because it is almost unique that we can agree on an issue related to firearms in our country today. But I do so because she is absolutely right. America's schools must be safe havens for education and learning and that cannot be accomplished if the over 250,000 handguns that it is reported each day come to our public schools are allowed to continue to come to them. There is absolutely no reason why that would occur.

Except there is a reason. And I think it is a reason important for us to understand. While there may be the element of machoism in today's society for people, even in their youth, to carry guns in order to be so viewed by their peers for doing so, there is, amongst some of our young people, the element of fear, fear that they might be harmed. And they would choose to use a gun in their defense for that purpose.

That is a tragic but very true statement. So I think, while this legislation and the effort of the two Senators involved is well-founded, and I support it, clearly we must go beyond just that in our society to recognize there is something fundamentally wrong. School students did not always bring handguns to school. If they had a dispute, they solved it with their knuckles. That happened in the schoolyard, when Billy pushed Johnny for whatever reason.

Tragically, today there is a mindset in our society that one provokes violence in a way that is lethal. That is because that schoolchild the Senator from California is talking about has literally spent thousands and thousands of hours watching television in which acts of real violence were committed. By the time that student graduates from elementary school, he or she will have viewed over 250,000 examples of extreme violence on television.

So why are they bringing guns today? Partly because it is in the culture. It is in the culture that they have been viewing for so long that we have tolerated extreme acts of violence to be viewed on our televisions. That is why 30 years ago it did not happen, even though a handgun or a long gun might have been available to a young person.

Senator KOHL and I recognized this problem some months ago when we were debating the crime bill here and introduced legislation that would make it prohibitive for a juvenile to own or possess a handgun—a gun, for that matter—except under very limited circumstances. So this takes the effort one step further, as it should.

But let us remember that this is merely a Band-Aid on a much, much larger problem in our society. While the Senator from California and I would disagree about rights and access and ownership and all of that kind of thing, obviously we do not disagree on the fact that a very real problem exists in society and there must be very real consequences for individuals' acts. And the very real consequence is spelled out in this bill: Expelled for 1 year if you bring a gun to school. For the first time we are saying to our young people, if you act outside the law, you will be treated accordingly.

For the last 30 years we have pampered. We said, oh, it is not the individual who is in error, it is society that is in error for allowing them to have tools to provoke acts of violence because individuals are not necessarily violent.

For the first time—in a little way—we are saying it is an individual act and the individual is responsible, the juvenile is responsible and we are going to treat them accordingly. And that is appropriate—as it should be. I find myself in support of this provision of the act. I think it is an important step forward. Clearly the schools of America have to be safe for learning. It is not a place to bring a gun.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The manager, the Senator from Massachusetts?

Mr. KENNEDY. Madam President, I will be glad to yield to my colleague. I see on the floor Senator MOSELEY-BRAUN, who has an amendment. We have until noontime. Then I understand the Senate will be in recess out of respect for our recently departed friend and colleague, Hugh Scott of Pennsylvania. Then we will resume again at 3.

I want to take a moment to indicate to the membership where we are. I know Members want to speak on certain measures—if we can get them worked out and accepted, whatever time we have can be utilized for debating items that may be in controversy. But obviously Members have the right

to speak on any of the matters they desire.

So I hope we could at least get Senator MOSELEY-BRAUN's amendment laid down prior to the time of 12 o'clock. Then we can deal with that issue, finding out during the recess time whether it is going to necessitate a rollcall; and then, just after we dispose of that, it is my hope that we can consider Senator SIMON's amendment regarding the longer school year. Then following that we would get into the formula amendment of Senator COCHRAN, which I think will take the time of the afternoon when we will have the greatest attention and interest.

That will be the way that I hope we will proceed. Again, I hope that if other Members have amendments that they will be in touch with us so that we can process them during the time of the recess, and we will be able to move the legislation forward in a timely way.

Mr. DORGAN addressed the Chair.

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

Mr. DORGAN. Madam President, I will be brief so there will be time for the Senator from Illinois to offer an amendment.

I appreciate the remarks of the Senator from California [Mrs. FEINSTEIN]. Senator FEINSTEIN and I have worked many, many months on this legislation. It became law in Goals 2000. It will now, with the help of Senator KENNEDY and Senator JEFFORDS and the committee, become law when this bill is eventually signed by the President. We very much appreciate that.

I understand that some do not necessarily like this amendment. It is not their favorite amendment. But the fact is, the Senator from California [Mrs. FEINSTEIN] and I feel very strongly that you cannot discuss learning unless you first address safety. Kids cannot learn in school when they fear for their safety.

Things have changed in American schools, regrettably. I went to a very small school. I graduated in a high school class of 9 in a town of 300 people. That was a small town, a small school. Senator CRAIG talked about the old days. In the old days, the major problems in school were truancy and speaking out of turn and pushing someone.

What are the problems in today's schools? Go to any school and ask, especially in the major cities. The problems are guns and violence and drugs and teenage pregnancies. Things have changed radically.

On the question of safety, if we do not address the issue of guns in schools, we can spend a lot of money on academic programs, but kids are not going to be able to learn because they are going to sit there during the day and worry about their safety.

I would like to say that Senator MOSELEY-BRAUN is a cosponsor of our amendment. We appreciate that very much. I recently visited a school 10 or 15 blocks from this building. I met with a wonderful principal, Mr. Neal. He runs a good school. He has one of the best reputations in this city. I met with wonderful kids in that school who come from the projects and from backgrounds that are difficult. The school has bars on all of its windows. I walked through a metal detector. The first person I saw was not a smiling teacher. It was a security guard at a metal detector.

I left that school thinking how much I regret that it has come to this. I like this principal and I hope these kids do well and I met teachers who were wonderful.

Only weeks after that, in that same building, down near the cafeteria where I visited, some kid bumped another at a water fountain and the other pulled out a pistol and shot the kid four times. The fact is, this scene is going on all over this country, and we must address it.

We have constructed a proposal that says there will be no more excuses and there will be zero tolerance, and every student and every parent across this country ought to understand something fundamental and simple: You cannot bring a gun to an American school. If you do, there will be a certain and exact penalty. We provide a 1-year expulsion.

Our proposal has sparked a lively debate. Some say you are out of line, this is very unreasonable. I say, look, we are way past the time where we make excuses for bad behavior. Anybody who thinks they can legitimately bring a gun through the front door of a school is not thinking at all. If we are going to have people who bring guns to school because they do not think and who settle disputes in schools with handguns or other shooting devices, then, in my judgment, they deserve a certain punishment.

I hope that everybody in this country understands a year or two from now that our law says nobody is going to bring guns to school. Do not even think about bringing a gun to school. The penalty is too great. We provide an exception on a case-by-case basis. If there is something unusual, the head of the school district can make a decision that this case is exceptional: The kid meant no harm, it was a mistake; they are going to go hunting after school; there is a starter pistol in the backpack for the gym program. If it is a legitimate mistake, the school administrator can make that exception.

One other point. Senator FEINSTEIN and I do not propose to be concerned about firearms used in an ROTC program, about firearms used in a hunter safety course, or about firearms used in connection with historical re-enactment. People asked me questions about that. No, we are not talking about that. We are talking about students who bring guns to schools.

The Senator from California, I think, has been doing a wonderful job on these issues. I am pleased to work with her on this legislation. It is now law, as enacted in Goals 2000, and I hope this will remain law when this bill is signed by the President. We will have changed the mindset and changed the attitude all across this country as to whether anybody ought to dare try to bring a gun to school. Then we will have restored some safety in America's classrooms. We will have fostered an environment in which American children can learn the way I know they are capable.

I understand some other amendments will be offered prior to the 12 o'clock hour. I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Madam President, at the outset, I would like to associate myself with the remarks of my colleague from North Dakota, as well as the Presiding Officer's remarks, in support of the guns in school legislation. I could not agree with you more.

While my colleague said I was a cosponsor, I do not think I am yet, so I ask unanimous consent that I be added as a cosponsor.

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

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 2422

(Purpose: To amend the Higher Education Act of 1965 to require institutions of higher education to disclose participation rates, and program support expenditures, in college athletic programs, and for other purposes)

Ms. MOSELEY-BRAUN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Ms. MOSELEY-BRAUN], for herself and Mr. KENNEDY, proposes an amendment numbered 2422.

Ms. MOSELEY-BRAUN. 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 1357, after line 25, insert the following:

SEC. . HIGHER EDUCATION ACT OF 1965.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective student and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) AMENDMENT.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.—

"(1) DATA REQUIRED.—Each institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually submit a report to the Secretary that contains the following information:

"(A) For each men's team, women's team, and any team that includes both male and female athletes, the following data:

"(i) The total number of participants and their gender.

"(ii) The total athletic scholarship expenditures.

"(iii) A figure that represents the total athletic scholarship expenditures divided by the total number of participants.

"(iv) The total number of contests for the team.

"(v) The per capita operating expenses for the team.

"(vi) The per capita recruiting expenses for the team.

"(vii) The per capita personnel expenses for the team.

"(viii) Whether the head coach is male or female and whether the head coach is full or part time.

"(ix) The number of assistant coaches that are male and the number of assistant coaches that are female and whether each particular coach is full time or part time.

"(x) The number of graduate assistant coaches that are male and the number of graduate assistant coaches that are female.

"(xi) The number of volunteer assistant coaches that are male and the number of volunteer assistant coaches that are female.

"(xii) The ratio of participants to coaches.

"(xiii) The average annual institutional compensation of the head coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the head coaches of women's sports teams, across all offered sports.

"(xiv) The average annual institutional compensation of each of the assistant coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the assistant coaches of women's sports teams, across all offered sports.

"(B) A statement of the following data:

"(i) The ratio of male participants to female participants in the entire athletic program.

"(ii) The ratio of male athletic scholarship expenses to female athletic scholarship expenses in the entire athletic program.

"(2) DISCLOSURE TO PROSPECTIVE STUDENTS.—An institution of higher education described in paragraph (1) that offers admission to a potential student shall provide to such student, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1), and all students offered admission to such institution shall be informed of their right to request such information.

"(3) DISCLOSURE TO THE PUBLIC.—An institution of higher education described in paragraph (1) shall make available to the public, upon request, the information contained in the report submitted by such information to the Secretary under paragraph (1).

"(4) SECRETARY'S DUTY TO PUBLISH A REPORT OF THE DATA.—On or before July 1, 1995, and each July 1 thereafter, the Secretary, using the reports submitted under this subsection, shall compile, publish, and submit to the appropriate committees of the Congress, a report that includes the information contained in such reports identified by (A) the individual institutions, and (B) by the athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(5) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means all nonscholarship expenditures.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect on July 1, 1994.

Ms. MOSELEY-BRAUN. Mr. President, Senators KENNEDY, SIMON, HARKIN, MIKULSKI, and I introduced several bills last September as a cooperative effort to address the widespread gender inequities in our Nation's schools. These bills, which are collectively known as the Gender Equity in Education package, include the Equity in Education Amendments Act, the Women's Educational Equity Restoration Act, the Fairness in Education for Girls and Boys Act, and the Equity in Athletics Disclosure Act.

Mr. President, all four of these bills are important because they will help the Secretary of Education enforce title IX of the Education Amendments of 1972, the principal Federal statute prohibiting sex discrimination in education.

S. 1513 includes much of the gender equity in education package. However, one major component, the Equity in Athletics Disclosure Act, is not yet included in the Improving America's Schools Act. The amendment now before the Senate will make this final gender equity initiative a part of S. 1513.

Mr. President, title IX of the Education Amendments of 1972 has helped to eliminate many discriminatory policies—such as rules that only boys could take shop classes. Yet, because institutions of higher education are not required to disclose gender equity information regarding their intercollegiate athletic programs, many are still not in full compliance.

In fact, the National Collegiate Athletic Association [NCAA], the American Council on Education [ACE], and my colleague from Illinois—Congresswoman CARDISS COLLINS—have all documented the prevalence of gender inequities in intercollegiate athletics.

In 1992, the NCAA conducted a one-time study on gender equity in men's and women's intercollegiate athletic programs at all Division I-A schools. As expected, this study found that female college athletes receive less than 18 percent of the athletic recruiting dollar and less than 24 percent of the athletic program operating dollars. This report also found that the average scholarship budget for men's teams is $1.3 million but only $500,000 for women's teams.

Mr. President, the American Council on Education [ACE] has also documented gross gender inequities in intercollegiate athletic coaching staffs. In a recent survey of 1,410 post-secondary institutions, ACE found that women represent only 8 percent of athletic directors and only 6 percent of sports information directors.

Over the last 3 years, Congresswoman COLLINS has also used her position as chairwoman of the House Commerce, Consumer Protection, and Competitiveness Subcommittee to highlight the gender inequities which plague intercollegiate athletics.

In three separate hearings, student athletes and coaches alike have testified that women's teams often have poorer facilities for training; worse hours for practice and competition; inferior travel accommodations; and little, if any, promotional support.

Mr. President, the American Association of University Women have supported this legislation strongly and they say:

> By requiring colleges and universities to disclose their expenditures and participation rates in women's and men's sports programs, this bill would help address a key problem of bias against women and girls in schools.

I ask unanimous consent that their letter be printed in the RECORD.

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

AMERICAN ASSOCIATION
OF UNIVERSITY WOMEN,
Washington, DC, July 18, 1994.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: On behalf of AAUW's 150,000 members nationwide, I am writing to express our strong support for including the Equity in Athletics Disclosure Act (S 1468) in the Elementary and Secondary Education Act. By requiring colleges and universities to disclose their expenditures and participation rates in men's and women's sports programs, S 1468 would help address a key problem of bias against women and girls in school.

As you know, Title IX of the Education Amendments of 1972 prohibits sex discrimination in institutions receiving federal funds. Yet a 1992 National Collegiate Athletics Association study found that male athletes receive more than two-thirds of all college scholarships and five times more money in their recruitment budget. S 1468 would provide the foundation for making Title IX effective in our college and university athletic programs by improving access to information about compliance for individual schools.

Reseach reported in "The AAUW Report: How Schools Shortchange Girls" shows that extracurricular activities play an important role in teenagers' socialization and self-concepts. Unfortunately, during secondary school, boys' participation in athletics is still almost twice that of girls. Although girls enjoy participation in sports as much as boys do, they often shy away because of the way they see themselves in relation to sports. We believe the lack of female role models in athletics and the lesser opportunities these girls see in their schools and in their futures greatly contributes to their reticence and biased notions of sports. If we hope to enhance girls' participation in athletics, with all its attending benefits, we must provide for equitable opportunities at all levels of education.

We commend you for your leadership on this issue. Please contact April Osajima on our staff if we can be of any assistance.

Sincerely,

JACKIE DEFAZIO.

Ms. MOSELEY-BRAUN. The amendment addresses this gender inequity by requiring institutions of higher education that receive Federal funds to disclose information on participation rates, coaching staffs, and program expenses for each of their men's and women's intercollegiate athletic teams.

The amendment would also require institutions to disclose upon request this information to the general public and to students who need this information in order to make informed decisions regarding their education. It would also require them to provide this information to the Secretary of Education, who would then report it to the Congress.

Mr. President, the NCAA has begun to address the problem of gender inequity through its 1992 study.

Mr. KENNEDY. Will the Senator yield for a moment?

I see that the hour is just moving to 12 o'clock, at which time we are going to recess in respect for the memory of our colleague, Senator Scott.

I ask unanimous consent that when we resume, the Senator from Illinois be recognized to complete her statement on this very important amendment.

Ms. MOSELEY-BRAUN. Mr. President, I have exactly another 30 seconds worth of dialog. If it is all right, I would just as soon conclude at this time.

Mr. KENNEDY. I so ask unanimous consent.

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

Ms. MOSELEY-BRAUN. Again, very briefly, the NCAA has taken its own initiative, but it needs help. It is very clear that they need the support for disclosure of this information.

Previously, when the NCAA attempted to get this information, they received 20 percent voluntary compliance. This legislation will give 100 percent information disclosure regarding fairness in our athletic programs.

I would like to conclude my remarks by saying we will never be able to achieve excellence in education unless we eliminate gender bias. This legislation goes a long way in providing us with the basis to do so.

I thank the Chair. I thank the chairman for his allowing me time to continue.

Mr. KENNEDY. Mr. President, I see that the hour of 12 noon has arrived. I think there will be a brief further discussion about this when we resume at 3 o'clock. We may very well have the vote at that time and then follow, hopefully, the sequence which I have outlined earlier. And we hope, as I said, that Members who have other amendments will inform the staff or Senator JEFFORDS and myself.

RECESS UNTIL 3 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will stand in recess until the hour of 3 p.m.

Thereupon, at 12:02 p.m., the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LIEBERMAN.)

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business is the amendment offered by the junior Senator from Illinois [Ms. MOSELEY-BRAUN].

Who seeks recognition?

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

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

Mr. KENNEDY. Mr. President, I see my friend and colleague, the Senator from Illinois, on the floor.

We had anticipated that we would move ahead with the amendment of Senator MOSELEY-BRAUN. But just to move the whole process forward I ask unanimous consent that it be temporarily set aside, and that we consider the amendment of the senior Senator from Illinois.

Mr. GORTON. Reserving the right to object, may I ask what the status is with respect to the amendment of the Senator from Washington?

Mr. KENNEDY. Mr. President, as I understand, the Senator's amendment is preserved. At any time we can call it back. As I understand it, regular order brings back the amendment of the Senator from Washington. I had understood that there were continuing negotiations that were taking place on the Senator's amendment. We were just attempting to expedite.

Mr. GORTON. The amendment, the basic underlying issue, has been set aside for an amendment by Senator MOSELEY-BRAUN, and now the Senator seeks to set aside that one for a third amendment by the senior Senator from Illinois.

Mr. KENNEDY. The Senator is correct.

Mr. GORTON. I have no objection.

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

The Chair recognizes the Senator from Illinois [Mr. SIMON].

AMENDMENT NO. 2423

(Purpose: To establish the Longer School Year Incentive Act of 1994)

Mr. SIMON. Mr. President, in behalf of Senator BYRD, Senator PELL, Senator CHAFEE, Senator KOHL, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. BYRD, Mr. PELL, Mr. CHAFEE, and Mr. KOHL, proposes an amendment numbered 2423.

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

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

The amendment is as follows:

On page 1205, between lines 4 and 5, insert the following:

"PART D—LONGER SCHOOL YEAR

"SEC. 13401. SHORT TITLE.

"This part may be cited as the 'Longer School Year Incentive Act of 1994'.

"SEC. 13402. FINDINGS.

"The Congress finds as follows:

"(1) A competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and

training received by students in competitor countries.

"(2) Despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy.

"(3) For most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year.

"(4) In the final four years of schooling, students in schools in the United States spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so spent in Germany, the 3,280 hours so spent in France, and the 3,170 hours so spent in Japan.

"(5) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television.

"(6) More than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem.

"(7) Over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year.

"(8) Funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts.

"(9) Experiments with extended and multitrack school years have been associated with both increased learning and more efficient use of school facilities.

"SEC. 13403. PURPOSE.

"It is the purpose of this part to allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"SEC. 13404. PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to States or local educational agencies to enable such States or agencies to support public school improvement efforts that include the expansion of time devoted to core academic subjects and the extension of the school year to not less than 210 days.

"SEC. 13405. APPLICATION.

"Any State or local educational agency desiring assistance under this part shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

"SEC. 13406. FUND ALLOCATION.

"(a) FUNDING.—Of the funds appropriated pursuant to the authority of section 13501 for each fiscal year, the Secretary may reserve not more than 50 percent of such funds for such year to carry out this part.

"(b) AVAILABILITY.—Funds made available under subsection (a) for any fiscal year shall remain available until expended.

On page 1193, line 21, insert "and not used to carry out part D for such year" after "year".

On page 1194, line 2, insert "(other than part D)" after "title".

On page 1195, line 17, insert "(other than part D)" after "title".

On page 1195, line 25, insert "(other than part D)" after "title".

On page 1198, line 4, insert "(other than part D)" after "title".

On page 1198, line 7, insert "(other than part D)" after "title".

On page 1198, line 13, insert "(other than part D)" after "title".

On page 1198, line 20, insert "(other than part D)" after "title".

On page 1198, line 24, insert "(other than part D)" after "title".

On page 1199, line 3, insert "(other than part D)" after "title".

On page 1199, line 16, insert "(other than part D)" after "title".

On page 1199, line 18, insert "(other than part D)" after "title".

On page 1199, line 23, insert "(other than part D)" after "title".

On page 1200, line 1, insert "(other than part D)" after "title".

On page 1200, line 15, insert "(other than part D)" after "title".

On page 1200, line 24, insert "(other than part D)" after "title".

On page 1201, line 5, insert "(other than part D)" after "title".

On page 1202, line 20, insert "(other than part D)" after "title".

On page 1202, line 22, insert "(other than part D)" after "title".

On page 1203, line 6, insert "(other than part D)" after "title".

On page 1203, line 18, insert "(other than part D)" after "title".

On page 1204, line 2, insert "(other than part D)" after "title".

On page 1204, line 4, insert "(other than part D)" after "title".

On page 1204, line 10, insert "(other than part D)" after "title".

On page 1204, line 18, insert "(other than part D)" after "title".

On page 1204, line 22, insert "(other than part D)" after "title".

On page 1205, line 5, strike "D" and insert "E".

On page 1205, line 6, strike "13401" and insert "13501".

Mr. SIMON. Mr. President, this sets aside up to $100 million of discretionary spending under title 13 by the Secretary of Education for the purpose of encouraging longer school years. We all know that education has to receive a higher priority if we are to do for the future what we ought to do for this country. That includes hours in school, and it includes days in school.

For example, today in Japan you go an average of 243 days a year. In Germany, you go an average of 240 days a year. We go an average of 180 days a year. Why do we go 180 days a year? In theory so our children can go out and harvest the crops.

I see my friend from Washington on the floor, my friend from Mississippi on the floor, from Massachusetts, and from Rhode Island on the floor. The children in those States, and in an agricultural State like Illinois, are no more going out and harvesting crops in the summertime. I live at Route 1, Makanda, IL, population 402. Even in Makanda, IL, they are not going out and harvesting the crops.

If you look at the hours in school, the average hours of high school instruction per year—it is not simply the days, it is the hours we spend in school also. In Germany it is 882 hours; France, 820 hours; Japan, 792 hours; the United States, 365 hours. Can we learn as much in 180 days as our friends in Japan do in 243 or in Germany in 240? To ask the question is to answer it. We know the answer to that question.

Title 13 is designed to bring innovation and flexibility. But the reality is it has not brought much of any of those things. It has just been kind of a largess for school districts. If that is what we want to create, we can.

But it is interesting that a recent study by the Education Department said that this could be a powerful vehicle for educational reform if it were focused more. The study specifically recommended that local school districts "concentrate chapter 2—it used to be chapter 2, it is now called title 13—funds on one specific activity or program relating to reform, or an educational priority, in order to maximize the potential of funds would make a difference."

We have to face up to some reality. Let us just say that the Secretary of Education decides to use all $100 million. In the billions that we spend in this country, $100 million is not very much money. Let us just say the Secretary determines we can pay $30 per student to assist schools that go from 180 days to 210. That is the period that we are asking for in this amendment that would be increased to. If they do it, they could get $30 per student, not a lot of money. It is enough money to cause every school board to talk about it; to consider it, and a very few schools are moving in that direction now. We need to do more. We need to emphasize education much more than we have been.

Other nations are putting their resources into education as we are not. We make great speeches about education on the floor. Every Senator is an education Senator. Every President is an education President. Every Member of the House is an education House Member. This is a chance to really do something, to really improve education in our country. My hope is that the amendment will be adopted.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY. Mr. President, I am looking for our good friends and colleagues to address this issue. I for one personally think that it is well worth trying to encourage an extended school year. We have been attempting to work out the different provisions of the legislation. We have taken the old title II and moved that into a teacher training

program. And now the amendment comes which will take a very sizable amount of resources.

Can the Senator explain to us? In terms of its relationship, is he carving out this amount of money from title 13?

Mr. SIMON. No. It simply says the Secretary of Education may designate up to $100 million. So if the Secretary designates zero dollars, there is no violation. If the Secretary designates $10, there is no violation. This gives the Secretary some flexibility. But obviously it is a signal from Congress to do this.

Mr. KENNEDY. Mr. President, with that understanding, I would urge the Senate to accept the amendment.

Mr. PELL. Mr. President, I would like to add a word of support for this idea. I know I have felt very strongly about this for years. I always carry this agenda book with me, and in here I have some of these figures: The Soviet Union has 210 days; Canada, 200; Thailand, 220, and on ad infinitum.

I think it is a wonderful amendment. I would like to see it stronger and with more money. But this is about the amount that can be digested. It is excellent work.

Mrs. KASSEBAUM. Mr. President, I apologize to the Senator from Illinois and the Senator from Massachusetts. I did not quite understand. Did the Senator say there would be no chapter II money that would be withdrawn?

Mr. SIMON. This is the old chapter II. It is title XIII now. What it does is, it says up to $100 million may be designated by the Secretary of Education for this purpose.

Mrs. KASSEBAUM. Mr. President, I think all of us are intrigued by, if not supporting of, a longer school year. But I also am a strong believer that this is a local decision. I think that once we start adding money for encouraging a longer school year, we are going to be into major policy decisions that I think are best left up to a school district and to a State.

Mr. SIMON. If my colleague will yield. Yes, we are leaving this up to the local schools. But what we have found through the years is that when we have a little carrot out there to help schools, whether it is vocational education or whatever it is, it does help move people in the right direction when we see a national need. I do not think anyone can dispute the figures Senator PELL just used, and that we are way behind other countries in terms of hours and school days.

So this is a nudge—and I have to confess, a slight nudge —in that direction.

Mrs. KASSEBAUM. Mr. President, I know that Senator JEFFORDS is on his way to the floor. I think he wants to address this issue.

Mr. KENNEDY. Mr. President, with that understanding, I ask that we temporarily set aside this amendment.

The change in this amendment is rather than having a separate fund, that would be designated. For now it is purely permissive and is purely discretionary, up to the Secretary. I think we are going to have to probably work this through in terms of the conference, in any event. This is somewhat different in terms of what was initially proposed. I am glad to wait until Senator JEFFORDS comes here. But it is, as I understand it, significantly different than either adding another $100 million or carving out that amount of money from the programs that were in existence. But I am more than glad to wait for the Senator from Vermont.

Mrs. KASSEBAUM. Mr. President, I would like to set this aside until he has a chance to comment.

Mr. GRAMM. Reserving the right to object. I had intended to speak for a moment on the crime bill and on health care. Maybe we can hold this unanimous consent request until I have spoken. That would give the Senator from Vermont an opportunity to come over here and speak. Given that I intend to have the floor for about 10 minutes, perhaps it would save the Senate's time to simply allow me to speak, and then if Senator JEFFORDS appears, the debate can continue on that amendment.

Mr. KENNEDY. I am glad to accommodate. The Senator from Illinois has another amendment relative to this bill, that he wanted to process. We are trying to move this process forward. We only had a limited time this morning and, quite appropriately, we took time this afternoon. We are now at the hour of 3:15, and we have a number of important amendments.

Obviously, people can, under the Senate rules, speak. We are attempting to move this process forward. So we have been trying to ask the cooperation of the Members. I certainly cannot preclude any Member from speaking.

We reached the situation last evening at 8 o'clock where the managers were here and prepared to deal with serious matters, and we were unable to get the Members here to consider these issues.

This is an enormously important education bill. We have to abide by the Senate rules, obviously. I would like to see if we could not make further progress. Obviously, the Senator is entitled to speak at any time.

Mr. GRAMM. Well, Mr. President, I would be happy to try to accommodate my colleagues. Why do I not try to go ahead and truncate what I wanted to say about the crime bill and health care and, in the meantime, if somebody wants to call the Senator from Vermont, and he were to come over, he could speak. If he did not, certainly I would have no objection to a unanimous consent request to set the amendment aside.

Mr. KENNEDY. Well, the Senator is entitled, as matter of right, to address the Senate. The Senator from Illinois has another amendment on which we can begin at this time, even while we are waiting for the Senator from Vermont to get here. The Senator can gain recognition and speak. We are hopeful of trying to accommodate the leadership on both sides. This was a bill that had a 16–1 approval rating. It is enormously important legislation, and Members can speak on it.

The manager would prefer that we deal with the amendments that are relevant. But any Member is entitled to address the Senate on any other measure.

Mrs. KASSEBAUM. I wonder if the Senator from Texas will yield a moment for a parliamentary inquiry?

Mr. GRAMM. I yield the floor temporarily.

Mrs. KASSEBAUM. What is the standing of Senator MOSELEY-BRAUN's amendment?

Mr. KENNEDY. That has been temporarily set aside. I know the Senator wanted to address that issue. I, of course, would like to resolve that issue as well.

Mr. GRAMM. Mr. President, if I might reclaim my time, I would have already spoken and left.

The PRESIDING OFFICER. The Senator is correct.

THE CRIME BILL CONFERENCE REPORT

Mr. GRAMM. Mr. President, I wanted to express my deep disappointment in the early descriptions of the conference report that was agreed to early this morning on the crime bill. I believe that when the American people have an opportunity to look at this agreement, they are going to share my disappointment.

There are a lot of issues that I could talk about, beginning with the President's support for executive branch policy that will bring racial quotas into the death penalty in America as part of an effort to put the crime bill together. But today I simply want to talk about three areas that I am very much concerned about, areas where I believe the conference committee has not reflected the will of the American people.

On the floor of the Senate, I offered a set of amendments to require 10 years in prison, without parole, for possessing a firearm during the commission of a violent crime or a drug felony; 20 years without parole, in prison every day, for discharging a firearm during the commitment of a violent crime or a drug felony; life imprisonment, without parole, for killing somebody; and the death penalty in aggravated cases.

A version of that amendment was adopted overwhelmingly by the U.S. Senate, as it has been adopted overwhelmingly for a number of years.

When we went to conference with the House of Representatives, that amendment has reportedly been dropped.

Therefore, it is not part of the crime bill.

For several years I have offered an amendment requiring 10 years in prison without parole for an adult who uses a child in the commission of a drug felony or who sells drugs to a minor. I believe that the American people overwhelmingly support that provision. But in the conference meeting last night, I am told that that provision, which has been adopted by overwhelming votes on many occasions in the U.S. Senate, was again dropped. Therefore, it will not be in the crime bill.

But perhaps the thing that I am most unhappy about is the report of the action that was taken with regard to mandatory minimum sentencing. I have been alarmed from the first day of the Clinton administration by the difference between the President's rhetoric on crime and the action of his own Justice Department. The President in his very first speech to a joint session of Congress talked about getting tough on criminals. Yet the Attorney General and the Justice Department have spent every day they have been in office trying to overturn mandatory minimum sentencing for drug felons.

In an effort to try to compromise, in an effort to work in the best spirit of bipartisanship, as I am sure my colleagues who were leading the debate when we debated the crime bill would attest, I agreed to a compromise that said, in essence, those convicted of a drug felony who have no criminal record, and if the drug felony did not involve a minor, if they were not carrying a gun, if they were not a leader of the drug conspiracy, and if no one was injured in the crime, that the judge can take that into account in giving them a reduced sentence.

Mr. President, that was not an easy compromise for me to make because when someone is selling drugs to a child, this is a violent crime, in my opinion. But in the best spirit of bipartisanship, I helped work out that agreement, an agreement that would have covered, interestingly enough, only about 100 people a year.

Now, the conference committee has reportedly agreed to a provision that will allow people with previous drug convictions to be let out of jail and that according to some estimates retroactively could affect 10,000 convicted drug felons who are in prison today. They could be released by a bill that we call an anticrime bill.

I cannot understand, Mr. President, how we can be talking about getting tough on criminals and yet think of passing a bill which apparently has now been approved by the conference committee and will come back to the Senate with a provision that will retroactively go back and release drug felons who are in prison today under mandatory minimum sentences. Many of them are in prison because they were helping to sell drugs to children, and yet they will be let out of prison by a successful effort now by this administration to overturn mandatory minimum sentencing for drug felons.

When the President is standing up and saying let us get tough on criminals, when the President is saying three strikes and you are out, how many people knew the President was saying let us go back and change the law and allow thousands of drug felons who are in prison today out of prison because this administration believes that we were too tough on them by putting them in prison to begin with?

I do not believe that that provision reflects the will of the American people.

So, Mr. President, let me tell you what I intend to do on this one issue.

First of all, I am going to offer these provisions on every bill that I can for the remainder of this Senate. On those bills, I am going to offer these three provisions: 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony; 20 years for discharging it; life imprisonment for killing someone; the death penalty in aggravated cases. That is one amendment. Another one will require 10 years in prison without parole for selling drugs to a minor or using a minor in a drug conspiracy.

Finally, I am going to do my best on each and every bill to overturn the administration's successful effort to let possibly thousands of drug felons who are in prison today out of prison.

I do not believe that that in any way reflects the will of the American people, and I think it is greatly at variance with the President's own rhetoric on this subject.

So I intend, at this point, to oppose the crime bill which, although it has some good provisions, while it has provisions that I have written and provisions that I have supported, I cannot support a crime bill that is going to overturn mandatory minimum sentencing for drug felons and which may potentially allow according to some estimates as many as 10,000 drug felons who are in the Federal penitentiary back out on the streets because the administration believes that we were too tough on them.

I also intend to see that we have an opportunity to vote on these amendments again and again until ultimately they are the law of the land.

HEALTH CARE

Mr. GRAMM. Mr. President, to accommodate my colleagues, let me just say a couple things about health care and about this bus tour.

I think it is very revealing that now consistently everywhere this bus tour goes in support of a phantom bill, which has yet to be written, there are over twice as many people turning out who oppose the President's plan as people who are turning out to support the President's plan.

That was reflected yesterday in a poll carried by AP where now only 33 percent of the American people support the President's health care plan.

I do not recall, Mr. President, in my 15 years in public life, of a single circumstance where a major legislative proposal which at one time had the support of as many as 70 percent of the American people has in 1½ years seen that support decline to only 33 percent.

I submit that it has not declined because the President does not have a big megaphone with which to sell it. I submit that support has not collapsed because the President is not a great salesman or because the First Lady is not a great saleslady. I submit that support has collapsed because the American people are not willing to tear down the greatest health care system in the history of the world and reinvent it in the image of the Post Office.

We can adopt a health care bill in the Senate and the House and make it the law of the land, but we cannot do it until the President gives up on the idea that we are going to have a health care program that is run by the Government. That is an absolute nonstarter.

When my mama gets sick, I want her to talk to a doctor. I want her to talk to a doctor of her own choosing. I want her to have a say in her health care, and I do not want her to have to talk to and get permission from some Government bureaucrat in order to get health care. On that issue there is not going to be any compromise.

(Disturbance in the visitors galleries.)

The PRESIDING OFFICER. The gallery will come to order. The Senate will please suspend until the Sergeant at Arms has restored order.

The Chair would request that the public in the gallery please maintain silence so the Senate can continue with its proceedings.

Mr. GRAMM. Mr. President, I know that a decision has been made to extend the health care debate into the recess period, and I am sure there are those who believe that there will be Members of the Senate who, with a recess pending, will say: "I've got all these plans, and I would like to save the greatest health care system in history. I am opposed to socialized medicine. But I promised my wife and my children that I would go on vacation."

So, therefore, given the choice, the American health care system is going to have to suffer.

But I want to assure my colleagues that I for one have canceled my vacation. I am willing to be here to debate this issue. There will be no unanimous-consent agreement limiting debate on the health care bill. The full rights of every Member will be preserved. We are

going to have a full and extensive debate.

I have to believe, Mr. President, that when we have so many Cabinet members and agency heads out driving around the country on these buses to support a bill that has yet to be written, when nobody knows what is in it, we have moved from a debate about a health care plan to a debate about a political agenda.

I know the President believes that he has to get a health care plan passed. But Congress does not have to pass just any health care plan.

I personally doubt that we are going to pass a health care bill under the current circumstances before the Congress adjourns for the August recess. I believe we need time to know what is in the bill that we are debating. And to paraphrase the chairman of the Appropriations Committee from his speech yesterday, we need to look at this bill closely; when we are building a new house, we need to be sure that the plans reflect the resources available and that the builder be prepared to adapt his master plan to changing circumstances.

So anybody who thinks they are going to force a health care bill through this Senate by holding us through the August recess had better rethink it, because that plan is not going to succeed if I can do anything about it.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, we have set aside the Simon amendment for the longer school year. We have also the Gorton amendment and the gender equity amendment.

The Senator from Illinois has a further amendment on the Women's Equity and Education Act. I hope we would address that and then go to the Cochran amendment on the formula, which I think will be a major area of discussion and debate, since there are three or four different formulations of it. That is enormously important, obviously, to the States.

And then during that period of time, we will see how we can address some of these other items. We are preserving everyone's rights, obviously. In terms of making the greatest progress on the bill, we have talked to the Senator from Mississippi and others that have formula amendments and they are prepared to go. I think that that is something which is extremely important in terms of the legislation. So we will try and move in that direct direction.

Hopefully, we can dispose of this other Simon amendment and then move towards the formula amendment.

The PRESIDING OFFICER. The Chair would advise the Senator that the Senate has not formally set aside the amendment of the Senator from Illinois.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we temporarily set aside the previous Simon amendment.

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

Mr. SIMON addressed the Chair.

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

AMENDMENT NO. 2424

(Purpose: To increase the authorization of the Women's Educational Equity Program to $5 million)

Mr. SIMON. 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 Illinois [Mr. SIMON] for himself, Mr. HATCH, Mr. KENNEDY, Mr. PELL, Mr. HARKIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. BINGAMAN, Mr. LEAHY, Mr. METZENBAUM, and Mrs. BOXER proposes an amendment numbered 2424.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 995, line 10, strike "$2,000,000" and insert "$5 million".

Mr. SIMON. Mr. President, what this amendment does, frankly, is it increases the authorization for the Women's Educational Equity Program from $2 to $5 million. That is still $4 million below where we were before. The Appropriations Committee in the Senate has already approved $3.9 million.

I offer this amendment in behalf of Senator HATCH and myself, and a number of Members of this body. It is very clear that we face an educational equity problem in this country as regards the female population in terms of students, in terms of administration, and in other areas. The program is doing solid work for a very, very small amount of money. I hope the Senate could accept the authorization.

The PRESIDING OFFICER. Is there further debate?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to speak for a moment to the amendment of the Senator from Illinois. We have discussed this in both the committee and here on the floor.

While this amendment is only a modest increase in the authorization for the Women's Equity and Education Act from, if I am correct, $2 to $5 million in authorization, I would have to speak against the amendment, although I am not going to request a vote, because I question whether this is an area in which we should be spending any Federal dollars at all.

If I could just for a moment, Mr. President, say that while what is called the WEEA Program, the Women's Equity and Education Act, targets a perceived problem in education—gender bias in our schools—as a woman, I can attest to the fact that I did not really feel that I was disadvantaged in schools because I was a woman. And I went all through public schools in Topeka, KS.

There are areas, certainly, where there is discrimination. But I am not sure that we can address it here with another additional amount of money in a Federal initiative.

I think the presumption that girls are "shortchanged" in school is supported only by a small body of research which has questionable findings.

For example, a study by the American Association of University Women found that girls receive less attention from teachers than do boys in the classroom, often resulting in lower self-esteem on the part of girls. What the study did not mention was that this perceived attention resulted from the fact that the boys received 8 to 10 times as many reprimands in the class as the girls. It was not positive attention.

So, I am not sure, Mr. President, that these things do not get balanced out and, in fact, by perhaps making too much of something, we only create a problem where perhaps it did not exist before.

With regard to academic achievement, boys typically score higher in math and science than girls, that is true, but girls get higher scores in reading and writing. Moreover, more girls go on to college and more receive master's degrees than their male counterparts.

So I am just not sure that this actually holds up when we look at the whole picture. I know this is a popular issue with many of my colleagues and it is a difficult one to vote against in a program that claims to level the playing field for women and for girls in school. However, I do believe that we have no right to play on this particular field in the first place. It should be in our own local school districts and in our school boards, where we should be engaged in trying to correct any uneven playing fields.

For that reason, I have great reservations. I will not ask for a vote, Mr. President, but I think it is important to note that we get into these issues and get into increasing funds for the best of intentions when actually I think we would be far better off leaving well enough alone.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I support this proposition. I think it is justified and worthwhile.

In the mid-1970's, a number of us tried to get the National Science Foundation to develop outreach programs to enhance women's achievement in math, science, chemistry, biology, and physics.

If you look over those individuals, for example, that were getting grants from the National Science Foundation, really probably less than 10 percent involved women in many of the technical sciences. I think what basically we were saying was that this country was losing an enormous asset, in terms of the ability and the interest and the commitment of a major segment of our society.

This particular program is an extremely modest program. The appropriation is already up to $4 million. This would just barely cover the appropriation.

What it is basically trying to do is enhance women's achievement in the classroom. It is basically targeted in terms of enriching the teacher's sensitivity, awareness, techniques and approaches in terms of bringing out the best in terms of women in the classroom.

The resources which have been used to date have demonstrated to be successful. It is an extremely modest program. I know there are those concerned about it. I appreciate the position that has been taken here by our friend, the Senator from Kansas, but I hope that the amendment would be agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I would like to rise associating myself with the comments of the ranking member, Senator KASSEBAUM of Kansas.

My concern here is that we have already seen with this bill a number of Members come to the floor and add a few million here and a few million there. As Everett Dirksen said, that begins to become real money fairly quickly.

The problem is that in this bill there is a huge amount of new programmatic activity which we do not have the money to pay for. There is also a large number of programs which remain in this bill which the President himself suggested should be eliminated.

So the allocation of funds within this bill to the core activities which are needed to be done in this bill—which might be able to be increased, for example, if we did not have all these new programs—is constantly being chipped away instead by all these additional ideas that come to the floor.

Now I am sure many of these ideas are very worthwhile. In fact, I like many of these ideas.

But, the fact is we do not have a bottomless pocket here. We are having to make choices and make priorities, and to have Members continually coming down here and suggesting let us put another couple of million here and let us put another $10 million here, as already has happened a couple of times in this bill, is, in my opinion, fiscally irresponsible.

I will be offering an amendment later in the day, hopefully, when I have the opportunity and in the proper order, to eliminate all the new programs that have been added to this bill so we can get back to the basic core function which this piece of legislation is directed at, which is a very appropriate function and which is a very important function.

Chapter 1 dollars have played a major role in helping disadvantaged children get better prepared for and participate in school systems. But all these additional programs that are being put on here, many of them being wonderfully conceived ideas, simply are draining our ability to do the basic core programs. And we are not doing our job as a Senate of prioritizing what we can spend money on in a time of tight fiscal atmosphere.

We are running, as everyone knows, a fairly significant deficit in this country. So every time we come up with a new idea which is a good idea and say, let us spend some money on it, we have to borrow that money from the American people and from the children of the next generation.

I do not think it is fair to the children we are allegedly trying to assist to educate that we should load more debt onto their backs in order to constantly add new programs, many of which are so small, so minuscule they really cannot have a major impact across the Nation and really are issues, as the Senator from Kansas appropriately pointed out, more appropriately reserved to the decision process and the allocation of resources process at the local school board level.

So I do not support this amendment. I understand there is not going to be a vote on it. I will not ask for a vote on it. But I do want to raise the flag here, that we are setting off on another instance of: Let us add another new program, let us add a few dollars to this program, let us increase that program, when in fact we are not doing our job to underwrite the basic programs of education in this country which we already have on the books.

I point to one startling program as an example of that which is 94-142, which is grossly underfunded and which, as a result, is skewing the resources at the local community level.

So I hope we will not support this program, although I guess it is going to be accepted by the leadership. But when we get to my amendment, which raises this whole issue in a very definitive way—do we want to add $770 million worth of new programs to this bill—that Members will be sensitive to the fact that every time they add a new program it puts a drain on the capacity to do the other activities of this bill in an effective way.

So that amendment is coming. I just want to put people on notice of it. I yield the remainder of my time.

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

Mr. SIMON. Mr. President, I ask unanimous consent Senator MURRAY be added as a cosponsor.

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

Mr. SIMON. Mr. President, I simply point out Senator KASSEBAUM said most of these decisions are made at the local level, and she is absolutely correct in that. But, for example, history books—only 2 percent of those who are featured in history books are women. You cannot correct that through the local school board. You need to correct that at the national level.

There are small things like that that really become significant in the long run. I hope my colleagues will vote for this.

Mr. BIDEN. Mr. President, 7 years ago, I suggested that American school children needed to spend more time in school—an additional 30 to 40 days each year. The reason is simple: America will not be able to compete in the global economy, much less thrive in it, if we give our children vastly less education than our competitors give theirs.

And, make no mistake about it: our children spend far less time in school than the children of other nations. On average, American children attend school 180 days each year. Meanwhile, other nations—America's economic competitors—send their children to school much longer. In Japan, it is 243 days; in Germany, up to 220 days; and in Hong Kong, 195 days.

This much we have known for years. But now we learn that it is not just a matter of days. In early May, the National Commission on Time and Learning, which was created by Congress in 1991, reported that in the four high school years, students in Japan, France, and Germany spend more than twice as many hours in core academic subjects—subjects such as math and science—as students in the United States. The Commission concluded that America's school children are—as the title of the Commission's report so aptly describes it—"Prisoners of Time."

As I see it, if we are to provide the future generations of Americans with the ability to compete in the global economy of the 21st century—a competition based not on brawn but on brains—our choices are few.

We can have inherently smarter students—students who can learn in 180

days what it takes the rest of the world over 200 days to learn—which we do not have.

We can have significantly more accomplished teachers—which is difficult to achieve.

Or, we can do what will inevitably be unpopular with students as well as teachers and probably some parents—but is inevitable if we are to solve the problem. And that is: send our children to school longer.

That is why the National Commission on Time and Learning in its May report recommended what I have argued for the last 7 years: America's children need to spend more time in the classroom learning.

Today, the Senate has the opportunity to put the Federal Government on record in support of a longer school year. The Simon amendment would authorize $100 million in grants to local schools that choose to extend the school year to at least 210 days—30 days longer than the current average year.

It is important to emphasize that this amendment does not require schools to adopt a longer school year. Some have pointed out during this debate that the length of the school yer should be a local decision. And, I am willing to accept that argument. But, nothing in this amendment requires a longer school year. It merely will help those local schools that on their own choose to have a longer year.

Another argument that I often hear against a longer school year is that the issue is not quantity but quality. On one level, that argument is right. It is important for all students to have a quality education, regardless of the length of the school year. But, as economist Lester Thurow has noted, those who argue quality over quantity are trying to reform education not with what is easy to do—"work longer and harder"—but with what is hard to do—"work smarter."

Having children spend more time in the classroom is not the only answer to a better system of education in this country. And, this amendment itself goes only part way in addressing the issue of a longer school year. But, it is a start, and it will provide local schools with some financial help to lengthen the school year. I urge my colleagues to support the amendment.

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

The amendment (No. 2424) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I understand we are close to being able to vote on the gender equity amendment. That is the amendment of the junior Senator from Illinois. I understand in just in a moment or two the Senator from Kansas will be here to speak to this issue. Then, hopefully, we can move ahead in a vote.

Basically, I hope the amendment of the Senator from Illinois is accepted. Some years ago we had an amendment from the Senator from New Jersey, Senator BRADLEY, and myself that provided information to parents about what happened to many of the young people who attended universities on scholarships and whether they graduated.

Some of our finest universities, with some of our best athletic programs, have an extraordinary record of achievement and accomplishment in graduating young men and women who had athletic scholarships, who had very good academic achievement and great success on the athletic fields, who went on to some very important opportunities in the future.

We had also some examples of situations where individuals or students were given scholarships and once their useful life on the athletic field had expired, these individuals were effectively drummed out of the universities. And we also provided information as well in terms of various crime statistics so parents and applicants would have a good idea as to the nature of crime, both on campus and off campus.

The amendment of the Senator from Illinois really builds upon what has been an accepted concept, and that is giving additional information to the public. Her amendment deals with gender equity in athletics. It requires institutions of higher education to disclose to prospective students, the public, and the Department of Education information related to the support for men's and women's sports, participation rates of men versus women in sports, the number of coaches, recruiting expenses, average coaching salaries for men and women. It discloses this to prospective students and also to the public—and a report to the Secretary of Education.

I know there will be some who feel this will be onerous on universities. The fact of the matter is the universities have to comply with equity in terms of women's athletic programs—certainly since the Grove City title IX, and also the Grove City Supreme Court case, which we overturned here in the Senate to make sure there was going to be compliance.

Effectively, all this does is make that information available. If they are not going to provide for this kind of equity, of course, that is a different situation. There are remedies to try to make sure they do. This really is to make it available. It assumes the colleges and universities are doing so, and all this amendment does is just make sure that information is out there and shared with the public so they would know.

I support the amendment of the Senator from Illinois. I see she is here on the floor. I am very appreciative of her accommodation in terms of offering her amendment and speaking to it. We have had a time interruption because of the recess—appropriately so—earlier in the afternoon. I think momentarily we are going to be prepared to dispose of that amendment.

The PRESIDING OFFICER. The Chair advises the pending amendment is the amendment offered by the senior Senator from Illinois regarding the longer school year.

Mr. KENNEDY. Mr. President, I ask that be temporarily set aside and we have before the Senate the amendment of the Senator from Illinois.

Mr. BUMPERS addressed the Chair.

AMENDMENT NO. 2422

The PRESIDING OFFICER. The pending amendment becomes the amendment offered by the junior Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I spoke on this amendment earlier today and was detained in judiciary hearings until just a minute ago.

I just would like to applaud and congratulate the Senator from Massachusetts for his leadership in this area, for his strong support of the equity in athletics and disclosure amendment, and urge its favorable consideration by my colleagues.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I rise in opposition to the amendment of Senator MOSELEY-BRAUN. I have enormous respect for the sincerity of the Senator from Illinois. I can fully appreciate what she is trying to address in this amendment.

If I may just speak for a few moments as to why I am concerned about this amendment. One, not only do I think it adds additional bureaucratic confusion and burdens on institutions of higher education, but if this is to be addressed, I think it should have been addressed in the higher education bill rather than elementary and secondary legislation.

I suggest also that it is duplicative of Federal laws that are already in existence.

The premise of the amendment is that fewer dollars are spent on female athletes and coaches of many institutions of higher education, if I understand correctly. Again, there is the recognition of gender discrimination and the premise that the Federal Government should do something about that.

If the charge is that there is discrimination in college athletic programs against women's sports, any civil rights claim is covered by title IX, which guards against sex discrimination in any Federal education program. The Office of Civil Rights of the U.S. Department of Education enforces title IX, and it can request any data without this amendment.

I suggest this amendment also duplicates similar, but less burdensome, requirements in the Higher Education Act Amendments of 1992 which require institutions that offer athletic scholarships to report similar information. However, this amendment expands this paperwork burden and extends it to any institution that participates in Federal student aid programs.

I just feel that, while with the best of intentions, it really adds an enormous burden of reporting requirements and, as far as students are concerned, I venture to say that for most students and institutions, an athletics program is only one of many factors to be considered in deciding which college to attend.

In addition, a student is free to request such information from the institution without this amendment. Perhaps the Senator from Illinois hopes by this to develop records which show institutionally that going back even earlier in the process in elementary and secondary education we build up a gender discrimination that is then perceived in higher education.

I am not going to ask for a vote on this amendment, Mr. President, but I am disappointed that we, again, continue to add burdens on our institutions of learning that I feel should not be added or imposed on our institutions of higher education or our elementary and secondary schools.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Kansas has yielded the floor.

Ms. MOSELEY-BRAUN. Mr. President, I have the highest regard and respect for the commitment of the Senator from Kansas as well. I ask the Senator from Kansas, is she not aware that the Higher Education Amendments of 1992 do not cover Division III schools or Ivy League schools, and this amendment, of course, would be a level playing field, it would be across the board and, again, where there are omissions in other previous acts.

Mrs. KASSEBAUM. Yes, Mr. President, I do acknowledge that is the case, that this would require reporting from all institutions. And as I say, I am not going to ask for a vote, but I do, again, question the burdensome requirements that it will impose.

I yield the floor, Mr. President.

Mr. GORTON addressed the Chair.

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

Mr. GORTON. Mr. President, I wish to address the Senator from Illinois and simply ask her a question about the amendment.

I have read through it. I tend to agree with my colleague from Kansas that this is a lot more reporting and paperwork. Assuming we are going to have the paperwork, I would like the Senator from Illinois to explain to me why one of the statistics that is to be included every year is not the income which the institution receives from each of these various sports.

That may not be the only consideration as to how money is distributed, but it certainly is at least relevant to that. And I strongly suggest, I would be much more favorably disposed toward the amendment if one of the things in the report, so students could make an appropriate comparison, was how much money actually comes into the institution, which is paying out all this money, from each of these sports which is otherwise required to be reported?

Ms. MOSELEY-BRAUN. Mr. President, I thank my colleague from Washington very much. It is almost ironic that he would ask that question. I was just asked that very question by a minister who is visiting from my home State. We were talking about it, and he said, "Is there a difference between how much the boys teams bring in versus the girls teams?" He was kind of joking about it. I responded by saying the girls teams can make as much money as the boys teams do if they are given a chance.

The Senator is correct. The amount of money that the teams make is not included as reporting, the notion being that we have not yet gotten to the point where income disparities in terms of earning potential of the various team sports was at issue. Our concern was in terms of equality of opportunity to participate, not equality of opportunity to earn money from it participation in team sports.

The Senator's point is well taken. There may well be differentials in the amount that is earned by the boys teams versus the girls teams. But I think in the first instance we have an obligation to eliminate gender bias in terms of opportunities for students to participate.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator certainly understands this Senator would suggest that the amendment would be considered to be more fair and more all encompassing if the Senator from Illinois would modify it to include those figures. It certainly cannot hurt potential students or anyone else reading these figures to have a full understanding of the way athletic departments are funded.

This was meant to be a friendly suggestion. One would think it would improve the amendment to ask for the inclusion of those figures.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator may be persuaded in that position. I personally do not find it enormously convincing. The whole point, in terms of the history of women in sports, is that they have been seriously shortchanged over a long period of time. We have had great difficulty in seeing that there was going to be some attention that was going to be given to women in sports.

I have no objection to having that kind of inclusion, but it just seems to me that the amendment is driving at another factor. We can grant and acknowledge that sports, particularly football; basketball, particularly in the big 10; and others, are the great moneymakers in terms of colleges and universities and in terms of professional sports. If that is the issue, we stipulate that.

The real question is, are we as a society going to, over a period of time in addressing many of the issues of gender inequity, really see, as a result of information that effectively is required under existing law, that it is going to be made available to the public?

I inform the Senator from Illinois, perhaps we could accept the amendment and then the Senator from Illinois and the Senator from Washington can talk additionally about whether they would agree, whether they would desire to have it perfected and we can address that at another time.

Ms. MOSELEY-BRAUN. Will the Senator from Massachusetts yield? Mr. President, I say to the Senator from Washington, I actually took his friendly suggestion. It is my understanding, and correct me if I am wrong, that if a friendly modification such as that means that the Senator from Washington would be prepared to support the amendment, if so modified—and he is nodding his assent—in that regard, I sent my staff over to work with the Senator's staff on language. Again, I would like to have the amendment accepted as quickly as we can agree on the modification as proposed.

Mr. GORTON. I thank the Senator from Illinois.

Mr. KENNEDY. Then what we will do is temporarily set that amendment aside, along with the others.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Illinois [Ms. MOSELEY-BRAUN], is set aside.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Massachusetts, [Mr. KENNEDY], is recognized.

Mr. KENNEDY. Mr. President, I see the Senators from Mississippi and Arkansas here. I hope we can get about the debate now on the formulas. It is 4 o'clock. I appreciate the desire of our colleagues to address the Senate on different matters. This is a very important bill, and I am glad to and will stay here during the course of the evening, until we come to grips with this.

I asked the Members to come down last evening. We have so asked them this morning. We have asked them earlier in the afternoon. I hope we can

deal with the formula, which is a very legitimate issue and question and move forward with the debate on that item. It is important.

I know there are members who do have amendments. We are going to ask them to come on down. We are going to move on through. It is 4 o'clock. Unless they are going to come down, we are going to ask for third reading on this measure. We have tried to accommodate Senators. The majority leader has. And if we are not going to find Members here, I am going to ask the majority leader if we cannot move ahead. We have tried to accommodate Members. We have remained on the floor. We would like to address what are the central issues on an item of enormous importance to the young people in this country.

Mr. GORTON. Will the Senator from Massachusetts yield?

Mr. KENNEDY. Yes, I would be glad to yield.

Mr. GORTON. I believe that he, or his representatives and I and the Senator from Vermont have now agreed on a procedure to deal with what is the order, the amendment which I introduced this morning, and I think at least tentatively from the perspective of the Senator from Vermont and myself, we could quite soon agree to a time arrangement under which we voted successively on the two amendments at, say, 6 o'clock. I think that is time to get everyone here who wants to speak on those amendments. And so if he can clear that on his side, I think I can clear that from the perspective of my own amendment. We could be on something of substance. We could get it done. We could have those votes and go on to something else. I am working on a minor amendment to the amendment of the Senator from Illinois. As soon as that is worked out, we could take that up and pass it in about 30 seconds.

Mr. KENNEDY. Let me say the Senator from Washington has been extremely patient and willing to work with the Members here. We will inquire of the interested Senators on this issue. I hope that we could do that prior to the hour of 6. We will certainly talk with the Senator and do it in a way in which Senator HARKIN and others would want to do it. But I would like to try, if we are able to move that in a timely way, to do so. But we will certainly work out that time with the Senator.

Mr. GORTON. We are ready to go. We are ready to proceed.

Mr. KENNEDY. The Senator is ready to go now.

Mr. GORTON. Yes.

Mr. KENNEDY. As I understand from staff, the other interested parties are prepared to go as well.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas, [Mr. BUMPERS], is recognized.

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment——

Mr. JEFFORDS. Mr. President, what is the pending business?

Mr. BUMPERS. I send an amendment to the desk on behalf of myself——

The PRESIDING OFFICER. If the Senator will withhold for a moment, the pending business is amendment No. 2423.

Mr. BUMPERS. Mr. President, I ask unanimous consent the pending amendment be temporarily set aside so that I may offer an amendment.

Mr. JEFFORDS. Reserving the right to object, if I may inquire, the pending amendment, I believe, is the Gorton amendment?

The PRESIDING OFFICER. The Simon amendment.

Mr. JEFFORDS. The Simon amendment. May I inquire—reserving my right to object—of the Senator from Arkansas as to the length of time his amendment will take and whether this is something that can be accepted or whether it is going to require considerable debate?

Mr. BUMPERS. Mr. President, I cannot be very definite about this. It is a very important amendment. And my guess is it is going to take a while.

Mr. JEFFORDS. It is my understanding it is a formula amendment.

Mr. BUMPERS. Yes, it is a chapter 1 formula change.

Mr. GORTON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope that we might accommodate Senators. We have been trying to get—this formula issue is going to have to be debated. It has reached sort of the heart and soul—we do not want to disadvantage any Members, but we are in the process of notifying other Senators who were interested in other issues, and I would hope that we could move ahead on it. As soon as we are able to contact others, we will try and at least see if we cannot resolve those items which are pending.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Still reserving the right to object, we now have Senator HARKIN coming on the Gorton amendment. The amendment has been set aside. The Senator from Washington is ready to go. We are ready to agree on a unanimous-consent and get it out of the way so we can clear it and then spend the rest of the time probably on the formula amendments.

So I would urge that we be allowed to get back to the Gorton amendment and resolve that and then proceed on to the formula. We have two formula advocates here, and it would seem to me it would be more logical to bring it in that kind of order.

Mr. KENNEDY. Mr. President, I appreciate the Senator's comments. I see the Senators from Arkansas and Mississippi in the Chamber. We have been trying to urge them to come over here for some period of time. And now, as they are experienced legislators and familiar with the way this process works, we are going to then move ahead and vote on the Gorton amendment and the Harkin amendment, as I understand it.

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

Mr. KENNEDY. Yes.

Mr. GORTON. Mr. President, we are certainly prepared to debate, and we are certainly prepared to enter into time agreement on it. In order not to waste any time, I am prepared and really prefer that the manager simply call for the regular order and bring up our amendment. The agreement is this: That the Gorton amendment will be debated and dealt with at the same time the Senator from Vermont is going to explain his alternative amendment to it. We will try to get one time agreement on both of them and vote on them respectively.

Mr. KENNEDY. Mr. President, if I could suggest a way of proceeding, that the Senator from Arkansas withhold offering the amendment, and we could start the debate on it. That preserves the position of the Senator from Washington. We are all interested parties. We will try to resolve this. I think that will be the best utilization of the Senate's time. Otherwise, we are going to be in a period of quorum calls.

I think there is really not much of a mystery about the basic concept. I know the Senator will want to address the substance of it. But if we could proceed in that way, I think it would save us a good deal of time this evening.

Mr. BUMPERS. Will the Senator yield for a question? Is the Senator from Washington prepared to offer and debate his amendment?

Mr. GORTON. The amendment of the Senator from Washington is the regular order. The Senator from Washington is prepared to make a brief additional statement to the one that he made this morning. I will let the Senator from Vermont speak on the other side. We have notified the other proponents, and I understand the Senator from Iowa [Mr. HARKIN], is on the same side as the Senator from Vermont. He is on his way to the floor. I would just as soon start on the Gorton amendment, and the companion Jeffords amendment, and finish this as quickly as we can.

The answer is I am prepared to start that now.

Mr. BUMPERS. Mr. President, let me say to the Senator from Massachusetts

that I want to be helpful. I know how frustrating it can be in the chair he is sitting in and waiting for action. Now he perhaps has more action than he wants. I am reluctant to serve our amendment by beginning the debate and going to these others and coming back to it. I think the Senator can understand.

Mr. KENNEDY. All right. I would suggest we start the debate and conclude the debate on the amendment of the Senator from Washington.

I would ask that the interested Senators on this issue come to the floor because when the Senator from Washington concludes, we are going to move ahead on this in terms of having the votes on it. So those Members who are interested, we are urging them to come to the floor. We have tried to accommodate on this issue since early this morning. I think we have as I understand a way of proceeding. I would hope that we would accommodate and listen to the Senator from Washington—those who have differing views, which I personally do. But I know there are other Members. Then I hope we are going to resolve this issue so that we can move ahead.

Mr. BUMPERS. Mr. President, I wonder if the Senator from Massachusetts would yield. Will the Senator be willing to entertain a unanimous-consent agreement so we do not have a hiatus and move expeditiously, as he suggested, with the unanimous-consent agreement that the regular order be following disposition of the Gorton amendment and the Bumpers amendments? I promise that I will be here and ready.

Mr. JEFFORDS. If I can, just to get on this process, I ask unanimous consent that we proceed immediately to the Gorton amendment, and that after some time to be agreed upon, we vote on the Gorton amendment; immediately after the Gorton amendment, an amendment to be offered by myself, Senator JEFFORDS, would be in order for debate and the time to be limited and to be voted on notwithstanding whatever the result is on the Gorton amendment.

Ms. MOSELEY-BRAUN. Mr. President, will the Senator yield? I lodge an objection to that request. The amendment on equity in athletics is still pending. We can agree on a modification. If we can have that adopted by a voice vote and then go to the Gorton amendment, as stated in the unanimous consent request, I would be prepared to withdraw my objection.

Mr. JEFFORDS. I have no objection to that being part of my unanimous consent; that immediately prior to going to the Gorton amendment, we take care of the amendment of the Senator from Illinois.

Mr. KENNEDY. Mr. President, we are going to go back. We are trying to accommodate the Members. Now I am going to ask for the regular order, and we are going to follow the rules of the Senate. We have attempted to accommodate different people on different times in different ways. The Members are entitled to know that we are going to proceed by the Senate rules.

I am very grateful to all of those who have tried to be helpful. But we have now different matters that are before the Senate. We have the Senate rules, and we are going to follow those particular rules, and dispose of those amendments in an orderly way. We will do the best we can and stay here as long as we can. I am grateful. This in no way reflects in terms of others who have tried to accommodate. But we just have too many Members who have interests, and in order to preserve all of their rights, we are going to follow the Senate rules.

Mr. President, what is the regular order?

The PRESIDING OFFICER. Regular order is the Gorton amendment.

Mr. KENNEDY. Regular order is the Gorton amendment.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Then we will proceed.

The PRESIDING OFFICER. That is now the question before the body.

Mr. GORTON. Mr. President, the Senator from Illinois has been most generous to me, and as I understand it, all she needs to do is modify her amendment. I do not believe there is any more debate, and we can pass it in 30 seconds. I do not want to keep her here 2 hours for that.

I ask unanimous consent that we allow the Senator from Illinois to modify her amendment and bring it to a voice vote, with the understanding that it requires no further debate, and it will be agreed to. We can have it done in 30 seconds.

Ms. MOSELEY-BRAUN. I thank the Senator from Washington and the Senator from Massachusetts.

AMENDMENT NO. 2422, AS MODIFIED

Ms. MOSELEY-BRAUN. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2422), as modified, is as follows:

On page 1357, after line 25, insert the following:

SEC. ___. HIGHER EDUCATION ACT OF 1965.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) AMENDMENT.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.—

"(1) DATA REQUIRED.—Each institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually submit a report to the Secretary that contains the following information:

"(A) For each men's team, women's team, and any team that includes both male and female athletes, the following data:

"(i) The total number of participants and their gender.

"(ii) The total athletic scholarship expenditures.

"(iii) A figure that represents the total athletic scholarship expenditures divided by the total number of participants.

"(iv) The total number of contests for the team.

"(v) The per capita operating expenses for the team.

"(vi) The per capita recruiting expenses for the team.

"(vii) The per capita personnel expenses for the team.

"(viii) Whether the head coach is male or female and whether the head coach is full time or part time.

"(ix) The number of assistant coaches that are male and the number of assistant coaches that are female and whether each particular coach is full time or part time.

"(x) The number of graduate assistant coaches that are male and the number of graduate assistant coaches that are female.

"(xi) The number of volunteer assistant coaches that are male and the number of volunteer assistant coaches that are female.

"(xii) The ratio of participants to coaches.

"(xiii) The average annual institutional compensation of the head coaches of men's

sports teams, across all offered sports, and the average annual compensation of the head coaches of women's sports teams, across all offered sports.

"(xiv) The average annual institutional compensation of each of the assistant coaches of men's sports teams, across all offered sports, and the average annual compensation of the assistant coaches of women's sports teams, across all offered sports.

"(xv) The total annual revenue generated from attendance at athletic contests across all men's teams and women's teams.

"(B) A statement of the following data:

"(i) The ratio of male participants to female participants in the entire athletic program.

"(ii) The ratio of male athletic scholarship expenses to female athletic scholarship expenses in the entire athletic program.

"(2) DISCLOSURE TO PROSPECTIVE STUDENTS.—An institution of higher education described in paragraph (1) that offers admission to a potential student shall provide to such student, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1), except that all such students shall be informed of their right to request such information.

"(3) DISCLOSURE TO THE PUBLIC.—An institution of higher education described in paragraph (1) shall make available to the public, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1).

"(4) SECRETARY'S DUTY TO PUBLISH A REPORT OF THE DATA.—On or before July 1, 1995, and each July 1 thereafter, the Secretary, using the reports submitted under this subsection, shall compile, publish, and submit to the appropriate committees of the Congress, a report that includes the information contained in such reports identified by (A) the individual institutions, and (B) by the athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(5) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means all nonscholarship expenditures.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect on July 1, 1994.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois, as modified.

The amendment (No. 2422), as modified, was agreed to.

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

Ms. MOSELEY-BRAUN. 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 Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, at 10:30, probably 10:30 this morning, I laid down the Gorton-Lieberman amendment on school violence. It was debated briefly at that time. It is obviously controversial.

I understand that the procedure that we will attempt to follow in this case, for the convenience of all Members, is that we will now discuss that amendment, and Senator JEFFORDS and others will discuss an alternative amendment on the same subject.

We hope that the unanimous consent agreement will be reached under which there may very well be a time agreement. But, in any event, the two amendments will be voted on in sequence. They relate to one another. There does not need to be additional time after the vote on my amendment before the vote on the Jeffords amendment. That obviously has not been completely worked out yet. But that is the goal of I believe the proponents of both amendments.

Mr. President, my amendment, simply to summarize briefly what I said this morning, is an amendment to restore a significant measure of control over seriously violent conduct in schools to local school district authority. Specifically, the amendment covers the weapons violations in schools, life-threatening acts, and activities in school on the part of students with those life-threatening activities, narrowly defined as it is defined in the sentencing guidelines.

These, of course, are forms of authority which the public schools of the United States have exercised from time immemorial until the U.S. Congress began to involve itself in individual school discipline.

There are two parts to the amendment. One is a general statement of the delegation of authority over offenses of this sort to the schools. The second is the amendment to the Individuals With Disabilities Education Act of 1975, which amends that act so that the same rules, with some restrictions, apply to those who are disabled, pursuant to which they can be removed from the school situation for up to 90 days, as long as they are provided with an alternative opportunity for education by a particular school district.

Now, under IDEA, a student, no matter how violent, no matter how life-threatening his or her activities, no matter how offensive a weapons violation, cannot be removed from school for more than 10 days without the permission of the offender's parent, or a court order, which under Federal law, generally speaking, must come from a Federal court. This means, in practical terms, for our school authorities, that their disciplinary authority is almost negligible in this case.

We have myriad cases in which dangerous students are consistently and constantly returned to school after very, very short suspensions. We have many instances in which the parents, against whose children an offense was committed, feel they have to take their children out of schools because of the inability to provide for this type of incident. In some instances, teachers are resigning their positions because they can no longer control their classrooms.

This Senator—speaking on behalf of teachers, school administrators, parents and school directors, as a result of what I learned in January, very surprisingly, at an education summit—would very bluntly prefer to grant much more authority to local school districts. General disruption in the classroom ought to be the subject of discipline by local school authorities. It should not be interfered with by laws passed by the Congress of the United States.

But in order to narrow the focus on only the most dangerous activities, the amendment I have introduced, together with Senator LIEBERMAN and others, only applies to weapons violations, and narrowly defined life-threatening kinds of activities on the part of these students.

This Senator recognizes that for some reason or other, this is extraordinarily controversial. But for the life of me, I cannot understand why it should be so controversial. Only two reasons occur to this Senator. One is that this Congress simply does not trust teachers, school administrators, and members of school boards, to make even these most fundamental decisions about the way in which their own schools are operating. Secondly, the answer is that next year the Individuals With Disabilities Education Act is up for reauthorization, and we ought to defer a discussion of this subject until that time.

In response to the latter objection, this Senator has sunsetted the provision in his amendment to expire automatically when IDEA is, in fact, reauthorized. We know that the mere fact that it is up for reauthorization next year does not mean it will be reauthorized. It could be another 1, 2, or 3 years. We will discuss this subject now. I suspect this Senator will want a much broader delegation of authority to school districts then.

But, in any event, this amendment will be subsumed in whatever is passed in such a reauthorization. Until then, however, I do not believe that just because this law is holy writ, and with all of the problems our schools face, that they should have to wait another year, 2 years, or 3 years, for a degree of authority, which almost every rational person thinks they ought to have at the present time.

The choice—single or double—which the Senate will make, as a result of the informal agreement reached with the managers of the bill, is that Senator Jeffords will put forth an amendment which differs in two respects from my own. First, it will excise from my amendment any reference to life-threatening activities. In other words, the Jeffords amendment will not allow school districts to avoid all of the detailed provisions of IDEA in connection with life-threatening activities on the part of students.

I think that explanation of the difference should show Members how they ought to vote. Why in the world we should not allow school districts authorities greater than their very narrow authority right now, when life-threatening activities take place in their classrooms, I cannot figure out.

The other difference is that our amendment has sections applying to all students, delegating an even broader authority for those students who are not disabled. That section, as I understand it—I have not seen its final form yet—is not included in the Jeffords amendment. So Members will make a modest step forward if they were to pass only the Jeffords amendment. At least it does something with respect to weapons violations. It does nothing with respect to life-threatening situations in our schools.

But we will get to vote on both of these amendments. It is, I suppose, consistent to vote for both of them, or for neither, or to vote for one and not vote for the other. But the fundamental difference between the two is whether or not we think there should be some change in the bureaucratic, court-written system now of disciplining students who engage in life-threatening actions during the course of their time in schools.

Mr. President, this whole thing is getting more and more bizarre as we go on. In another connection, we have at least one report of a court case in which the disability claimed to protect the student is the fact that the student brought the gun to school. The student brings the gun to school, the school attempts to discipline him—and he is not a disabled student—and he claims that the mental condition that caused him to bring the gun to school is itself a disability, so he cannot be disciplined, or cannot be disciplined beyond the very narrow parameters of the present law.

This is just too much to take, Mr. President. It is time that we allow school district authorities a greater degree of discretion with respect to students who bring weapons to school or engage in life-threatening behavior with respect to other students or their teachers.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CRAIG. I am happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

TIME LIMITATION AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator GORTON's amendment be laid aside, that Senator JEFFORDS then be recognized to offer a first-degree amendment on the same subject as Senator GORTON's amendment No. 2418; that there be 45 minutes under the control of Senator JEFFORDS and 30 minutes under the control of Senator GORTON, or his designee; that upon the use or yielding back of the time the Senate proceed to a vote on Senator GORTON's amendment to be followed by a vote on Senator JEFFORDS' amendment, and that the votes take place without any intervening action or debate, with no amendments in order to either amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Does the Senator want to ask for the yeas and nays?

Mr. GORTON. Are not the yeas and nays ordered?

Mr. KENNEDY. On the Jeffords amendment.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays on the Jeffords amendment.

Mr. GORTON. Mr. President, reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GORTON. Senator CRAIG is now speaking on a somewhat different subject. Is this UC to begin upon the completion of Senator CRAIG's remarks?

Mr. KENNEDY. I ask unanimous consent that it be in order at the conclusion of Senator CRAIG's remarks.

Mr. GORTON. No objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair will inform the Senator that the regular order, a request for the yeas and nays, is not before the body.

Mr. KENNEDY. When the Senator does offer his remarks it will be in order to ask for the yeas and nays.

The PRESIDING OFFICER. It would be in order at that point.

Mr. KENNEDY. Could we ask unanimous consent that it be in order at this time?

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. I have not offered this amendment at this time. I will ask unanimous consent that I be allowed to offer the Jeffords amendment at this point.

Mr. CRAIG. Mr. President, I stand in support of the Gorton amendment this afternoon. Earlier, before we went into recess, I also spoke in favor of the Feinstein-Dorgan amendment relating to guns coming to the schools of America, and the willingness on the part of this Senate to say in a very straightforward way that that is just not acceptable.

The Gorton amendment says that it is not acceptable, that we do not recognize violence in the classroom, and that we do not give local school authorities the opportunity for appropriate discipline in the discouragement of that kind of activity.

So for a few moments this afternoon, I would like to interrelate a concern that I have, which I think is spoken to in the Gorton amendment, and is also addressed in the Feinstein amendment, which is that it is clearly time for our country and this Senate to speak directly to the responsibility of the individual and the need to allow local authorities to be able to discipline and to respond accordingly to the act of the individual, instead of to this rather general approach we have had over the years that somehow individuals were products of society, and that we had to be careful in how we handled them because they were simply disadvantaged in the nature in which they had been socially adjusted.

If they were misadjusted, somehow that was not the fault of the individual. It was the fault of society, and we must accordingly respond.

Mr. President, that is kind of part of the debate that is involved here this afternoon and why there are some Senators who would like to modify the Gorton amendment.

The Republican leader was on the floor just a few moments ago speaking to his frustration over a crime conference that struck from a crime bill some very strong efforts to react to and to control individuals in this society who have decided to be deviant from the laws and the norms of our society and somehow either go undisciplined or in some way almost rewarded for their deviate acts.

That is probably why we are debating education today and in the midst of that educational debate we are talking about guns. It is almost unique that we would be doing so. But the reason we are is because over 250,000 guns a day come to our public schools, and our local school officials' hands are nearly tied in their inability to act responsibly, directly, and quickly to that kind of an issue.

Something is wrong.

The Senator from Washington is attempting to respond to it. The Senator from California is attempting to respond to it. The Senator from the Dakotas is attempting to respond to it.

So for a few moments this afternoon I would like to react to it with a statement that I thought about for sometime in relation to an action that is underway by this administration as it relates to the control of criminal violence in our country, and while it does not seem to fit in the educational context, I think it does fit because it is most appropriate that we discuss it here this afternoon.

I think some of you may remember the summary that was featured in the article in U.S. News & World Report in April, and it also mentioned certainly a colleague of ours from the West, Congresswoman BARBARA VUCANOVICH of

Nevada on the House floor during the debate on the gun ban.

It is the product of an interagency working group on violence, appointed by this administration, a group composed of representatives from the Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Justice, Labor, as well as the Domestic Policy Council and the Office on National Drug Policy.

Why should anyone take notice of this kind of activity? Why should I be discussing it this afternoon in context to this particular bill? Here is why, because I think that there are some important statements here that are very frustrating to me but are reflective of why we are here debating the issue as we debate it today.

Mr. President, I was discussing a report on violence that was produced by a group of individuals inside the Clinton administration, and I do believe it does fit the debate and the discussions that we are involved in today.

Now, the question is, why should we take notice of this particular report and why does it fit in the context of our debate today?

For one thing, some of the suggestions in the summary are already implemented and are working their way through the process of the executive branch or Congress. Others may still be under review. But, more important, these suggestions in the report that relate to violence in America tell us a lot about the mindset of this administration and the President's closest advisers and why somehow this Senate does not want to give to local school authorities the direct ability to discipline deviants or students who would choose to act against the well-being of fellow students.

I am particularly interested in the section of the summary of that report that deals with firearm violence. Before turning to what this section says, let me tell you about what it does not say.

What is completely missing from this section is any acknowledgement of firearm benefits.

Now, I am not talking about sports and hunting. Somehow today as people discuss firearms in America they only want to say that under the second amendment it is sports and hunting that is appropriate. Those may be benefits enjoyed by millions of Americans. But this report is supposed to be about violence and not recreation.

What I am talking about is the fact that guns save lives and prevent injuries, crime and violence in our country every day. This report completely ignores the fact that guns are used for self-defense at least as often and statistics will suggest substantially more than they are used in violent acts with a criminal purpose in mind.

Our Founding Fathers knew that firearms secured liberty. Millions of Americans since their time have understood that concept. Today, perhaps half of America's households own guns. We take our gun ownership for granted, just as we take for granted that our Government would never force us to give up our means of self-defense.

Now comes this report. Not only does it list a variety of schemes for regulating firearms, but it even gives strategies for reshaping the way people think about firearms in America. Those strategies include building a scientific basis for justifying gun control and exploiting human psychology to build antagonism toward guns. While we are dealing with education, there is nothing wrong with what this bill is attempting to do. It sets simply parameters of ownership in this case in light of juveniles and in all acts of the juveniles of America over time we said certain things were appropriate and certain things were not appropriate.

But what is interesting is that this administration is saying and this report clearly says that with the rest of America we need to talk about a paradigm shift to move the debate on guns away from philosophy and into a discussion of accident statistics.

In other words, Mr. President, this report urges the administration to forget that liberty is at stake and that there is another side to the gun debate and to this debate except violence.

This report does not suggest any research into the defense or the defensive use of firearms. It does not suggest methods for promoting gun ownership for purposes of marksmanship and responsible actions.

Instead, it portrays the gun as a menace to society. In the section entitled "Description Of The Problem," it refers to a "flood of guns," and an "epidemic of gun violence." And it suggests that the Federal Government ought to take such appropriate action to curb firearm injuries that it took with highway safety.

All of sudden it becomes this manageable thing out there, that if you simply write the right Federal laws it is as easy to manage as highway safety.

Aside from the constitutional problems that this argument obviously has—and they have obviously ignored it—there are the problems I just mentioned: Unlike motor vehicles, firearms actually play a role in preventing injuries and death, if properly used. There is also the problem that virtually all motor vehicle injuries are as a result of an accident—while only a tiny fraction of gun injuries are accidental.

But let me get in to the specifics of the report.

The report's recommendations include excise taxes on guns and ammunition—that has already been debated on the floor; it has been talked about, at least—licensing, registration, bans on manufacturing, and reducing the number of licensed firearms dealers.

Let me read a few excerpts from this report.

By the way, this is a report that was kept under lock and key. The press could not get their hands on it until just recently. Other individuals who tried to acquire it were told that it was not available. We finally demanded its presence in our office and it was brought to us.

Let me quote from the report.

To complement the above measures, effective firearm control should consider limiting production of certain new firearms and ammunition, especially the most dangerous weapons. In addition to bans on new production of assault weapons (as in Senator Feinstein's amendment to the Crime Bill), consideration should be given to placing higher taxes on handguns, which remain the weapon of choice among criminals, accounting for approximately 80% of all firearms homicides.

It is also possible that increased excise taxes on handguns and particularly dangerous ammunition would help offset the cost of providing medical care to gunshot victims and support state regulatory and enforcement efforts to prevent firearms injuries. If additional taxes are going to be imposed, consideration should be given to setting them at a cost per gun or bullet, rather than a percentage of manufacturers' prices, because cheap guns and expensive guns can do equal damage.

By themselves, restrictions on new manufacture and sales of various firearms will not reduce our huge existing arsenal of firearms, or keep those firearms away from criminals and those who may cause harm. State or local amnesty or buy-back programs may help reduce the arsenal as suggested by the recent experience with the Toys R Us swap program, as would elimination of the government practice of selling to civilians the firearms that are seized in crimes. New requirements that firearms purchasers be licensed and/or be mandated to register their firearms, combined with stricter enforcement of laws prohibiting sale of firearms to certain groups of people, could significantly reduce access to guns by those who should not have them. Increasing dealer liability for negligent sales would also help.

But that is not all. The working group has a lot more recommendations:

In addition to, or as an alternative to, a licensing scheme (where firearms purchasers might have to pass a gun safety test and a background check to receive a permit to buy any firearm or ammunition), the federal government should consider creating a class of "restricted weapons." This list would include all handguns and semi-automatic long guns that are not otherwise outlawed and could be purchased or carried only by persons holding valid registration certificates. These restricted weapon certificates could be issued by the local police or licensing authorities only after applicants had passed a background check for felonies, violent misdemeanors, mental illness, etc.; demonstrated a satisfactory knowledge of the safe and responsible use of firearms; accepted liability for injuries resulting from the negligent use or storage of these weapons; and showed that the firearm would be used only for specified legitimate purposes. Restricted weapons could be possessed only in one's home, one's place of business, on the premises of a target range (depending on the terms of the registration certificate), or while being transported to or from any of the

above. Possession of an unregistered, restricted firearm or unlawful public carrying of a restricted firearm would be a punishable federal offense. Developing this class of restricted firearms would thus divide firearms into three groups: banned, restricted, and unrestricted (i.e. long guns which are not semi-automatic).

Tighter restrictions on retail firearm sales must be supplemented by efforts to block the two streams by which criminals most often obtain their firearms—the illegal black market and theft. Such a regulatory scheme might look as follows: The federal government would regulate secondary transfers of all firearms to prevent their delivery to those prohibited by law to have weapons. To transfer a firearm, an unlicensed person would be required, along with the transferee, either to go to the premises of a licensed dealer and document the transfer in the dealer's records, or to mail a transfer application to the local police (including the name and residence of both the transferor and transferee). The transferee would be required to certify that he is not a prohibited purchaser (as he must now do in order to buy a firearm from a licensed dealer), and, in the case of a handgun, to wait five days for a background check. To control theft from licensed dealers, the federal law would require dealers to store their firearms securely. The regimen would involve stricter penalties for gun theft, as well.

To ensure dealer compliance, we suggest reducing the number of licensed firearm dealers (currently numbering almost 250,000) by implementing higher fees such as the Bureau of Alcohol, Tobacco, and Firearms has recommended (the Brady law mandates fees of $200 for a three year license, and the ATF is considering fees as high as $600 per year) and tighter application standards beyond what has been accomplished by the Brady law.

Also the federal government, as well as the states, should redouble efforts to monitor and regulate licensed dealers. Furthermore, we could consider adopting on a national basis the Virginia law prohibiting licensed dealers from selling more than one firearm per month to any single individual. The Brady law requires that dealers notify state or local law enforcement authorities of multiple sales of two or more pistols or revolvers in any five day period to an unlicensed person.

These schemes are offered in the name of making it harder for the wrong people to get guns. But Mr. President, there is nothing in any of these schemes that limits their effect to the wrong people. On the contrary, each and every one of these ideas would restrict the ability of the right people, or the law-abiding people, to obtain firearms for legitimate purposes—including the prevention of crime, injury or death.

In this country, we don't restrict the freedoms of everybody in order to prevent the crimes of a few. For instance, we do not require reporters to submit their writings to a Government board for approval before publication to prevent false reporting. That is called first amendment rights. We respect due process for everyone, even though some criminals may benefit from it. We do not require people to get Government clearance before they join associations, even though some associations might be formed for criminal purposes.

Those are basic freedoms protected by the Constitution, just as the right to bear arms.

The report does not stop there, Mr. President. It also suggests "reducing the lethality of firearms."

3. Reduce the lethality of firearms. The manufacture and importation of firearms that are inherently unsafe and excessively lethal continues in the United States. Federal law requires imported weapons to adhere to design and safety standards; however, current federal policies do not impose the same design and safety standards on domestically manufactured weapons and ammunition. Many handguns now manufactured in the United States for civilian use would fail these tests.

The recent approval of the Feinstein amendment to the Senate's Crime Bill, which would prohibit the new manufacture and sale of 19 specified assault weapon models and any copycat versions, together with the existing ban on production of certain armor-piercing ammunition, demonstrates a willingness to ban extremely dangerous firearms and ammunition. Both efforts have substantial public support. We should consider the further steps of adopting specific performance standards that would prohibit manufacture of firearms capable of firing more than a certain number of rounds or a certain number of bullets per second as well as ammunition that, under specified firing conditions, pierces armor, expands more than a certain percentage upon impact, or ignites upon contact.

Additionally, the federal government should require domestically-manufactured firearms to incorporate the same safety features as imported firearms; We should encourage or mandate the use of trigger locks, limit magazine sizes, and continue to fund research into "Smart Gun" technologies capable of rendering firearms unusable except by their owners.

Again, the basic problem with this entire concept is that it would miss the people who are the problem, and restrict the freedoms of the people who do not cause criminal violence.

The report also suggests building a scientific basis for justifying gun control:

4. Support research to develop a sound scientific basis for preventing firearm injuries:

(a) Undertake research through the CDC and NIJ to better understand the risks and benefits of firearm ownership, the patterns of acquisition, ownership and use, and the causes of firearm injuries.

(b) Establish a National Firearm Injury Reporting System at CDC.

Mr. President, it is significant that the recommendations focus this so-called scientific effort on the Centers for Disease Control. That organization has been criticized by medical professionals for its political bias, including its stated political objective of making the private ownership of guns not only illegal, but socially unacceptable. Before the Government spends a dime, we can predict exactly what conclusions CDC will reach on any research involving gun violence.

Let us talk about the most cynical and disturbing section of this report: recommendations on reframing the public debate on firearms.

5. Reframe the public debate on firearms.

(a) Change the stage from politics and philosophy to science: We need to reframe the public discussion about firearms injuries, from a political or philosophical debate on "gun control" as an all-or-none binary intervention to a discussion based on scientifically documented risks and benefits of firearm access and rigorously evaluated policy options. This is a paradigm shift.

It would indeed by a paradigm shift, Mr. President—to get Americans to put liberty in second place, behind safety and the convenience of the Federal Government.

One thing this report neglects to mention is that the right to bear arms is not some abstract notion of the Founding Fathers. It is based on human experience in combating tyranny. An armed citizen has the power to resist threats from other citizens or the Government.

It is no surprise that the Federal Government is uneasy even about guns in the hands of law-abiding citizens. That is exactly what the Founding Fathers wanted: a very real check on the power of the Government over the people.

There are some people—even some in the Senate—who refer to the right to keep and bear arms as an anachronism. They do not think we could possibly see Government tyranny today.

Those people are turning their backs on the lessons of history—not just the history of this country, but the history of the world.

Generation after generation, country after country, governments have committed atrocities against their people—atrocities that could only be committed after the people were disarmed by gun control laws.

I do not suggest that all those who support gun control condone genocide or tyranny. However, after considerable study and reflection, I must suggest that history shows gun control creates an opportunity for oppression that does not exist with an armed public.

That is why this recommendation is so disturbing. To put aside all philosophical and political considerations would be to ignore the lessons written in blood throughout human history. Those are lessons we should never forget.

Let me move on to the next recommendation.

(b) Place specific changes in the context of multiple interventions: We need to let people know that progress in preventing firearms injuries will come just as the great progress we made in reducing motor vehicle deaths came not by banning cars, but from building safer cars, safer roads, getting drunk drivers off the roads, and enforcing licensing requirements. No one measure is the answer. The Brady law is one small step forward. It is not "either . . . or" it is "this and this and this . . ."

Can it be more clear, Mr. President? This is exactly what we are seeing

today from the administration and its antiliberty friends in Congress. It is not a single bill, but a thousand variations of the same theme of making guns, not people, responsible for criminal violence.

The next recommendation has my vote for the most cynical, coldly-calculated and manipulative recommendation in this entire report:

(c) Focus on children: Nobody will oppose programs to prevent children from shooting children. Need to focus on reducing access by children to firearms.

How well President Clinton's advisers know the American public.

They certainly are correct: If you frighten people into thinking their children are threatened, they will do as you want. They might even accept restrictions on their own personal freedom, if they can be convinced it will protect their children.

Well, that explains the administration's constant drumbeat about guns in schools. Whether or not the statistics are true, we can be sure there is an agenda behind it.

Senator KOHL and I produced an amendment to the crime bill to limit juvenile ownership and possession of guns.

Finally, Mr. President, we come to the last, and perhaps the most disturbing, of the firearms-related recommendations:

(d) Stress the importance of changing behavior and the social environment as additional ways to prevent firearm violence: We need to rebuild the social capital and address poverty, discrimination, lack of jobs, lack of education, lack of hope, and drugs and alcohol abuse. We have learned a lot of lessons about how to change behaviors as well as focusing on the firearms themselves. You can't take guns away from men who are frightened, from women who are scared, or from communities which are scared without giving them reassurance and a sense of security.

For me, this puts in perspective the President's interest in 100,000 new police on the streets of America. Maybe that is the kind of reassurance and sense of security that this administration thinks will create the right climate for taking guns away from law-abiding citizens.

The reason I bring this to the attention of the Senate today and in context of the debate of violence in the classrooms of America—which in part can be because of a lack of discipline or control that somehow our courts and this Congress has wrestled away from local school boards and State officials in being able to control deviant students, as they attempt to establish an educational environment—is we are going to debate the crime bill in a few days. Hopefully, we will see a conference before us. In that context, I hope that we can make sense of bringing about some good criminal law for this country.

We passed a Brady bill recently. We said that was it, or at least some of the gun control advocates said, that was it. The report says "No measure is the answer. The Brady bill is a small step." And then it said—and this is the report—"We want this and this and more" in an absolute form of attempting to establish a new mindset for control. It says, "A focus on children."

Believe it or not, they want to use children, to educate children, if you will, to manipulate the mind.

I do not often come to the floor and talk about these kinds of things, but this report by this administration has it in print. And when they found out what their people had said was controversial, they tried to hide it.

So let me say, in conclusion, Mr. President, after I wrestled this report out of the hands of this task force, I now have it available in my office. I think it is interesting reading for Senators and other people who are interested in public policy, but, most importantly, interested in trying to bring about good law that controls criminals, that creates the kind of environment that the Senator from Washington is trying to create, that allows discipline in our society, instead of somehow using the argument that we are out of control and in that environment need to take away certain rights from individuals that are now current and constitutional.

Those are important debates. What the Senator from Washington does is constitutional. What the Senator from California did was constitutional.

But let me suggest that the report of this administration skirts on the edge of ignoring our rights and our Constitution.

AMENDMENT NO. 2425

(Purpose: To provide local school officials control over violence in classrooms and on school property, and for other purposes)

The PRESIDING OFFICER. Under the previous order, the clerk will report the Jeffords amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 2425.

Mr. JEFFORDS. 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 title IV, insert the following:

SEC. . LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—In paragraph (3) of section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)(3)) is amended—

(A) by striking 'During' and inserting '(A) Except as provided in paragraph (B), during'; and

(B) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting for not more than 90 days, consistent with State law.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.

(b) CONSTRUCTION.—Nothing in title XVII of the Elementary and Secondary Education Act of 1965 (relating to Gun-Free Schools) shall be construed to supersede the Individuals with Disabilities Education Act or to prevent a local educational agency that has expelled a student from such student's regular school setting from providing educational services to such student in an alternative setting, as provided by State law, policy, or otherwise determined by such local educational agency.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, as I understand it, now there is a time allocation.

The PRESIDING OFFICER. The Senator is correct. The Senator from Vermont has 30 minutes, the Senator from Washington has 45 minutes on the amendment—excuse me, the Senator from Vermont has 45 minutes and the Senator from Washington has 30 minutes.

Mr. KENNEDY. As I understand it, there will be a debate on both of those amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. At conclusion of that time there will be back-to-back votes, the first vote on the amendment of the Senator from Washington and the second vote on the amendment of the Senators from Vermont and Iowa.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I yield 10 minutes to the Senator from Iowa. I will be happy to yield more as time goes by.

The PRESIDING OFFICER. Mr. HARKIN is recognized for 10 minutes.

Mr. HARKIN. Mr. President, let me see if I can, for the benefit of Senators who are here and those who may be in their offices, try to lay out the scenario that we have here.

We have two amendments pending, a Gorton amendment and a Jeffords

amendment. The first vote will be on Gorton, then a second vote on Jeffords.

What are the differences here? First of all, if I did not know the Senator from Washington better—and I know him well and he is a good man—I would say this amendment is a mean-spirited amendment. But I know the Senator better than that. I know he is genuinely concerned about violence in schools, as I am, and as we all are.

I also know the Senator from Washington would not in any way want to take away rights held by the most discriminated against and disadvantaged in our society—children with disabilities. No, I do not think the Senator from Washington would want to tell the most disadvantaged members of our society, children with disabilities, "I am sorry, you have no due process rights."

What is the issue here? The issue is whether or not the careful balance that has been struck in the Individuals with Disabilities Education Act, providing due process rights to children with disabilities and their parents and the interests of the schools—whether that careful balance will be ripped apart—that is the essence, basically, of at least one part of the amendment offered by the Senator from Washington.

Really, the Senator from Washington has two parts to his amendment. The first part is dealing with children with disabilities who bring weapons to school. When we passed the Gun-Free Schools Act, the amendment offered by Senator DORGAN and Senator FEINSTEIN was added as a part of the bill. It covers, basically, children who bring weapons to schools. But it leaves out children with disabilities.

The Senator from Washington brings children with disabilities under that Gun-Free Schools Act and says no matter what, disabled or not, if you bring a weapon to school then you can be removed from your current education placement and placed in an alternative placement for 90 days. To that extent, I have no problem with the amendment. Weapons are well defined. You know if a kid has a gun. To that extent we support it and that is what the Jeffords amendment does. The Jeffords amendment encompasses children with disabilities under the Gun-Free Schools Act.

So what is the difference between Jeffords and Gorton? It is the second part of Gorton that I believe is so harmful to children with disabilities. Here is what it says. In his amendment my colleague talks about a weapon. Then he says, "or a child with a disability who has demonstrated life-threatening behavior in the classroom or on school premises."

It is the inclusion of the phrase "life-threatening behavior" that rips apart the Individuals With Disabilities Education Act, and the due process rights of our children and their parents. Because what happens, then, is if this child demonstrates life-threatening behavior, they can be kicked out of school for up to 90 days. And then, if the parent of the child decides to contest that in a due process hearing and decides to go to court, why, then the child will be kept out of that school until the whole process is finished. That could be a year. We know how long it takes, sometimes, for court cases to be heard.

The Senator then tries to define life-threatening behavior. This is what galls me more than anything else. The Senator defines life-threatening behavior as "an injury involving a substantial risk of death, loss, or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent, or an obvious disfigurement that is likely to be permanent."

Where did this definition come from? This came from the sentencing guidelines for convicted criminals. We are not talking about convicted criminals here. We are talking about the most discriminated against members of our society, children with disabilities. And we are going to say: Life-threatening behavior?

Life-threatening function? It says here, "a substantial impairment of the function of a bodily member." What about a kid who has epilepsy and has an epileptic fit and falls over and hits his head? That is life threatening.

Or "mental faculty that is likely to be permanent." What about an autistic kid who sometimes beats his head against a wall? That could be life threatening or could be threatening to permanently damage that kid's mental faculty. It has nothing to do with whether that kid is a criminal or not. It has something to do with whether that kid is disabled or not. So we are not talking about convicted criminals. We are talking about the most disadvantaged members of our society.

Then the Senator sunsets it and says we will sunset this provision until we reauthorize the Individuals With Disabilities Education Act.

We have settled law in this area. We have a Supreme Court case, which I will talk about momentarily. It is working well. What the Senator from Washington would do with this amendment is stir the pot until we are able to report out a reauthorization of the Individuals With Disabilities Education Act, which my subcommittee on disability policy will report out sometime next year. But what this would do would be to open the doors for school districts to be able to define life-threatening behavior so as to throw children out of school because they are disabled.

You might say, schools would not do that, would they? Mr. President, that is exactly why we passed the Education of the Handicapped Act; why we superseded that with the Individuals with Disabilities Education Act. History is replete with kids with disabilities being shunted aside and thrown out of our schools and not educated simply because they acted a little bit different, or because they had a disability.

Again, in Iowa we have Mike McTaggart, the principal at West Middle School in Sioux City. He put it this way. He said, "I have no problems with the education guidelines." Mr. President, I ask the Senator from Washington to listen to this. Before Mr. McTaggart became principal of the school in Sioux City, their school had 692 suspensions; 220 of those were disabled. But Mr. McTaggart took over the school. He instituted policies of guidelines for the teachers reaching out to the parents to bring the parents in to talk with them, setting up individual education programs for the students. And what happened after he took over? The next year they had 122 suspensions; zero were disabled kids. From 220 in 1 year to zero the next year. That is because we had a principal who understood what it meant to have these guidelines in practice for disabled children. This is what the amendment offered by the Senator from Washington would rip apart.

Again, I repeat, the Jeffords amendment—to the extent the Senator from Washington wants to reach to those children who bring weapons and guns to schools, I have no objection to that. He is right on target.

But to the extent that the Senator from Washington wants to say that any child with a disability who exhibits a life-threatening activity can be thrown out of school, Mr. President, that is blatantly wrong. It is wrong, and we cannot allow that to happen.

Everyone cares about making our schools safe. No one cares more about having safe schools than parents with disabled children, because it is their kids that are usually the most vulnerable, the most picked on, the ones most threatened in our schools. Parents with kids who are disabled care very much about safe schools.

Mr. President, we are all concerned about the school officials, to ensure they have a safe environment conducive for learning, especially for kids with disabilities.

The amendment offered by the Senator from Washington is opposed by many key education groups: The National PTA; the National Education Association; the National Association of State Boards of Education; the Council of Chief State School Officers; the National Association of State Directors of Special Education; the Council for Exceptional Children; the Councils of Administrators of Special Education; the Consortium of Citizens with Disabilities; and the National Parent Network all oppose the Gorton amendment.

This amendment, as I said, tears apart the fabric of IDEA. Earlier in the day, I said to the Senator from Washington and to others that I have chaired the Disability Policy Subcommittee with great pride since 1987. Not once have I brought a bill dealing with disability issues to the floor of the Senate to have it amended. I do not do that, because I believe disability issues are so important that they should not be subjected to partisan wrangling or to inflammatory speeches or anecdotal types of stories that may inflame passions.

Since 1987—and I say this with great pride—we have worked together with Members from the opposite side of the aisle, with Senator DURENBERGER, who has been my ranking member since then. We have brought in disability groups. We have brought in school officials. We work these things out before so we have a consensus agreement and we have support, so when we bring a bill out here on disabilities issues, as I said, we never had an amendment.

I do not intend to have one on IDEA because we intend to work it out and we will cover these issues. But let us do it next year when we reauthorize the Individuals with Disabilities Education Act. Let us not do it on this bill. So we should reach a consensus.

Lastly, the Gorton amendment ignores a Supreme Court ruling, a 7–2 ruling, in 1988. It was a very conservative Supreme Court. The only two dissenting Justices objected on mootness grounds, not on the essence of the case. The case is Honig versus Doe, right on point with the issue I am talking about. It had to do with a school district that threw some kids out because they were acting up because they were disabled. I have to say this because, if you listen to the Senator from Washington, you would think that these schools and the teachers and superintendents have nothing available to them if kids act up and act in a threatening manner.

Let me read what the Supreme Court said in that 7–2 decision:

> The "stay-put" provision "does not leave educators hamstrung." The Department of Education has observed that, "while the child's placement may not be changed. . . this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others." Such procedures may include the use of study carrels, timeouts, detention or the restriction of privileges. More drastically, where a student poses an immediate threat to the safety of others, officials may temporarily suspend him or her for up to 10 school days.

So already if a child with a disability acts up, the school can suspend them for up to 10 days:

> This authority, which respondent in no way disputes, not only ensures school administrators can protect the safety of others by promptly removing the most dangerous of students, it also provides a "cooling down" period during which officials can initiate IEP review.

That is, the Individual Education Program review:

> * * * a cooling down period * * * and seek to persuade the child's parents to agree to an interim placement. And in those cases in which the parents of a truly dangerous child adamantly refuse to permit any change in placement, the 10-day respite gives school officials an opportunity to invoke the aid of the courts which—

And I have to add this emphatically—

> which empowers courts to grant any appropriate relief.

So the school can do all of these things. Basically what the Gorton amendment does is it overturns a 7–2 Supreme Court decision in 1988, as I said, by a very conservative Reagan Supreme Court.

In closing, Mr. President, let us not disturb this balance. For every story that the Senator from Washington can tell or any other Senator can tell about a disruptive student in a school and the problems that causes, I can tell a story about a child with a disability who acted up because the school did not provide that child with an individual education program.

I have case after case after case, hundreds, thousands of cases where kids with disabilities, because the school did not want to deal with them, were kicked out without any due process of law.

What the Individuals With Disabilities Education Act does is it provides that balance, that carefully crafted balance to give the schools the authority—up to 10 days, separate classrooms, study carrels, detention and, if need be, to go to court to get any relief necessary, at the same time to provide that the parents can keep their child in that school studying during that period of time.

I would hate to see that careful balance disrupted by some stories of violence in schools. We are all opposed to that. We all want to stop the violence in our schools, but, please, in doing so, I plead with my fellow Senators, do not take it out on the most discriminated against of our kids, our disabled children. Do not do that. We fought too long and too hard to get them their rightful place in the Sun in our country. Do not knock them down again.

Mr. BURNS addressed the Chair.

Mr. GORTON. I yield 5 minutes to the distinguished Senator from Montana.

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

Mr. BURNS. Mr. President, I do not think there is anybody in this entire United States who understands this subject better than the Senator from Iowa, nor has been a better champion of that. I value his counsel, but I also rise today as a supporter of the amendment.

When the Senator speaks of balance, I think we have to put it in the context of a learning environment. I have heard from my schools in Montana that when that balance is upset, we have to take into consideration who else is in that environment to learn—it is a learning environment—and that takes that away.

Teachers in our schools are often threatened, even physically attacked by students, and these violent students often victimize other classmates as well and, in doing so, they also put themselves in jeopardy. Yet, in many cases these violent students cannot be removed from schools because of the provisions of this act, and also there are advocacy groups—God bless them and we have to have them—that just will not let it happen. I do not think it was the intention of this bill's authors to allow dangerous students to remain in the classroom. In fact, I know it was not. I know how thoroughly they crafted this legislation and how they feel about it. We have to take a look at the learning environment. Yet, because of this law, a small number of students can jeopardize the learning process and the safety of teachers and students.

This amendment allows school officials to take that student out of that environment and put him or her in an environment where it is safer not only for the school but also for the student him or herself. It has to be done. You just cannot willy-nilly take the student from the class.

This is a vast improvement of the current situation, and I strongly support returning the decision to remove dangerous students from the classroom back to the local level. Our children deserve the chance to learn and our teachers deserve the chance to teach in a safe environment.

Yes, we will reauthorize IDEA in the next Congress, but this amendment is a giant step in the correct direction until we do.

I thank my colleague from Washington, Senator GORTON, for introducing the amendment and I urge my colleagues to support it.

Mr. President, I yield back the remainder of my time.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I yield myself 3 minutes from the time allotted to the Senator from Vermont.

The PRESIDING OFFICER. The Senator has 26 minutes and 40 seconds.

The Senator is recognized for 3 minutes.

Mr. DURENBERGER. Mr. President, I rise today in opposition to the amendment by my friend from Washington, Senator GORTON, concerning disciplining disabled children, and to support the amendment offered by my colleague from Vermont, Senator JEFFORDS.

The amendment by my colleague, Senator GORTON, is well intentioned. I

have known him as long as he has been here on his two trips to this place and I know a man of both experience and conviction. But from my own experience, and particularly my experience with the bill which is entitled the Individuals With Disabilities Education Act, and some of the difficulties that my colleague from Iowa has already spoken to, that we have dealt with in terms of issues of due process, I must characterize his amendment as well intentioned but as disregarding the due process procedures which are set forth in the Individuals With Disabilities Education Act. It would permit arbitrary action by school officials regarding the discipline of children with disabilities, and that is the very thing that IDEA is supposed to prevent.

IDEA establishes a process, a process that allows a school district to unilaterally exclude children with disabilities who exhibit dangerous and disruptive behavior from the classroom for up to 10 days. During that period of time, school officials can meet with families to determine how to deal with the student's situation. If a child is removed for more than 10 days, parents can seek a due process hearing and/or other appropriate remedies.

While this process, Mr. President, is probably not perfect—in fact, I am sure it is not—it does balance the rights and the interests of involved parties. We are, all of us, concerned about violence in our schools, but the Gorton amendment is not the best way to respond to this problem. It could inadvertently prove harmful to those disabled students whose behavior appears to be disruptive but does not in actuality pose a serious threat to other persons.

I believe we should focus on those students who truly pose a danger to other students and teachers. For that reason, I believe that the amendment by my colleague, Senator JEFFORDS, focuses on those students and reasonably addresses the problems of school violence. It builds on the Gun-Free Schools Act of 1994, which is already part of the Goals 2000 legislation. The act provides that local education agencies may not receive Federal education funds unless they have a policy requiring expulsion from school for at least a year for students who bring guns to school. The Jeffords amendment includes a sunset provision that becomes effective when the IDEA reauthorization is signed into law.

We need to find out, Mr. President, whether violent behavior by students with disabilities is a serious problem. It is my hope that all of us—lawmakers, educators, parents, and students—can sit down together next year during the IDEA reauthorization to find a way to resolve this issue. I know my colleague from Washington will be here. I know he will be involved at that time in that issue, and I think his contributions at that time will be much more valuable than the one he is suggesting now. So I urge my colleagues to oppose the Gorton amendment and support the Jeffords amendment regarding discipline of children with disabilities.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota yields the floor. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, just a brief remark while I await the arrival of my colleague and cosponsor of this amendment, Senator LIEBERMAN.

First, of course, this Senator is very much in agreement with the steps that are taken in the Jeffords amendment, an amendment which was only offered as a result of the pressure imposed by the amendment proposed by this Senator and which, ironically, amends IDEA just as precisely as does the Gorton amendment. And if the additional provisions of the Gorton amendment do not provide due process, neither do the provisions of the Jeffords amendment to exactly the same degree.

The answer, of course, is that the Jeffords amendment does provide due process, as does the one proposed by this Senator as well.

The difference between the two of us is, first, a trust in the ability and faithfulness of individual school authorities to make determinations about the learning environment of their schools.

That we should be discussing in this mostly empty body a national set of rules which we impose on every school in the land without the slightest knowledge of what takes place in those classrooms, overriding the judgments of individual teachers and principals and school board members, to this Senator answers the question all by itself. Of course, we should not be doing so. We can operate with the greatest of good will, as is clearly the case with the Senator from Iowa, and still make mistakes, and those mistakes are made every day by those who are violent in school, those who bring weapons to school, those who engage in life-threatening behavior in school, driving out of the schools very often sometimes teachers, sometimes other peaceful students.

That is the real world. And it is to provide some degree of balance that this amendment was introduced. Would it reverse the wonderful work of the superintendent in Iowa? Of course, it would not. It would have given that superintendent in Iowa a greater degree of flexibility in solving his own problems than he has under the present law.

Will this amendment mean that if there is a court challenge, a student can be kept out of school indefinitely? Of course not. There is a 90-day limit whether there is a court challenge or not.

Does this mean that these students will get no education? Of course not. In order to utilize the provisions in the Gorton amendment, the school district must provide an alternative education atmosphere even for the disruptive and violent disabled students.

Now, a few days ago we simply had in our proposed amendment authority for school districts to deal with life-threatening behavior. The very groups that are now protesting against our definition protested against that phrase because they felt it was far too broad, that it allowed too much authority for individual school districts, and so we came up with the narrowest definition of life-threatening behavior we could find, that in the criminal sentencing guidelines, which is deliberately narrow so that people cannot be sent to jail for this kind of activity unless it truly is life-threatening.

So now for having come up with the narrowest definition of life-threatening behavior, in order to attempt to oblige the other side, we are criticized for it. But essentially, when it gets right down to it, these opponents say that school districts should not have the authority to remove from a regular classroom to a special classroom students engaged in truly life-threatening activities for a period of 90 days without going to a Federal court to do so.

That is really what the difference is for. If you do not trust your school authority to be able to determine a life-threatening behavior on the part of students to themselves or most often to the other students, and get those students out of the classroom for 90 days, then you do not trust your school administrators or teachers to do anything. They should not be teaching or administering schools.

A vote against my amendment says that we cannot trust anyone in the United States except ourselves, a Federal bureaucracy, and the U.S. district court judges to suspend a student from school for more than 10 days for life-threatening behavior.

Mr. President, I just do not believe that of our school authority. The people who are on the front line want this kind of authority. They deserve more authority than this amendment gives them. We may debate more authority at some time next year. But they certainly deserve this now.

One final comment on the Supreme Court decision, Honig versus Doe. Of course, we are changing the result of Honig versus Doe. It is not a constitutional decision. It is a decision interpreting the Individuals With Disabilities Education Act, interpreting it quite correctly, interpreting it very narrowly because that is what Congress meant according to the Supreme Court. But as in other Supreme Court decisions on statutory interpretation, if we change the statute, the Supreme Court will change its decision. It was

not saying it thought it was a good idea. It is saying this is what Congress passed, we suggest that Congress change that law, and allow school district authority a reasonable degree of discretion in bringing peace and order to their classrooms.

I note the presence on the floor of my principal cosponsor, the Senator from Connecticut. I will yield to him such of my remaining time as he may need.

Mr. BENNETT. Mr. President, before we hear from the Senator from Connecticut, will the Senator from Washington yield for a question?

Mr. GORTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 18 minutes and 50 seconds.

Mr. GORTON. Yes. I yield.

Mr. BENNETT. Mr. President, I would ask the Senator from Washington from his legal background if the circumstance currently applying to those students under the Individuals With Disabilities Education Act constitutes a different class under the criminal statute for people under that act than ordinary students who are not under that act?

Mr. GORTON. No. This is not a criminal statute, I say to my friend from Utah. It establishes two very distinct classes of students: The nondisabled student who is subject to the full discipline of the school, and the disabled student over whose discipline the school district has very, very narrow authority. As this Senator said earlier, we are now getting the claim that the very fact of violent activity or bringing the gun to school is evidence of disability so that the student cannot be disciplined.

Mr. BENNETT. The Senator in his explanation has given me the understanding that I was seeking which is that in effect two different classes of students have been created, perhaps not under a criminal act. But in administrative fact you have created a circumstance where disciplinary actions for one class are not appropriate for another class.

Mr. GORTON. Are not legal for another class.

Mr. BENNETT. Not legal for another class, and it seems to the Senator from Utah that this creation of two separate classes is very detrimental to any kind of orderly control of a student circumstance.

I thank the Senator for his clarification.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN].

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. I thank the Chair.

I ask unanimous consent that Charles Rothwell, who is a fellow in my office, be allowed floor privileges for the duration of the debate on the School Act.

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

Mr. JEFFORDS. Mr. President, whose time is the Senator speaking on?

Mr. GORTON. Mine.

Mr. LIEBERMAN. It is my understanding that I was speaking on the time under the control of the Senator from Washington.

Mr. President, I am a cosponsor of this amendment with the Senator from Washington. I am a cosponsor because I have received mail and calls from principals and teachers in Connecticut complaining about the current state of the law.

Mr. President, let me just step back and put this in context. If you ask the American people today whether they think this country is headed in the wrong direction or the right direction, almost 70 percent say the wrong direction. This has puzzled social commentators and pollsters because the economy is in recovery and the economy is supposed to determine so much of the public's attitude.

But in my opinion, the major reason the public sees America going in the wrong direction is that they see a loss of values in our country, a loss of standards, and a loss of discipline. There is a sense that too much of our country is out of control, and that we can no longer take for granted some of the basic assumptions that we as Americans used to make about what it meant to live in this great and civilized society.

One of the basic assumptions that I grew up with, that sadly is no longer true in so many cases, is that a parent can send a child to school and not worry about the safety of the child on the way to school or in school. The facts here are startling. My colleagues indicated them earlier.

Let me mention a few. A study by the Centers for Disease Control and Prevention through their epidemiologic surveillance systems tell us that in 1990, 20 percent of all students reported carrying a weapon to school at least once in the last preceding 30 days. That increased to 26 percent in 1991. In 1990, 31 percent of all male high school students carried a weapon to school during the preceding 30 days, and that increased to 40 percent in 1991.

Mr. President, we have heard and read and seen of too many cases of violence committed against students in the schools, and too many cases of violence committed against teachers.

The other thing is I must be getting old, although I do not think so. But you know, we took for granted that when you went to school you treated the teacher with respect. As a matter of fact, there was some fear of the teacher and the principal. That was not so long ago. Today, as I talked to teachers, I find—not all, obviously—but all too many telling me that it is impossible in the first instance to maintain a basic level of order in the classroom so that they can even have a chance to teach the students what parents send their schools to learn. Beyond that, the guns in the classroom, violence, and acts of aggression committed against teachers are unthinkable in our country generally.

So we have a problem of crime and safety in our schools. It is a problem that this Chamber has recognized, both in one of titles of the bill before us, and in fact in title V of this act, and in fact in the anticrime bill which has just emerged from conference this morning.

So I think as we approach the amendment offered by the Senator from Washington, which I am cosponsoring, we have to acknowledge that there is a problem. Let us go to what he and I are trying to do, which is to create, not even a level playing field, but a playing field that at least makes it somewhat more likely that teachers and school administrators will be able to maintain order in the schoolroom, to protect their safety and the safety of other students, let alone to create the basic preconditions in which teaching and learning may occur.

I heard my colleague and friend from Iowa speaking before. He has been a great leader in the effort to obtain equal rights and opportunities and protections for those who are disabled in our society, and I respect him greatly for that. It just seems to me that the provisions of the IDEA, the Individuals With Disabilities Education Act, passed in 1975—almost 20 years ago—have been used in a way that does not recognize the reality that I have just described in too many classrooms and schools in America today and, in that sense, the noble purposes of that act are being misused.

Mr. President, let me read you part of a letter I received from a teacher in Connecticut, who describes the IDEA as, "The law that was passed by Congress was indeed a good and needed law, but it has been made into a dangerous and ineffective law." He tells the story about students who have gone through a pupil planning and placement team, the PPT, process, and are then labeled "socially and emotionally maladjusted", SEM students. Students are usually brought before one of these PPT processes because they act out in one form or another. That is, they break the rules of the school in the classroom repeatedly. They are diagnosed as SEM and are given special help by a sociologist or school psychologist, which is all appropriate, and they may be put in special classes. This teacher says, "So far so good. The problem develops when they continue to break the rules. A different set of standards are now applied," just as the Senator from Utah has suggested. "Punishment for the same infraction

for a special education student and a mainstream student differ, with special education students escaping with much less of a punishment."

Here is a basic problem—and, again, I am reading from this teacher from East Hartford, CT: "The expectations of behavior of a special education student is lower. The rules are changed, the punishments differ. How do we ever expect this student to become socially and emotionally adjusted to the norms and rules of society when they are not required to?" the teacher asks. He says, "I am not talking about matters of style; I am referring to dangerous activities which threaten the safety of the entire school population. In East Hartford," this teacher goes on, "students who carry knives to school are expelled for 180 days. That is permitted by State law. However, a special education student"—that is, one who has been adjudged so under the socially and emotionally maladjusted category, or other categories—"would only be given a maximum 10-day suspension, without extraordinary and cumbersome and expensive measures by the school system." He goes on to say, "We are sending the wrong message to our kids, and they know it." He says, "As a teacher, I know that these students think, they can't touch me. They act all over the school as if they are immune to the rules and norms of school and classroom behavior. Indeed, why shouldn't they? They are immune."

I do not present this as the final word on the subject. I present it as the cry from the heart of a teacher trying to be a teacher, who feels that this well-intended law is now being misused to the detriment of the safety of the students and teachers and administrators in the school system, let alone the ability to teach.

Mr. President, what the Senator from Washington has done is just to give—again, in fact, obviously the IDEA law dictates to the local school system. We are trying to free the local school system from that Federal control and let them discipline students a little more like they would without any Federal control, to hopefully reestablish some sense of order and respect for teachers and school administrators. In fact, we do not create a totally level playing field. In the case that the teacher from Connecticut cited, a student with a knife is expelled for 180 days, but that is not so for a student covered by the IDEA program. Under this amendment, that student, for 90 days, is put into a special educational setting, and the process goes from there.

Mr. President, the bone of contention here—because I know the Senator from Vermont and others agree there should be an expulsion when a gun or weapon is carried to school—is this whole question of extending or removing the special protections when a student has committed a life-threatening act. This is a pretty tight definition of life-threatening act. I know some of those who oppose the amendment Senator GORTON and I have sponsored feel it would be misused and teachers and administrators will pick on students who are disruptive who should not be picked on. But that switches the traditional burden here in a way that does not make sense and, to me, is very disruptive. It suggests that we have to begin with a distrust of the educators and put the burden on them, as opposed to giving them the benefit of the doubt when dealing with disruptive students.

I believe from the bottom of my heart that the typical teacher and administrator is not going to misuse the disciplinary powers they have against a child who would come under these special protections, because they know the burden they face in court if they do. Let us talk about the definition of life-threatening behavior in this proposal. Defined as "an injury involving a substantial risk of death, loss, or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent, or an obvious disfigurement that is likely to be permanent." It is a tough definition, I understand. A student under the IDEA program could, I have heard stories like this from teachers in Connecticut; and any student could, but we are talking about the differing capacities to punish a student—could grab a teacher, push her up against the wall, call her names, and not come under the more level playing field of discipline that this amendment would create, because that is not life-threatening behavior.

I understand the tremendous work that the Senator from Iowa and others have done in this area, and I understand that the Individuals With Disabilities Education Act is up for reauthorization in the next Congress. But it seems to me that this is a matter of real urgency. I hear it from teachers and principals in Connecticut. I think we ought to act here to give them the authority they need, with the confidence that they will use it with good judgment, understanding that in this amendment there is a sunset provision that says that this amendment, if it passes, shall be effective until the date of enactment of the reauthorization of the Individuals With Disabilities Education Act. In other words, there is a sunset provision here. So it will receive full consideration, or reconsideration, by the committee and by this Chamber during the reauthorization process of the IDEA.

There is a crisis out there, and it is a crisis of fundamental values, and I think it calls for immediate action.

Mr. HARKIN. Will the Senator yield?

Mr. LIEBERMAN. I yield to my friend from Iowa.

Mr. HARKIN. Mr. President, I thank my friend from Connecticut for yielding. I know he has the interest of the kids at heart. I know he is a well-meaning individual, and I know that the Senator from Connecticut would not in any way want to again kick down kids with disabilities any more than they have been in our society.

I know we have problems of violence in our schools. I know we hear from teachers. I hear from them, too. But we also hear from parents with children with disabilities who are having all kinds of problems getting schools to adhere to the law.

I mentioned before the Senator arrived on the floor of a principal at a school in Iowa. The year before he became superintendent they had 220 disabled kids expelled from school. He came and took over. The school instituted the individual education programs, got the teachers and the parents together. The next year zero kids were expelled who were disabled.

Again, a lot of administrators say it is easier to get rid of them and get them out of there.

Mr. LIEBERMAN. Mr. President, I thank my friend from Iowa. I appreciate what he is saying.

Of course, as I said before, I respect greatly his leadership and record in this area. I say to him that this particular definition of life-threatening behavior was chosen because it is a tough definition; that is, it is demanding. It creates a high standard so that it will not send a message out mistakably to teachers and school administrators that simple disruptive behavior can remove the special protections.

Disabled for this case is mostly talking about socially, emotionally maladjusted kids received under IDEA.

Again, it leaves out a range of behavior that most of us and most parents who send their kids to school find horrific. Again, I heard the stories from the teachers, where students are picked up and pressed against the wall and students threatened.

This happens from kids in the IDEA program and a lot of kids outside. We are just saying if that happens, or something worse, the teacher ought to have the ability to discipline.

We are not evening out the playing field totally. We are simply saying that a student exhibiting this life-threatening behavior has to be placed in an alternative education program for not more than 90 days. That student will still receive special treatment as compared to the students not in this special program.

Mr. President, I gather my time is up. I thank the Chair.

I ask support for the amendment and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized, 23 minutes remaining.

Mr. JEFFORDS. How much?

The PRESIDING OFFICER. Twenty-three minutes are remaining.

Mr. JEFFORDS. Mr. President, I would like to try to simplify this matter as much as I can.

We have had a lot of discussion, minutes and hours of discussion, but I think we should get down to the very simple aspects of what we are talking about here. I think my colleagues will see the merit of voting for the Jeffords amendment and against the Gorton amendment.

The question is, do you make any distinction for children with disabilities? Under the Gorton amendment, if there is a gun involved with bodily harm, or a threat of bodily harm, you are out. It is as simple as that. You are out for a year, whether it is related to the disability or unrelated to the disability. And that distinction is important. There is no difference. You are out for a year.

My amendment treats disabled children differently from nondisabled children. If the offense is related to the gun, but unrelated to the disability, you are out for a year, the same as the Gorton amendment. On the other hand, if it involves a gun and you are a disabled child and it is related to your disability, you are out for 90 days during which time they can determine as to whether or not you will be in an appropriate educational situation to the extent under IDEA. Rather than 10 days, it will be 90 days. During that period they can determine what additional remedies ought to be provided. That is if a gun is involved.

Let me explain that kind of a situation to you and give some meaning to it. Suppose a child is very mentally retarded, of minimum IQ, and his friends think it would be fun to play a trick. They have a gun. It is unloaded. There is not going to be any real threat or harm. They say, "Why don't we play a trick on little Jane? She is a pain, and she is really a miserable little child. So why don't you take this and, just to teach her, go up and point that gun at her and see what she does?"

Well, under the Gorton amendment that child is gone for a year out of school. Under our amendment the child would be under IDEA. The 90-day provision would apply rather than the 10-day provision so that it can be determined if there was actually a threat. What kind of action should we take during that period of time?

That takes care of the gun situation, and I would hope that my colleagues would see the merit in giving flexibility and not interfering with the provisions of IDEA for a child under those circumstances. I do not believe any of my colleagues would say under those particular situations, that child ought to be thrown out of school for a year.

Let us go to the case of a situation involving the threat of bodily harm and related to the disability. Under those circumstances, the person would be under IDEA's 10-day provision, but I would point out that under the Supreme Court decision that has dealt with these kind of problems, there is much that can be done to ensure that there is no bodily harm or threat of bodily harm created where they can take the actions necessary in order to prevent a recurrence of that particular incident. I will read to you a summary of the Supreme Court decision in Honig versus Doe, 1988:

> The Supreme Court dealt with the issue in Honig v. Doe, where it held that the statutory provision was clear in its requirement that the child "shall remain" in the current educational placement pending the completion of due process procedures. However, the Court found that Congress did not leave school administrators powerless to deal with such violent students since the following procedures were allowed: The use of temporary suspensions for 10 days, interim placements where parents and the school are able to agree, and the authority for school officials to file a suit for appropriate injunctive relief where an agreement cannot be reached. The Supreme Court found that IDEA balanced the rights of the child with a disability to remain in school by denying a school the unilateral power to expel such children with the rights of the school to maintain a safe learning environment. However, although these procedures allow for control of violent children with disabilities, it has been argued that they are cumbersome, hindering the ability of school officials to maintain a disciplined environment conducive to learning.

However, there is a different issue with respect to the rights of others as to continuing their education, but it is clear that under the Jeffords amendment, and not under the Gorton amendment, disabled children will be not disrupted unless it is in the situations which I described, that is if it is related to the gun. However, there is a change. There are 90 days to evaluate and take these things into consideration rather than the 10 days. However, if it is related to a disability and related to bodily harm or threat, you are under IDEA, with all of the protections which I mentioned that the Supreme Court of the United States had found available.

So I want to say this. We have had a lot of discussion on this issue. There is a lot over emotion connected with it. But there is nothing that will make our disability community more anxious, and more concerned, than to know that these poor unfortunate children with disabilities will be arbitrarily, without hearing, and without any attempt to protect themselves, be thrown out of school under the Gorton amendment.

So I would hope you will keep in mind—I suppose you can vote for both amendments if you want to, and under the procedure you can. But if you have compassion and understanding for people who have children with disabilities who would be concerned and worried that their child may be placed in a position like I mentioned earlier, through no fault of their own, but because of an impairment in their thinking or some other problem, reject the Gorton amendment which will throw them arbitrarily out of school for a year.

So I hope, after looking at this, that my colleagues realize that it has nothing to do with the situation with a gun, and unrelated to the disability. Under those circumstances, the Gorton amendment and the Jeffords amendment are the same.

On the other hand, in those kinds of circumstances where a disability of the child is involved, should they not be given some special consideration?

That is all we are asking in the Jeffords amendment. If you are compassionate, and believe that children with disabilities need a little extra care, a little extra feeling, a little extra attention to the problem, then you ought to vote for the Jeffords amendment to ensure that they get the protection that is presently guaranteed them under the law.

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

The PRESIDING OFFICER. The Senator from Vermont has 14 minutes remaining.

Mr. HARKIN. How much time does the other side have remaining?

The PRESIDING OFFICER. The time has expired on the other side.

Mr. JEFFORDS. I yield such time as the Senator would desire.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, it is impossible to understand the detrimental effect of the Gorton amendment on children with disabilities without having a better understanding of the congressional intent in enacting IDEA and the specific components of the legal framework.

In 1975, when Congress passed the Individuals With Disabilities Education Act [IDEA] more than one-half of the Nation's children with disabilities were not receiving appropriate educational services and one out of eight of these children was excluded from the public school system altogether. According to a study conducted by the U.S. Department of Education, 82 percent of emotionally disturbed children were unserved in 1974–75.

The history of the act makes it clear that Congress was deeply concerned that school officials were using disciplinary procedures to exclude and deny appropriate education to children with disabilities. Congress determined that the best way to assure that its mandate that every child with a disability receive a free appropriate public education was carried out was to establish procedural protections for parents to guard against unilateral school district action.

The specific provisions of the act require the school districts to provide a free appropriate public education for each child with a disability, regardless

of the nature or severity of the child's disability in conformity with the child's individualized education program [IEP]. The IEP is a program "specially designed to meet the unique needs" of the child with a disability.

Placement decisions must then be made by individuals knowledgeable about the child and the meaning of the evaluation data.

In short, the whole thrust of the IDEA is to make the placement fit the unique needs of the child and to do so through meaningful parent participation in partnership with educators.

Under IDEA parents are afforded a number of procedural protections when disagreements with school officials arise. In the words of the U.S. Supreme Court in Honig versus Doe these protections are "designed to ensure parental participation in decisions concerning the education of their disabled children and to provide administrative and judicial review of any decisions with which those parents disagree."

Specifically, under the IDEA a parent can challenge a decision by a school official and request a due process hearing before an independent hearing examiner. The parents also have a right to appeal this decision to the courts.

Pending the resolution of the appeals, the child is entitled to stay-put in his or her then current educational placement unless the public agency and the parents of the child agree otherwise.

It is the stay-put provision that Senator GORTON is attempting to gut through his amendment. This is the provision that several school officials tried to gut several years ago in the Honig versus Doe case.

The issue in Honig versus Doe, concerned the interpretation of the stay-put provision. More specifically, the issue in the case boiled down to whether there is a dangerous exception to the stay-put provision

Senators CHAFEE, JEFFORDS, KENNEDY, along with myself and other Members of Congress, in a friend of the court brief, urged the Court to conclude that there was no such exception. As the brief pointed out, "The legislative history overwhelmingly illustrates Congress' desire to prohibit unilateral school actions."

Consistent with the urging of the Congressional brief, the Court concluded that Congress

> * * * very much meant to strip schools of the unilateral authority they had traditionally employed to exclude disabled students from school . . . and directed that in the future the removal of students with disabilities could be accomplished only with the permission of the parents or, as a last resort, the courts.

The Court also concluded that Congress took these actions because of findings that school officials used disciplinary measures to exclude children from the classroom.

Senator GORTON would lead you to believe that school official's hands are tied by IDEA; that they have no recourse against dangerous children.

Mr. President, this is not true. Period. Let me quote from the Supreme Court decision: the stay put provision "does not leave educators hamstrung."

> The Department of Education has observed that, 'while the child's placement may not be changed [during any complaint proceeding], this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.' Comment following 34 CFR 300.513 (1987). Such procedures may include the use of study carrels, time-outs, detention, or the restriction of privileges. More drastically, where a student poses an immediate threat to the safety of others, officials may temporarily suspend him or her for up to 10 school days. This authority, which respondent in no way disputes, not only ensures that school administrators can protect the safety of others by promptly removing the most dangerous of students, it also provides a "cooling down" period during which officials can initiate IEP review and seek to persuade the child's parents to agree to an interim placement. And in those cases in which the parents of a truly dangerous child adamantly refuse to permit any change in placement, the 10-day respite gives school officials an opportunity to invoke the aid of the courts under 1415(e)(2), which empowers courts to grant any appropriate relief.

As I explained previously in my remarks, Mike McTaggart, principal at West Middle School in Sioux City, IA put it this way, "I have no problems with the special education guidelines. The Court decisions make sense to me." We heard from several administrators from the State of Washington. One told us that in 10 years he never had to go to court for an injunction. The threat alone was sufficient with even the most recalcitrant parents. He went on to say that "the law does not put us in an unreasonable situation but does provide an important protection for students with disabilities."

The U.S. Department of Education has explained the current policy regarding disciplining children with disabilities in letters responding to individual inquiries. Unfortunately, these interpretations are not widely disseminated and therefore many educators around the country are totally unaware of the options they actually have.

Current policy regarding the disciplining of children with disabilities is consistent with Honig versus Doe case.

In brief the policy is as follows:

First, a school district can unilaterally exclude children with disabilities from the classroom for dangerous or disruptive behavior, no question asked, for up to 10 days. During this period, the school district can use normal disciplinary procedures and meet with the family to determine what alternative strategies, including alternative placements, might be more appropriate.

Second, if the removal is for more than 10 days, it is considered a change of placement.

Third, if parent and school officials agree on the need to change the placement or the child's IEP, the process stops here and the modifications are implemented.

Fourth, a parent that disagrees with the school district's proposed actions may file a complaint, seek a due process hearing, and insist that the child "stay put" in his or her current placement pending the resolution of the appeals.

Fifth, at all times, school officials can use "normal" disciplinary procedures such as study carrels, timeouts, or other restrictions if it is determined that the child's behavior was not related to his or her disability. If the child's behavior is related to the disability, these procedures can be used if they are consistent with his or her IEP.

Sixth, if the school district believes that it would endanger other students to return the child to his or her current placement, the school district can go to court and seek an order permitting a change in placement.

In sum, the legal framework of IDEA established by Congress with its focus on providing meaningful parent participation through the reliance on due process protections was enacted to put a stop to the shameful history of exclusion, segregation, inadequate education, and expulsion of children with disabilities.

The Gorton amendment punches a gaping hole in this legal framework.

The current legal framework carefully balances the rights of parents and school officials in order to bring about agreement between the parties. Parent/educator partnership is the linchpin of the law. The law encourages communication and dialogue, particularly in the development of the IEP. However, people don't always agree. When potential disagreements surface additional tools are included to nudge the parents and educators to keep talking. Parents can assert that their child must stay put pending appeals. The school district can assert its authority to override this right and obtain a court order to remove the child.

Thus, each party has a tool at their disposal which they can use or threaten to use. In an overwhelming majority of cases, the availability of these tools forces both parties to come to an agreement.

This amendment destroys that balance by taking away the parents' tool and allows the school district to make unilateral unchecked decisions. My colleague from the State of Washington will tell you that his amendment is very narrow because it only deals with life-threatening behavior. This amendment is not narrow. Under this amendment all a school official has to do is assert that any behavior is life-threatening and the school official can unilaterally change a disabled child's placement. Thus, the stay-put provision is effectively repealed by this amendment.

By allowing unilateral placements, there is a strong likelihood that in far too many school districts around this country we will return to the bad old days of exclusion, isolation, segregation, and the denial of appropriate services for children with disabilities.

What an irony that this should occur the week disabled people around the country are celebrating their independence day, for on July 26, 1990, President Bush signed into law the ADA.

In sum, the Gorton amendment, by effectively repealing the stay put provision upsets the careful balance between the rights of parents and school officials.

The Gorton amendment is also bad policy. It will result in an increase not a decrease in violence in the schools. Let me explain.

The fundamental point made in the Chafee-Jeffords-Harkin friend of the court brief in the Honig versus Doe case was that we do not have to choose between school chaos and denying appropriate education to children with disabilities to maintain decorum in the schools. The brief stated:

> Congress believed that the system could be modified in a manner that would protect the interests of all students and school personnel by requiring the development of appropriate programs, providing supportive or related services, training of personnel, and tailoring educational programs to the unique needs of the individual child with a disability.

The brief went on to explain that allowing a dangerousness exception to the stay-put provision—as proposed by the Gorton amendment—would:

> * * * establish extremely bad public and educational policy. School districts would have no incentive to actually develop an appropriate program to address the needs of a disruptive student pending due process procedures * * * Compliance with the law encourages utilization of state of the art educational strategies,* * *.
>
> Suspension for behavior related to a child's disability puts the blame on the disabled child instead of on the inadequacies of the system. This is exactly what Congress sought to avoid in enacting IDEA.

A child with a disability whose needs are not being met or properly addressed may suffer from cumulative frustration and confusion and may, as a result, present behavior problems.

Under the current law, the parent could assert that the child's disruptive behavior is a manifestation of the failure of the school system to provide an appropriate education and insist that the appropriate services be provided.

Under the Gorton amendment, the school system could remove the child by alleging that the behavior is life-threatening even when the disruptive behavior is the direct result of the system's failure to provide necessary services. The school system could then isolate the child; provide few, if any, services; or place the child in a restrictive setting where he learns even more aggressive and violent behavior.

More violence, not less, will be the outcome. This outcome is intolerable. In the words of the Chafee-Jeffords-Harkin brief:

> Punishing a disruptive child by exclusion for weeks, months, and even years during the pendency of administrative and court proceedings when the school district could provide modifications to the child's program is to excuse system failure by projecting blame onto the student.

This is not some hypothetical possibility. It is real and it is happening today to children with disabilities in school systems that act in violation of existing law.

Let me give you an example. Titus is a disabled student. For 6 years he had received special education services. His grades were average. He was not a behavior problem. When he entered seventh grade and changed schools, the school system stopped providing special education because of an administrative error and without notifying his parents.

During this year he was failing all his courses. Without the special education services, his learning disability prevented him from comprehending what the teachers were talking about. One day Titus was involved in a fight at school with another student. The fight occurred when another student made fun of the fact that he was failing his courses.

Titus was illegally expelled from school without following any of the IDEA procedural protections for 7 months. By the time his mother sought legal assistance, he was suffering from severe depression and became increasingly suicidal. By the time he returned to school—a year after the illegal explulsion—he needed treatment for manic depression. Titus soon engaged in criminal activity and was convicted of a felony.

In prison, his teachers made the following statement to his lawyers: "Titus is always very cooperative. Why were his emotional and learning difficulties so poorly addressed in school.

Titus' antisocial behaviors are the direct result of the failure of the school system to provide him with a free appropriate public education to which he was entitled and the failure of the system to comply with the due process protections in the law.

How many more Titus' are we going to have under the Gorton amendment.

The Gorton amendment overturn a 7 to 2 Supreme Court decision interpreting the Individuals With Disabilities Education Act [IDEA] as a floor amendment to S. 1513, a bill reauthorizing the ESEA without hearings, discussion, and attempts to reach consensus among the concerned parties.

The amendment has been drafted without any meaningful understanding of the nature and magnitude of the problem of violence by children with disabilities. We simply do not have any data. In fact, what is known suggests that disabled children are most frequently the brunt of violence not the perpetrators.

This amendment will exacerbate tensions between parents and schools officials in a time when we should be doing everything in our power to facilitate partnerships and trust. This amendment is creating outrage, anger, fear, and bitterness in the souls of parents of children with disabilities across this country. Every day they live with the challenges of bringing up a child with a disability at home.

It is unacceptable to blame a child who acts out for what, in many instances, may be a lack of appropriate education and related services, the lack of appropriate behavior management techniques, and the lack of teacher training.

Next year we are going to reauthorize the Individuals With Disabilities Education Act. Current law may not be perfect and, in fact, we may need to make certain modifications. As chairman of the Subcommittee on Disability Policy I am committed to conducting a thorough review of the issue. Let's not act in a hasty fashion; let's do it right as part of the reauthorization of IDEA. Let's not fix one problem and create new ones because we did not take the time to fix it right.

Finally, this amendment should be opposed because it is divisive in an area where bipartisanship and consensus building is the norm. I have been the chairman of the Subcommittee on Disability Policy since the beginning of the 100th Congress.

When I took over the chairmanship from our former colleague, Lowell Weicker, he implored me to carry on the tradition of this subcommittee of seeking bipartisan consensus on matters before the subcommittee. I am pleased to report that over the past 7 years we have succeeded on reaching a bipartisan consensus on every provision of every bill. I believe that we succeed because we listen to and work with all concerned parties, including representatives of school boards, school administrators, teachers, parents, and the disability community.

I pledge to my colleagues that we will make the same effort to address the issue of disciplining children with disabilities as part of the reauthorization of IDEA, including a thorough review of the stay-put provision and, if considered necessary, amend this provision of the IDEA.

So I close by saying please, let us take care of the weapons. We can take care of the weapons in the Jeffords amendment. But let us not kick children with disabilities down one more time. These children are only asking for a fair chance. They are only asking that the schools follow the laws that we have put down, here in Congress, to provide them with a free appropriate public education. It has been 4 years since the adoption of the Americans

With Disabilities Act, Madam President. Let us not turn the clock back. Let us turn down the Gorton amendment and let us adopt the Jeffords amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, is there a minute remaining?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute.

Mr. JEFFORDS. I yield.

Mr. KENNEDY. Madam President, I thank both Senator JEFFORDS and Senator HARKIN for an excellent presentation. I hope the Senate will resist the Gorton amendment. We have taken the Dorgan amendment on guns. We have taken the Gorton amendment on violent students on record—we have taken a Gorton amendment about parental involvement and disciplinary actions, and we are overriding the IDEA with regard to guns. We have made every effort to try to respond to the problems of violence. I think the excellent presentation that has been made by the Senators from Vermont and Iowa should be the position that the Senate accepts on this amendment.

I hope the Senate will reject the Gorton amendment and support the Jeffords-Harkin amendment.

AMENDMENT NO. 2425, AS MODIFIED

Mr. JEFFORDS. Madam President, I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, the Senator may proceed.

Mr. JEFFORDS. The copy is at the desk.

I will read it. On page 3 of my amendment:

Strike lines 3–11 and insert in lieu thereof the following:

(b) Nothing in the Individuals With Disabilities Education Act shall supersede the provisions of the Gun-Free Schools Act (section1501 of the Elementary and Secondary Education Act) when the child's behavior is unrelated to his or her disability.

The PRESIDING OFFICER. The amendment is so modified.

The modification to amendment (No. 2425) is as follows:

On page 3 strike lines 3–11 and insert in lieu thereof the following:

(b) Nothing in the Individuals With Disabilities Education Act shall supersede the provisions of the Gun-Free Schools Act (section 1501 of the Elementary and Secondary Education Act) when the child's behavior is unrelated to his or her disability.

VOTE ON AMENDMENT NO. 2418

The PRESIDING OFFICER. All time having expired, the question occurs on amendment 2418 offered by the Senator from Washington, Senator GORTON.

The yeas and nays have been ordered.

The clerk will call the roll on the Gorton amendment.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 60, nays 40, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—60

Baucus	Dodd	Mack
Bennett	Dole	McCain
Biden	Domenici	McConnell
Bond	Dorgan	Murkowski
Boren	Faircloth	Nickles
Breaux	Feinstein	Nunn
Brown	Ford	Pressler
Bryan	Gorton	Pryor
Bumpers	Gramm	Reid
Burns	Grassley	Robb
Byrd	Gregg	Roth
Campbell	Hatch	Sasser
Coats	Heflin	Shelby
Cochran	Helms	Simpson
Cohen	Hutchison	Smith
Conrad	Johnston	Specter
Coverdell	Kempthorne	Stevens
Craig	Lieberman	Thurmond
D'Amato	Lott	Wallop
Danforth	Lugar	Warner

NAYS—40

Akaka	Hollings	Mitchell
Bingaman	Inouye	Moseley-Braun
Boxer	Jeffords	Moynihan
Bradley	Kassebaum	Murray
Chafee	Kennedy	Packwood
Daschle	Kerrey	Pell
DeConcini	Kerry	Riegle
Durenberger	Kohl	Rockefeller
Exon	Lautenberg	Sarbanes
Feingold	Leahy	Simon
Glenn	Levin	Wellstone
Graham	Mathews	Wofford
Harkin	Metzenbaum	
Hatfield	Mikulski	

So, the amendment (No. 2418) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2425, AS MODIFIED

Mr. HARKIN. Madam President, I would like to enter into a colloquy with my colleague, Mr. JEFFORDS. It is my understanding that the provisions of the Senator's amendment are fully consistent with guidance provided by the U.S. Department of Education in a recent opinion on the application of the Gun-Free Schools Act to students covered under the Individuals with Disabilities Act?

Mr. JEFFORDS. The Senator is correct in his understanding.

Mr. HARKIN. I ask unanimous consent to have printed in the RECORD the U.S. Department of Education interpretation.

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

GUIDANCE CONCERNING STATE AND LOCAL RESPONSIBILITIES UNDER THE GUN-FREE SCHOOLS ACT OF 1994

The Gun-Free Schools Act [Act] states that, as a condition of receiving any assistance under the Elementary and Secondary Education Act, local educational agencies [LEAs] must have in effect a policy requiring the expulsion from school for a period of not less than one year of any student who brings a firearm to school, except that the LEA's chief administering officer may modify the expulsion requirement on a case-by-case basis. Under this provision, an LEA would be permitted to discipline students with disabilities in accordance with the requirements of Part B of the Individuals with Disabilities Education Act [IDEA] and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance.

Question. When does the Gun-Free Schools Act take effect?

Answer. The requirements of the Gun-Free Schools Act took effect on March 31, 1994.

Question. What provisions must the revised policy contain?

Answer. The policy must require the expulsion from school for a period of not less than one year of any student who is determined to have brought a weapon to a school under the jurisdiction of the LEA. In order to comply with existing requirements of IDEA and Section 504 regarding discipline of students with disabilities, an LEA must include in its policy the exception that permits its chief administering officer to modify the expulsion requirement on a case-by-case basis.

Question. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

Answer. Compliance with the Gun-Free Schools Act may be achieved consistently with the requirements that apply to students with disabilities as long as discipline of such students is determined on a case-by-case basis in accordance with the disability laws. Students with disabilities may be expelled for behavior unrelated to their disabilities as long as the procedural safeguards required by IDEA and Section 504 are followed. IDEA also requires that educational services must continue, although they may be in another setting, for students with disabilities who are properly expelled.

If it is determined that the student's action in bringing a firearm to school is related to the student's disability, IDEA and Section 504 do not permit the LEA to expel the student. However, under IDEA and Section 504, a student with a disability may be suspended for up to ten days. LEAs may also seek a court order to remove a student who is considered to be dangerous. In addition, the child's may be changed in accordance with procedures under those laws to address concerns for the safety of that child and other children.

Question. Is an LEA required to expel any student who brings a firearm to school, without exception?

Answer. No. The Gun-Free Schools Act provides that the LEA's policy may allow its chief administering officer to modify the expulsion requirement for a student on a case-by-case basis. An LEA may comply with the requirements of IDEA and Section 504 under the provision for case-by-case modification.

Mr. HARKIN. I am also concerned about how the amendment is intended to apply to a child with a disability who does not understand the consequences of his or her behavior and for whom the current placement is the best possible place to teach the child about the danger of weapons and to deter the child for ever bringing firearms to school. If this child is removed from the current placement, the damage to the child could be lifelong without in any way increasing the safety of the other children. I don't want a school district to feel compelled to remove a disabled child who will not pose a future threat of weapons possession if properly monitored and educated in his current placement.

Mr. JEFFORDS. I agree. This amendment will give the local school district the ability to make case-by-case determinations based on the facts and circumstances of a particular case, consistent with the underlying purposes of IDEA. We do not want to punish children because of their disabilities if the public policy of increased safety is not furthered. This amendment allows appropriate action where the safety of other children is at stake.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2425, as modified, and offered by the Senator from Vermont [Mr. JEFFORDS]. The yeas and nays have been ordered. The clerk will now call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—100

Akaka	Feingold	McConnell
Baucus	Feinstein	Metzenbaum
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boren	Gramm	Murkowski
Boxer	Grassley	Murray
Bradley	Gregg	Nickles
Breaux	Harkin	Nunn
Brown	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Durenberger	Mack	Wofford
Exon	Mathews	
Faircloth	McCain	

So the amendment (No. 2425), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

• Ms. MIKULSKI. Mr. President, I am pleased to offer my support for the reauthorization of the Elementary and Secondary Education Act. This legislation provides funding for all major Federal elementary and secondary programs. It is a good bill and an important one.

I especially like this reauthorization bill because, first, it improves the old chapter I program; second, it provides for more extensive teacher training; third, it also addresses school violence, and fourth, it contains gender equity provisions throughout.

First, Mr. President, I would like to commend the chairmen, Senator KENNEDY and Senator PELL, for their work on revamping the chapter I distribution formula, now title I, the largest federally funded education program for disadvantaged students in poor areas. I know it was not easy. It is a complicated formula and it is difficult to satisfy the needs of all States.

I know that in Maryland title I helps Maryland's disadvantaged students to get the education they need and deserve.

The Labor Committee's formula streamlines the title I Federal program into one formula and targets the money to more economically disadvantaged students. That is a step in the right direction.

Second, Mr. President, this bill expands the Eisenhower Teacher Training Program to include training in other core subjects. Yet, this bill still recognizes and emphasizes the original purpose of the Eisenhower program, to train teachers in math and science. I support professional development for our teachers because they are the backbone of our educational system. They must be up to speed on all subjects, especially math and science.

By age 13, the math and science achievement of American students lags behind that of students in other countries. Yet, if we are going to keep pace with the rest of the world in developing new technology, or students—and our teachers—will need strong math and science skills.

I have worked hard in my VA-HUD Appropriations Subcommittee to see that math and science education programs are funded because I know the importance of training all students for the future.

Third, this legislation expands the Drug Free Schools and Communities Act to encourage school safety programs. Title V of this bill provides funds for violence prevention programs in our schools, such as early intervention programs, counseling, mentoring and before and after school programs.

Mr. President, this is an extremely important section of this legislation because we must do everything we can to make every school in America free from drugs and violence.

I have seen the way that crime has infiltrated our schools and our community. In January of last year, I held a town meeting with students at Canton Middle School in Baltimore.

These assertive 12, 13, and 14 year olds were mainly concerned with one issue—crime. Mr. President, 12 year olds should be concerned about getting their homework done, not about running from gunfire on the playground or on their way home from school.

We cannot tolerate any more of what is happening on our streets and in our schools. We need to say yes to kids who say no to drugs and yes to homework. We need to make investments in our youth before the trouble begins.

Finally, to help create an environment more conducive to learning, I am especially pleased that this bill incorporates a package of bills introduced by myself and my colleagues on gender equity.

I, and my colleague, Senator HARKIN, have included language in this legislation to make sure that teachers are sensitive to the needs of all students. I know teachers do the best job they can. We want to be sure, however, that no student is overlooked and that all students are treated equally in the classroom—girls and boys. So, in this legislation teachers will also have access to professional development programs on gender equality training.

I added language to this bill to build on the concept of making our schools safe. The language I added suggests that schools make the elimination of sexual harassment and abuse a part of its mission to create a healthy school environment for girls and boys.

Let me give you one example of why this language is important. Last April, for example, in Montgomery county, MD, the county public schools and Montgomery County Commission for Women sponsored a hearing on sexual harassment in education.

Forty brave witnesses, including students, parents, and teachers, presented disturbing testimony about harassment between staff members, between staff and students, and peer harassment—among students.

One young girl said that instead of recognizing harassment as a problem, girls are usually taught how to handle it.

Fortunately, Montgomery County made a commitment to examine this issue and has designed a policy for handling harassment and procedures for responding to complaints.

But, other places are not so lucky. Training and education is needed so that our schools are safe and healthy environments for learning. An abusive environment is no place for students to learn. My goal is to make every classroom and every school in the United States conducive to learning for all students.

To that end, Mr. President, I would like to make one final point. I am a strong supporter of an initiative called Character Counts. This is an initiative to bring back some of the community building spirit that this country has lost. It encourages building individual capacity among our young people so that they can be a productive part of a larger community. I am proud to cosponsor the amendment offered by my colleagues, Senator DOMENICI and Senator DODD.

To me character education means trustworthiness, fairness, justice and caring, civic virtue and citizenship; those aspects of continuity that will help us to not only cope with change, but to embrace change, and lead us into the 21st century.

We need to advocate for a society based on virtue and value and not a society where every aspect of our cultural communication reward and exploits violence and vulgarity.

That is not what the United States is about, and that is not what built the United States of America. What built the United States of America was virtue and value, not violence and vulgarity.

People have known this for years. It is the habits of the heart that de Tocqueville spoke about. It is all about neighbors caring for neighbors, personal responsibility, personal respect for yourself and respect for others. It is about social responsibility, the desire to be part of a neighborhood, a community, and to truly be a citizen of the United States of America.

So I am happy to lend my voice and my efforts to this cause that I believe transcends party and geographic lines. I am happy to be a part of this coalition.

Finally, Mr. President, I have only mentioned a few of the good things in this bill. It improves teacher training, enhances school violence prevention programs, and increases the awareness of gender equity concerns. But, most importantly, it reauthorizes secondary education programs through 1999 intended to help the poorest students.

The education of our youth is an investment we cannot afford to overlook. It is what is best for our children and our future. I am pleased to support this legislation and I look forward to its passage.●

AMENDMENT NO. 2423

The PRESIDING OFFICER. The question now recurs on the Simon Amendment No. 2423.

The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that upon disposition of the Simon amendment Senator BUMPERS be recognized to offer his formula change amendment; that there be a time limitation of 2 hours for debate on that amendment, equally divided and controlled in the usual form, with no amendments in order, nor to any language which may be stricken; and that at 9 p.m. the Senate vote on or in relation to the Bumpers amendment.

Mr. BYRD. Madam President, reserving the right to object, and I hope I will not, I have two amendments which will be accepted, but I have a few things I want to say about them. If we are still going to be on the bill tomorrow, I will be happy to wait until tomorrow.

Mr. MITCHELL. Madam President, if I might inquire through the Chair of the Senator from West Virginia, the Senator says he has something to say about them. How long does the Senator intend to take on the two amendments which will be accepted, I understand?

Mr. KENNEDY. Yes.

Mr. MITCHELL. How long would the Senator like?

Mr. BYRD. I think what I would have to say might be between 20 and 30 minutes, even though the amendments are going to be accepted.

Mr. MITCHELL. Would it be agreeable to the Senator to have his amendments accepted and make his statements immediately after the vote on the Bumpers amendment this evening?

Mr. BYRD. No. I do not want to be contrary, I say to the distinguished majority leader, but nobody will be listening then, and they may not be listening now, but at least they will not be home.

Mr. MITCHELL. We are going to be in session after the Bumpers vote so there will be as many Senators listening then as now.

Mr. BYRD. Mr. President, I do not want to wait until 9 o'clock to put in my amendments.

Mr. MITCHELL. Of course, we have a large number of Senators we are trying to accommodate here, as I know the distinguished chairman is aware, having done it many times himself.

Mr. BYRD. Why do not we do this if it will be agreeable to all sides, including Mr. BUMPERS: Give me 20 minutes. If the majority leader could work that into his request, that following the acceptance of the amendment by Mr. SIMON that I have 20 minutes on two amendments.

Mr. MITCHELL. Madam President, I then modify my request so that following the disposition of the Simon amendment, Senator BYRD be recognized for 20 minutes to offer two amendments, which I am advised by all concerned will be accepted; that following the disposition of those amendments, which will then be approximately 7:15 Senator BUMPERS be recognized, and that the rest of the agreement remain as stated except that the vote on or in relation to the Bumpers amendment occur at 9:15 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. I thank our colleagues for their cooperation.

Mr. BUMPERS. May I ask what just happened?

Mr. MITCHELL. Senator BUMPERS will be recognized to offer an amendment at approximately 7:15; that we have 2 hours equally divided and have a vote on or in relation to Senator BUMPERS' amendment at 9:15 this evening.

Mr. BUMPERS. What about me between then?

Mr. MITCHELL. The Simon amendment will be accepted and Senator BYRD will offer two amendments which will be accepted.

Mr. BYRD. Madam President, if the distinguished majority leader will yield, I have a feeling of remorse.

The distinguished majority leader has bent over backward, and so has the manager and ranking manager, to accommodate me. I want to accommodate them.

I will offer my amendments immediately after the disposition of the Simon amendment. My amendments will be accepted. And I will do as the distinguished majority leader suggested. Sometime this evening I will make my eloquent remarks and just ask unanimous consent that they be inserted in the RECORD prior to the vote on my amendments.

Mr. MITCHELL. That is very thoughtful. But since we have reached this agreement, rather than reopening it, which would take more time, I suggest the Senator go ahead and, frankly, from the standpoint of several Senators who want to attend a function, a few more minutes might well be beneficial to them.

So if it is agreeable to Senators, we have the agreement, I think it is best that we now execute the agreement rather than spending time talking about the agreement.

Mr. BUMPERS. Should by some miracle of miracles these amendments be adopted and accepted prior to 7:15, would I be free to offer my amendment then?

Mr. MITCHELL. Yes, the Senator would be. The agreement does not specify the time. I estimated the time based upon what Senator BYRD indicated he would require.

And we are going to continue. We are hoping to get a finite list of amendments to this bill and continue thereafter in an effort to make further good progress on this bill.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2423, AS MODIFIED

Mr. SIMON. Madam President, I submit a revision of my amendment.

The PRESIDING OFFICER. The Senator does have a right to modify his amendment, and the amendment is so modified.

So the amendment (No. 2423) was modified, as follows:

Insert on p. 1030 and renumber accordingly:

"PART O—LONGER SCHOOL YEAR

"SEC. 13401. SHORT TITLE.

"This part may be cited as the 'Longer School Year Incentive Act of 1994'.

"SEC. 13402. FINDINGS.

"The Congress finds as follows:

"(1) A competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and training received by students in competitor countries.

"(2) Despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy.

"(3) For most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per

year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year.

"(4) In the final four years of schooling, students in schools in the United States spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so spent in Germany, the 3,280 hours so spent in France, and the 3,170 hours so spent in Japan.

"(5) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television.

"(6) More than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem.

"(7) Over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year.

"(8) Funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts.

"(9) Experiments with extended and multitrack school years have been associated with both increased learning and more efficient use of school facilities.

"SEC. 13403. PURPOSE.

"It is the purpose of this part to allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"SEC. 13404. PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to States or local educational agencies to enable such States or agencies to support public school improvement efforts that include the expansion of time devoted to core academic subjects and the extension of the school year to not less than 210 days.

"SEC. 13405. APPLICATION.

"Any State or local educational agency desiring assistance under this part shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

Authorization: For the purpose of carrying out this part there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the succeeding fiscal years.

Mr. SIMON. Madam President, that is the amendment that we discussed at some length earlier encouraging the lengthening of the school year by local school districts. There was a question about where the funding was coming from. That was the matter of controversy that has now been worked out.

I believe there is no opposition to this amendment now.

The PRESIDING OFFICER. Is there any further debate on the Simon amendment?

The Senator from West Virginia.

Mr. BYRD. May I inquire of the distinguished Senator from Illinois as to whether or not I am a cosponsor.

Mr. SIMON. Let me assure that Senator BYRD is a cosponsor, along with Senator PELL, Senator CHAFEE, and Senator KOHL.

Mr. BYRD. I thank the Senator.

Madam President, I am pleased to cosponsor the amendment offered by Senator SIMON to provide financial incentives to States or local education agencies to increase the amount of time that students spend in the classroom.

States and local school systems are experiencing some very tough financial times, and, of course, it costs money to extend the school year or the school day. However, it will cost us much more as a nation if we continue to shortchange both our students and our teachers by not encouraging them to increase the amount of time that they spend together in the classroom.

I have long been an outspoken advocate for the pursuit of excellence. I have long believed that learning is a lifelong process. Therefore, it has long been a mystery to me how we can expect our children to excel when increasingly they spend so little time on core academic subjects.

According to the report "Prisoners of Time" issued by the National Education Commission on Time and Learning, American students spend, on average 180 days in school. The traditional school day is about 5.6 hours of classroom time. Further, the report pointed out that while the school day was originally designed for the core subjects, in actual fact, today, only about 3 hours of each day is spent on core subjects. The remainder of the day is spent in other activities, such as drivers' training, homeroom, study halls, lunch, and pep rallies. In short, the Commission's report found that our educational system is hampered by the clock, and as such is not addressing the needs of the students, the teachers, the community, or the Nation.

We are in an age in which scientific, technological, and mathematical abilities are critical for maximum national economic progress and international competitiveness. This Nation must have engineers, mathematicians, and scientists to keep us on the cutting edge of emerging technologies. We must also have scholars who understand the workings of government and the lessons of history. Clearly, our schools are not doing the job that they must do if we are to run first in the global economic race. There are too many distractions in our schools. More time must be given to serious students who want to learn and to serious teachers determined to teach. The Japanese school year is 243 days long, and we can readily see the evidence of the benefits of that longer school year in the academic performance of Japanese students.

The German school year is 240 days long. Shouldn't we be getting a message here? Our kids go to school only 180 days and only about half of those days are spent in serious study.

That is roughly 60 days a year spent on core studies. No wonder our students are falling behind. We have been talking about the need to do something to improve the quality of education in our schools for some time, but talking has gotten us nowhere.

How can we expect teachers to teach and children to learn when the average amount of time in a school day allotted to serious study is just 3 short hours?

The minds of our young people are being wasted. American kids seem to be majoring in television, soap operas, hard rock, videos, and horror movies, rather than algebra, science, or history.

We must get back to basics. The basics of reading, writing, and arithmetic need to be skills that are mastered early. Without the basics, students cannot even begin to master the more difficult skills that will be required in order for them to be productive members of society and to have any hope of a successful life.

Educators and parents alike are finally starting to understand the urgent need to improve the quality of our education system. Quality cannot be achieved when only 3 hours per day are devoted to learning the basics. This amendment will provide assistance to States and local school systems which want to try to improve the quality of their education efforts by extending the school day or the school year. This is a good amendment, and I urge its adoption. Let us spend more time on learning in our public schools before the time runs out for our children and for the Nation.

The PRESIDING OFFICER. Is there further debate?

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, just for 1 minute. This idea makes a great deal of sense, and we want to work very closely with the Senator from Illinois and also the Senator from Rhode Island, [Mr. PELL] who has talked about this for many, many years.

Senator FEINGOLD, I think, had some questions about the earlier kind of amendment, and I expressed that to the Senator from Illinois.

I would hope that we will move ahead and accept this amendment. If for some reason those concerns have not been allayed, and I believe they have, but if they have not, then I will come back to the Senator from Illinois and ask for at least an opportunity for him to be heard and his concerns be addressed later during the night.

I thank the Senator.

Mr. JEFFORDS. Madam President, I would like to also say that I have no objection to the Senator's amendment,

on one condition that he will make me a cosponsor.

Mr. SIMON. Madam President, I ask unanimous consent that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Illinois [Ms. MOSELEY-BRAUN] also be added as cosponsors.

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

The Senator from Vermont and the junior Senator from Illinois are added as cosponsors.

Is there any further debate on this amendment?

Observing none, the question is on agreeing to the amendment.

The amendment (No. 2423), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. REID). Under the unanimous-consent agreement, the Chair now recognizes the Senator from West Virginia.

PIECES OF HUMAN CLAY

Mr. BYRD. I thank the Chair. Mr. President, I do not pretend to be a pedagogical expert, skilled educator, or a psychologist. However, I am a lifelong student, a man who loves the challenge of acquiring new knowledge, and I am a parent and grandparent, dedicated to bequeathing to the rising generation of Americans as much of our cultural, scientific, creative, and artistic heritage as one generation can pass on to another.

Further, I am frankly alarmed that, in this age of television, affluence, and mass culture, many of our youth appear to be less competent in absorbing their heritage than their counterparts in prior generations were, and that, worse, American public school children are chronically ranking far below their contemporaries in many European and Asian societies in their mastery of academic subject after subject.

Unless we call a halt to mediocrity in our school systems, unless we draw a decisive line in the educational sand now, and unless we demand concrete results and discernable improvement in the performance and achievement of our public educational systems, Mr. President, I fear for the future of our country, for the quality of life of the next generation of Americans, and, indeed, for the economic and political position of the United States in the fast approaching 21st century.

Throughout the history of America, millions of our forefathers and mothers rested secure in a faith that America was providentially destined. They believed, as the Romans did, that their country was providentially destined for success as a nation and as a society—that, like unto the Israelites of the Old Testament, our immigrant ancestors had left foreign shores to plant new seeds and harvest abundant crops in this Promised Land. Indeed, taking their cues from that Old Testament, many of our ancestors believed that America, like the Chosen People of the Old Testament, enjoyed a sacred Covenant with Providence that guaranteed America's ongoing triumph, no matter the odds against them.

Unfortunately, Mr. President, like the "cows of Bashan" mentioned in the Old Testament that took their ease in luxury and rested on their assumed privileged status, too many recent Americans appear to have forgotten that not only did our ancestors have faith in their destinies, but they also worked to guarantee the quality of those destinies for themselves and for their posterity.

And in too many of our schools, students whose progenitors sacrificed, struggled, and suffered to win the privilege of obtaining the opportunity of getting a formal education—too many of these students today resent having to learn to read, having to learn mathematics, having to study science, having to learn to write, having to study history, and even having to go to school.

Conversely, in country after country overseas, the future rivals of today's American school children hold their opportunities to be educated as a priceless heritage—indeed, the keys to their futures.

Frankly, Mr. President, I am frustrated and angry that we have poured so many billions upon billions of dollars over the past half century into our schools systems, only to reap apparently lower and lower returns on those investments.

I can remember the days, when I was in the House of Representatives, when there was great opposition to Federal aid to schools. It was a great issue in the country, a great issue in the Congress. But finally we decided we would march down that road. As I say, we have poured billions into education, and we are not seeing the results that were hoped for.

I do not pretend to know exactly all that is wrong with American public education.

If to do were as easy as to know what were good to do, chapels had been churches, and poor men's cottages princes' palaces. It is a good divine that follows his own instructions: I can easier teach twenty what were good to be done, than be one of the 20 to follow mine own teaching.

But I want to share some of my perceptions and to explain my reasons for hoping that in the educational proposals contained within the legislation that we are considering now, perhaps something at last might be achieved to guarantee that the rising generation of American school children might reap some of the educational dividends and results that will be necessary for the survival in the international competition that, I guarantee, they will be facing in the years 2010, 2025, 2040, and beyond.

I think this legislation has been greatly improved by some of the amendments that have been offered and carried here, among which are the amendments by Mr. SIMON, Mr. JEFFORDS, Mr. GORTON, and others.

But I guarantee that in the decades to come, our children will be facing international competition that will curl their hair if they are unprepared to meet that competition.

There are many events in the womb of time that will be delivered.

And so, our young people need to be prepared.

Some generations ago, schools—and I can remember starting school in a two-room schoolhouse. Some generations ago, before my time, schools were for the privileged—largely the sons and daughters of the nobility, the wealthy merchant classes, and the professionals, both here and in Western Europe.

Indeed, until relatively recently, reading, writing, science, and the arts were the domain of cultural, economic, and political elites.

But the Calvinist fathers of New England, and prescient elders in other communities across a growing America, wrestled with the complacent and the selfish—the penurious and the shortsighted—to open up educational opportunities for more and more American children, regardless of the material circumstances of their families or the ethnic distinctiveness of their backgrounds.

That was the impetus for public education in America—the desire to put all children on an equal footing as each boy and girl began his or her pilgrimage into maturity—for the good of the entire community and for the success of the whole country.

Thus, children whose grandparents might have tended pigs—whose grandparents might have tended pigs for counts and landgrafs in Bavaria, or harvested grain for wealthy land owning gentry in the north of England—neither with any hope of advancement in society—those children, your parents, your forefathers and mine, learned, and trained, and disciplined themselves to become doctors and lawyers, scientists, and bankers, and even Senators and Presidents in this new country.

Such achievements did not come without pains. But the men and women who exercised their privilege of going to school at public and community expense raised the United States of America to the pinnacle of world power, economic dominance, and material wealth.

But somewhere along the line—there is an old song, I used to play it on the

stringed instrument, "Somewhere Along the Line"—somewhere along the line, learning for the sake of learning seems to have lost its appeal to certain pedagogues.

Solon, who was one of those seven wise men of Greece, Solon the Lawgiver said, "I grow old in the pursuit of learning."

Was it the siren writings of Jean Jacques Rousseau, who championed the theory of human perfectability through schooling and coddling? Was it John Dewey and John Dewey's apparently overenthusiastic disciples who sought to create a new religion and to educate out of children any supposed propensities to such archaic notions as "sin" and "depravity" by substituting psychological tinkering for mastery of subjects and disciplined learning?

Whatever its etiology, in the lifetimes of many here, schools that once taught rigor and excellence have been reduced to teaching children to "feel good about themselves." In order not to assault tender young psyches, challenging textbooks featuring classic literature and increasingly sophisticated scholarship have been cast aside in behalf of sophomoric textbooks filled with pictures—not narrative, but pictures; we all like to look at pictures—"dumping down," the process is called—that depend too often on vulgar dialogue, "street talk," slang, and even pornographic plots, all in the name of "realism," "holding the students' interest," or "preparing the kids for the real world." It is silly.

Mr. President, civilization is a fragile treasure. the crumbling pyramids and collapsed temples of Ancient Egypt, the vine-smothered palaces and courts of the Yucatan, and the toppled pillars of Imperial Rome demonstrate how easily and how carelessly one or two generations of a culture can forever—forever lose and forfeit even the most elevated society.

My hope is the educational reforms that we are considering in the legislation before us today is that just perhaps—just perhaps—we are not too tardy in setting America's educational system right before we, too, follow Ancient Egypt, the Mayans, and the Ancient Romans down the path of national decline and cultural suicide.

My hope in the educational reforms in the legislation that we are considering is that, once again—once again, we might offer American school children textbooks that bristle—bristle—bristle with challenge, that provide insights and facts and truths that will wake up young minds to the magnitude of learning, that will chart the way to higher and higher study and deeper and deeper engagement with the mysteries of scholarship and research.

Further, I want an end to the violence that is increasingly besetting schools across this country.

No child who carries knives, pistols, and other weapons to school for the purpose of intimidating or bullying his fellow students, or for wreaking revenge on another student for some imagined slight or insult, or for punishing a girl friend for turning him down for a date—no student who brings weapons to school—deserves an education at taxpayer expense.

Like churches, synagogues, and other places of worship, schools should be sacred precincts—"temples for the mind"—in which Truth is supreme and those who seek truth are free to learn, search, and expand their minds, without fear and without anxiety for their very lives.

Hoodlums have turned some of America's schools into terror camps, with teachers living in fear for their lives and innocent children—innocent children becoming casualties in scholastic "free fire" zones.

Mr. President, I feel for the poor teachers who have to stand in today's classrooms and quake in fear that some hoodlums in the room are going to maim or assault and batter, or even kill, perhaps. How can one teach in such an atmosphere? How can students learn in such an atmosphere? Most of our students in the schools are wholesome, fine students. Most of them are there to learn.

We hear too little about the students who are in the laboratories and in the libraries. Most of them are striving for excellence. But in such an atmosphere, they must be on nerve's edge, they must be cowered from fear of the bullies who might beat and batter them.

Mr. President, in the legislation before us, we, in the name of the American people, are laying down the ultimatum: Either students leave their weapons at home and come to school to learn or they do not come to school at all.

In this legislation, in large measure, we are struggling for America's future. We are struggling in the hope that America will, indeed, have a future. The most basic lesson that history teaches is that unless each generation is initiated into the truths that every past generation has learned, a civilization cannot expect to survive.

Our schools are the kilns of our future. The hour is late, the rot is far advanced, ignorance is winning new battles for the minds and souls of children across our country. The Rubicon is before us.

For the sake of our children, for the sake of our culture, for the sake of the continued promise of America, let us give American education the therapy that it requires before a new Dark Age descends further on our schools, and generations of men yet unborn some day wander among our cities, great monuments and university ruins, musing at the people who once lived in these skyscrapers and asking why America fell.

Mr. President,

I took a piece of plastic clay
And idly fashioned it one day
And as my fingers pressed it still
It moved and yielded to my will.
I came again when days were past,
The bit of clay was hard at last.
The form I gave it, it still bore,
And I could change that form no more.

I took a piece of living clay
And gently formed it day by day.
And molded with my power and art
A young child's soft and yielding heart.
I came again when years were gone,
He was a man I looked upon.
He still that early impress wore,
And I could change him nevermore.

That is what we are talking about: pieces of human clay.

Mr. President, I have only a few minutes remaining. I have two amendments which I shall offer—they are to be accepted—if I can briefly explain them.

One of the amendments would require that "the Secretary shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B)."

The amendment would require that "Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including the estimated costs for implementing any recommendation."

Mr. President, we really do not have the data on which to base legislation and chart our course. As we look to the future, as we look to future legislative actions, we need data on what is occurring in our schools. We need the kind of information that the Secretary would acquire to conduct an evaluation of the national impact of programs that are assisted under title V of this bill. The amendment would expand the evaluation to include all other recent and new initiatives to combat violence in schools. We cannot afford to continue programs that are not working. At the same time, if programs are having a significant effect on reducing school-related violence, we need to know that, too, so that we can build upon their success.

And to continue to effectively assess the problem of violence in schools and determine the scope of the problem, this amendment would require, as I say, the Secretary to collect data to determine the frequency, the seriousness and the incidence of violence in the elementary and secondary schools.

The last major study of violence in schools was the former National Institute of Education's Violent Schools/Safe Schools Study commissioned by Congress and issued in 1978.

The other amendment provides that "No funds shall be made available

under this act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency."

And "For the purpose of the section, the terms 'firearm' and 'school' have the same meaning given to such terms in section 921(a) of title 18, United States Code."

This is a serious problem that the amendment is attempting to address, the problem of guns and other weapons appearing in the classrooms and hallways of our Nation's schools. The amendment would require every local educational agency to establish policy requiring school officials to refer to the criminal justice or juvenile delinquency system any student who brings a firearm to school. Possession of a weapon on school property is a crime, and when a crime occurs, the police ought to be notified.

Unfortunately, Joseph Maddox, Chief of Police for the Penn Township Police Department noted in the winter 1994 edition of School Safety Magazine:

> Often when crimes occur at school, the decision is made to address the problem by means of school discipline, as opposed to dealing with the criminal justice system.

School discipline is fine, but it is simply not enough. Every thinking American should be outraged by the guns in our schools. And even if the police choose not to make a report or decline to submit the case for prosecution because of the nature of the offense, the police should, nevertheless, be notified.

Individuals who bring dangerous weapons to schools are committing a crime and they ought to be dealt with by our juvenile or criminal justice system. To do anything less is to send a message of tolerance for breaking the law and of a less-than-serious attitude about the safety of other students. This type of odious behavior cannot be tolerated, and we, in this Chamber, have an obligation to do something to ensure that it is not tolerated. We must get the guns out of our schools, and while we are about it, we must also get the individuals that bring the guns out as well. My amendments would help to accomplish both goals.

So let us think about preserving the good apples in the barrel, not just about preventing further spoilage of the bad ones.

Mr. President, one of the most important things we can provide to our young people—those who will soon take up the reins of leadership in our country—is the ability to obtain an education. We owe our young people that. We owe them the chance to learn in a school free from guns and free from violence. We owe our teachers relief from the fear of being shot while they are simply trying to teach a class.

We have come to a sad state of affairs when metal detectors have to be installed at the schoolhouse door. Let us end this climate of violence in our schools by ending the tolerance for lawbreaking students. Let the police deal with these youthful criminals so that our teachers and the good students in our schools do not have to.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that at 9 a.m. on Friday, July 29, the Senate proceed to executive session to consider the nomination of Stephen Breyer to be an Associate Justice of the Supreme Court; that there be 6 hours for debate to be equally divided between the chairman and ranking member of the Judiciary Committee or their designees; that following the using or yielding back of time, the Senate vote, without any intervening action, on the nomination; that if confirmed, the motion to reconsider be tabled, and the President be immediately notified of the Senate's action; and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Reserving the right to object, I just say it has been cleared on our side of the aisle and we have no objection to the request.

I withdraw the reservation.

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

Mr. MITCHELL. Mr. President, although not included in the agreement, I wish to state my intention that when the Senate votes on the Breyer nomination tomorrow, it will be the last vote of the day.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would just like to indicate that I hope the Senate will accept the Byrd amendments. The first amendment requires, as the Senator has pointed out, the collection of data on school violence in elementary and secondary schools and submitting a report to Congress by January 1998.

The second one requires the LEA's to refer to criminal justice or juvenile authority any student who brings a gun to school.

Let me just mention, I hope both amendments will be accepted.

I will take 1 minute of time.

We have in my own State in Lawrence, MA, an enormously interesting program that has been stimulated by the district attorney where they work with the school officials, the youth service, the educators and the social service agencies and have prioritized and ranked the juveniles who are the most threatening and have been the repeaters in terms of violence.

They have accelerated the attention for those who have been the most violent and also have worked with those to free some of them from various gangs and gang activities.

It has had a profound effect and impact on stability in the school and also in terms of incidence of violence within the community.

So this kind of amendment will, one, give information, so if others want to develop not just community policing, this is really a community sort of prosecution, and it has been well accepted and appreciated by all the different community leaders there.

I think the kind of amendment that the Senator has offered can help and assist in getting that kind of information and that kind of awareness for other communities across the country.

So, Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The amendments have not yet been sent to the desk.

Mr. JEFFORDS. Mr. President, I also would like to join in commending the senior Senator from West Virginia for not only the excellent amendment but the excellent discussion on the problem of education. I agree with him wholeheartedly that before we act we must have the information and data necessary to do that. This will help us in that quest.

AMENDMENT NO. 2426

(Purpose: To direct the Secretary to collect data on violence in elementary and secondary schools)

AMENDMENT NO. 2427

(Purpose: To provide that no funds shall be made available under the Elementary and Secondary Education Act of 1965 to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency)

Mr. BYRD. Mr. President, I thank both managers. Inasmuch as they have expressed a willingness to accept the amendments, I send the amendments to the desk. I ask unanimous consent that they be considered en bloc, agreed to en bloc, and that the motions to reconsider be laid on the table en bloc.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

The clerk will report the amendments.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes amendments numbered 2426 and 2427.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2426

On page 874, line 9, strike "The State" and insert "(1) BIENNIAL EVALUATION.—The Secretary", and indent appropriately.

On page 874, line 14, insert after "subpart" the following: "and of other recent and new initiatives to combat violence in schools".

On page 874, between lines 16 and 17, insert the following:

"(A) Collection.—The Secretary shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate data submitted by the States pursuant to subsection (b)(2)(B).

"(B) REPORT.—Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

AMENDMENT NO. 2427

On page 1165, between lines 21 and 22, insert the following:

"SEC. 10607. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) DEFINITIONS.—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

The PRESIDING OFFICER. Without objection, the amendments are agreed to pursuant to the unanimous consent request.

So the amendments (No. 2426 and 2427) were agreed to.

AMENDMENT NO. 2428

(Purpose: To amend the title I formula)

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Arkansas is now recognized. Under the unanimous-consent agreement, each side will have approximately 51 minutes.

Mr. BUMPERS. Mr. President, I ask unanimous-consent that the unanimous consent agreement as to the time on this amendment be vitiated and that the time of the vote be set at 9:30.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. With the understanding the time be evenly divided.

Mr. BUMPERS. Evenly divided.

Mr. KENNEDY. Reserving the right—

Mr. BUMPERS. The unanimous consent agreement was 9:15.

Mr. KENNEDY. If the Senator would start. As I understand it, we are checking this with the majority leader. I will not object to it, but why not start in.

I am informed that it is agreeable.

The PRESIDING OFFICER. Hearing no objection, that is the order. The vote on this matter will occur at 9:30. The time remaining will be divided in the usual form between the Senator from Arkansas and the managers of the bill.

Mr. BUMPERS. Mr. President, on behalf of Senator COCHRAN and myself, I send an amendment to the desk and also announce as cosponsors Senators KEMPTHORNE, PRYOR, WALLOP, SHELBY, CRAIG, GRAMM, LOTT, BINGAMAN, THURMOND, BURNS, and HUTCHISON.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. COCHRAN, Mr. KEMPTHORNE, Mr. PRYOR, Mr. WALLOP, Mr. SHELBY, Mr. CRAIG, Mr. GRAMM, Mr. LOTT, Mr. BINGAMAN, Mr. BURNS, Mr. THURMOND, and Mrs. HUTCHISON, proposes an amendment numbered 2428.

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

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

The amendment is as follows:

On page 553, line 10, strike "(i)".

On page 553, line 15, beginning with "effort factor" strike all through the period on page 553, line 17, and insert "relative income per child factor described in subparagraph (B).".

On page 554, beginning with line 4, strike all through page 556, line 15.

On page 556, line 23, strike "product of the effort" and insert "income per school-age child".

On page 556, beginning with line 24, strike "under" and all that follows through "year" on page 557, line 2.

On page 557, between lines 9 and 10, insert the following:

"(C)(i) Except as provided in subparagraph (D), the relative income per child factor shall be determined in accordance with the following formula:

$$R = 1.0 - 0.4\left(\frac{c}{n}\right)$$

"(ii) For the purpose of the formula described in clause (i), the term 'c' shall be a fraction, the numerator of which is the 3-year average of total personal income as reported by the Bureau of Economic Analysis for a county, and the denominator of which is the amount determined under the second sentence of subparagraph (A) for the county multiplied by the number of children aged 5 through 17 in the county.

"(iii) For the purpose of the formula described in clause (i), the term 'n' shall be a fraction, the numerator of which is the sum of the 3-year averages of total personal income as reported by the Bureau of Economic Analysis for all counties in all States, and the denominator of which is the sum of the products of the amount determined under the second sentence of subparagraph (A) for each county in each State multiplied by the number of children aged 5 through 17 in such county.

"(iv) For the purpose of the formula described in clause (i), the term 'R' shall be not more than 0.8 and not less than 0.2.

"(D) The relative income per child factor for the Commonwealth of Puerto Rico shall be 0.6.

"(E) The Secretary shall use the most recent data available to the Secretary to calculate relative income per child factors under this paragraph.

Mr. BUMPERS. Mr. President, yesterday, Senator COCHRAN and I sent out a "Dear Colleague" letter, which quoted the committee report on this bill. The committee said:

S. 1513 admits "the most urgent need for education improvement is in schools with high concentrations of children from low-income families."

And yet the committee formula on a program initiated during the Lyndon Johnson administration about 30 years ago to bring children who live below the poverty line up to mainstream standards in our public schools achieves almost the opposite result. It is one of the most perverse formulas I have ever seen. I have been a devoted fan of title I since I served on the school board in Charleston, AR. And, while I was Governor of Arkansas, I depended heavily on money we received from the Federal Government under title I, that was allocated to the States to help educate poor children.

And now, Mr. President, the committee proposes a formula to distribute over $7 billion to the States of this Nation. Let me give you an illustration of what it does. Remember, poverty is in the poor States. I invite my colleagues to look at the map behind my distinguished colleague from Mississippi, Mr. COCHRAN. Everything black on that map is where the deepest poverty in the Nation is. That is where the most poor children live.

I have a parochial interest because my State is one of the poorest States in the Nation. But, Mr. President, the chart lists the 10 poorest States in America.

Look at it. Alabama, 23 percent poverty, and under the committee bill they receive $710 per poor child. Senator COCHRAN and I would give them $63 more per child. Compare poor Alabama with Delaware, which has 11 percent poverty, less than half of Alabama, and they get $1,185—40 percent more than Alabama—per child.

Here is my beloved Arkansas, and 24 percent of the children in my State live below the poverty line. They receive, under the committee bill, $704 per child. But Maine, for example, with 13 percent poverty, gets $972 per child—$268 per child more than our poor State with 24 percent of our children living in poverty.

Arizona, Kentucky, Louisiana, Mississippi, New Mexico, South Carolina, Texas, and the only State among the 10 poorest States of America that even makes it out of the $700 category in the committee proposal is West Virginia. Compare that with the home State of the chairman of the committee, our good friend, the manager of this bill, Massachusetts, which has 13 percent poverty, and they get $1,023 per poor child.

I live in one of the wealthiest counties in the State of Maryland, and Maryland has 11 percent poor children, and they get $1,033 per child, well over $300 per child more than my State receives, more than Mississippi and Alabama and Georgia and all those States, where these deep pockets of poor children reside.

Wisconsin, 14 percent poor children. They get $1,023. I could go on with all these States that are affluent.

Mr. President, this amendment is not something I just conjured up in the middle of the night. This amendment tracks precisely what the General Accounting Office said was wrong with this bill.

Let me repeat that. This is not just a brainstorm that Senator COCHRAN and I had. This is what the General Accounting Office said, in analyzing the committee bill, was wrong with the bill.

We put a lot of stock around here in what the General Accounting Office says. Senator COCHRAN and Senator BINGAMAN wrote to the General Accounting Office and asked for their analysis. This is not one of those full-blown investigative reports. This is just an analysis.

Do you want me to tell you how this happened? These formulas are immensely complicated, and I am not going to try to boggle anybody's mind with them. But I will tell you what happened in the committee formula. The committee formula penalizes the poorest States in America who will never, under this formula, significantly improve their plight. But I will tell you how it happened; how the most affluent States in America make out like bandits, and the poorest States in America, where all the poor children are, get what is left.

The committee came up with two new factors. One is called the "effort factor," and one is called the "equity factor."

The effort factor takes the average per-pupil expenditure in your State, divide it by the average per pupil expenditure of the Nation as a whole, and if you come out above 100 percent you get a bonus. They set a floor of 95 percent, and a ceiling of 105 percent.

What does that mean? That means, if Arkansas only spends 75 percent of the national per-pupil expenditure, we have to get to 95 percent before we get consideration in the formula for effort.

This may not happen in my lifetime. Not only is this formula discriminatory in the extreme, but it remains that way as long as it stands because the poor States simply can never reach the floor, no matter how hard we try and how much effort we expend. We cannot reach it.

But, if you are one of the more affluent States, and you are spending 140 percent of the national average on your children, you can let up, relax, and cut spending. As long as you do not go below 105 percent of the national average, you are in the clover. No matter how hard we work, there is no gain. No matter how lax the more affluent States become, as long as they do not get below the 105 percent national per-pupil expenditure, they lose nothing.

The second factor is "equity." Equity deals with the disparity of expenditures within a State. Disparity means that the more affluent counties in a State are spending more on education than the poorer counties in a State. But that has very little to do with a State formula. That is because most schools are funded primarily on a property tax, and some counties have a higher property tax than others.

So we do have a disparity between the Mississippi Delta where the most pervasive poverty in America exists in Louisiana, Mississippi, and Arkansas, parts of Tennessee, Illinois, Kentucky, Missouri, and the northwest part of the State, which is one of our most affluent areas.

So they say to the States in order to encourage them to equalize expenditures on children, we ought to take some money away from you if the disparity between northwest Arkansas and southeast Arkansas is too great no matter how poor southwest Arkansas is.

And they put another floor and ceiling on this equity factor. The floor is 95 percent, and the ceiling is 105 percent.

Do you know what that means, Mr. President? That means that as long as the disparity in our districts is under 95 percent, they can never get consideration for equity payments. And I will not live long enough for that to happen. It is a double whammy to the poorer States. They do not have the means to achieve equity or effort consideration so they cannot increase their share under the formula.

On the other hand, in the more affluent States, if they do not have a disparity problem, they can relax.

Let me tell you again. If this were just DALE BUMPERS talking about this formula, I would expect you to say, "Well, he is upset because Arkansas does not fare well." You would be right. I am upset because it is a pervasive, discriminatory formula.

But here is what the General Accounting Office said about the equity and disparity factors:

> This represents a new policy direction for the program to one of providing an incentive for States to equalize per-pupil educational spending. While a laudable goal, this measure may not be the best way to go about accomplishing this objective, and may be contrary to the purposes of the chapter 1 program.

The General Accounting Office goes on to say:

> The equity bonus factor provides greater per-pupil funding in States with the smallest sub-State spending disparities, and these States tend to have fewer educationally-disadvantaged students.

Translated, what that means is it is the most affluent States that are likely to have the least disparity because they have fewer poor students. The reason we have great disparity is because we have counties with unbelievable poverty, and then we have some prosperous counties. So we do indeed have big disparities. But this equity bonus factor locks in a formula which says to the people of my State that you will never get an extra dime under this formula.

The General Accounting Office goes on to say—and I want everybody to pay special attention to what the General Accounting Office said:

> If the Federal Government is going to have a policy of encouraging States to equalize local school spending disparities within their boundaries, then it should also have a policy of reducing cross-State spending disparities. It makes little policy sense to tell the States to do something if the Federal Government is not willing to do it itself. Reducing cross-State disparities requires that differences in States' or counties' financing capabilities should also be included in the formula. Yet, this was not done.

Mr. President, what does the General Accounting Office say about the effort bonus factor, the per pupil expenditures of the States as a percentage of national per-pupil expenditure?

> By including per-pupil expenditures in the formula twice, effort is incorrectly measured, and its effect is improperly magnified. No State school aid program that rewards effort, does so in this fashion.

They go on to say:

> If a measure of per-pupil expenditures is to be used as an effort of rewarding formula, the formula should also contain a Federal percentage factor to properly take into account the capacity of LEA's to fund local education spending.

In summary, the General Accounting Office says the formula under which this terribly perverse result occurred is fatally flawed because it is the more affluent districts who get all the money under this formula. It is those States that are the most affluent, where there are the least number of poor children and, therefore, the least number of disparities between school districts and spending on our poor children. And they will continue to get more of title 1 money, and my State will continue to get less because we cannot make any greater effort than we are making.

I daresay, based on our per capita income, we are making a lot bigger effort than a lot of the more affluent States who have a much higher per capita income than we have.

So, Mr. President, the reason I am shouting is because I feel so passionately about what this does to my State and other poverty-stricken States. President Clinton and I spent virtually 4 years doing nothing but trying to help an area known as the Mississippi Delta, the 10 poorest congressional districts in the State. We have done everything in the world and, incidentally, we are making some progress. Those people are beginning to see a little light at the end of the tunnel.

I can tell you that this formula provides little help. It says no matter what we do, it is not going to make much difference. There is no way we

can ever climb out of the hole that this inequity puts us under.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, I have listened with great interest to the Senator from Arkansas describe his understanding of this formula and what its implications are with regard to Arkansas. His State was provided under this fiscal year 1994 allocation some 69.9 million. Under the current law in fiscal year 1995, 76.7 million. Under our Committee formula, it would be 76.5 million. I listened to him talk about the impact of this program, about the poor and poor children.

I think, obviously, all of us would like to do a great deal more in terms of poor children, and I think it is always regrettable when we find ourselves in a situation where we are depriving some poor children to advantage other poor children. That is, I think, one of the more unfortunate aspects of any of these formula debates.

I can remember that in our own Committee on Labor and Human Resources, where we were trying to divide up a limited amount of funds and decide whether to have Meals on Wheels at congregate sites or delivered at home. You can feed three times as many people at congregate sites than at home. But, nonetheless, many people at home need that food. So you end up with needy, poor people fighting over very scarce resources. That has certainly been the case in terms of the title I programs, Head Start programs, the WIC Program, and many of the programs, including the Pell grant program, that have tried to be a lifeline for many of the neediest children and students in our country. So it is always a regrettable situation when we get into those kinds of debates and discussions.

I have to say that the administration has attempted to provide additional funding. They have in Head Start, and they have tried in the Chapter 1 Program, and in the other school reform programs. Hopefully, we will have a time in the not-too-distant future where we are moving seriously to increase help and assistance to poor children all over this country.

I have to take serious exception with the good Senator from Arkansas about which formula is going to benefit the poor children, however. As a result of the Senator's formula, in States such as Florida with 350,000 poor children, New York with 600,000 poor children, California with 970,000 poor children, the effect of the Senator's amendment is to reduce Florida by $37 million, New York by $48 million, and California by $49 million compared to what the Committee recommended.

So before we start getting so worked up about how unjust this formula is for poor children, look at what is going to happen to the poor children—if this is accepted—in these various States. There are tens of thousands, hundreds of thousands of children in those areas. As a result of the amendment of the Senator from Arkansas, we are going to see those children deprived; those children will be deprived.

As the Senator pointed out, these are balances in terms of how we are going to try and make some kind of adjustment. I daresay in the States that he talked about—Louisiana and Mississippi—we see a significant increase, under the Committee formula, over existing law. So he is not going to get any argument from this Senator about trying to do more for Mississippi and more for Louisiana. He would like to do more and so would I, but not at the expense of poor children in these other States.

So, Mr. President, what have we tried to do? We looked at the old formula which had concentration grants. To receive these grants, you had to have 6,500 poor children in your particular district, or have at least 15 percent of your children be poor. Some communities had 14, some 13, some 12 percent, and some had 6,000 poor children; they were left out. We saw inequities in those areas. In the basic grant program, we said if you have 10 poor children, you get some funding, and that went to some of the most affluent districts in this country; and we are gradually phasing those districts out of the program.

What have we replaced those with? We have provided a weighted formula, and that means giving high poverty districts a higher per pupil grant than low-poverty districts. Why? For the reasons the Senator pointed out, and the GAO points out: that the areas of greatest need are where you have the high concentrations of children in poverty. These are the areas that have the most need. These are places like Baltimore, New York, Philadelphia, Detroit, Boston, and Washington, which are among the ten poorest cities in the Nation, and many others; those places have high concentrations of poverty. The GAO said they are the areas that need the greatest help and assistance. So we used the weighted formula to take that into account.

Then we have the cost factor, which varies from State to State according to the State per pupil spending. This tells us the cost of providing an education in each State. This exists in the current formula, but we made adjustments somewhat to benefit States such as Mississippi and Louisiana.

Then we included in the formula an effort factor that gives the States a bonus for high fiscal effort; that is, if they spend a lot on education relative to their ability to spend. That is an incentive for those areas that are going to provide more for education.

Then we added an equity factor that gives States a bonus for equalized spending among school districts. This provides assistance to States that are trying to reduce the disparity in spending. Well, in my State, we are attempting to reduce the disparity, but in a different way; we say to school districts, "If you want to tax your people and spend a little more, we will not hold that against you." We lose out under that because you continue with the disparity. But some States benefit from some factors, and some benefit from others; it's a balance. We have also included a 100 percent State level hold-harmless for this fiscal year so no State will see an actual reduction in funds when the new formula takes effect.

Now, you can draw all kinds of formulas here. Mr. President, we have, I know, 8 or 10 different formulas. I have been around here long enough to know that you can offer a formula that benefits 26, 28, or 30 States and try and roll the Senate on this.

And I daresay I have an amendment that I can put out there that would benefit my State even more and benefit 30 States at the cost of other States. But I am reminded of a distinguished statesman in 1982, one of our colleagues here, who pointed out the purpose of title I is to provide supplemental education programs for poor children so they will have an opportunity to learn to the same high standards as other children. It was not created to be an income redistribution program which equalizes the difference in per capita income.

The committee formula as well as the current formula is the result of a delicate political compromise.

During the litigation of the chapter I formula in 1982, 50 Senators in Congress filed an amicus brief on behalf of the State contesting the use of 1980 census data. That brief was led by then-Senator Denton and included Senator BUMPERS and it stated the following:

> In constructing the compromise in 1978, Congress acted deliberately and carefully to build a balanced package. Congress tried to include something for each geographic region, something for urban areas, something for rural areas, something for rich States, something for poor States, something for large States, something for small States, and thus shifting even a single building block of the formula will unbalance the entire structure.

Mr. President, those are words of wisdom indeed. They apply to the formula then and they apply equally to the formula approved by the committee now contained in S. 1513.

I daresay, Mr. President, there are States where this whole process and this formula has not worked fairly, and that has been true, I think, in particular in California and also in the State of Texas.

We have tried to talk with those Senators about trying to provide additional kinds of help and assistance. We have migratory legislation that helps and assists the migrants that move through those States and one or two other programs where these States are substantial beneficiaries. There are other impacted States. The State of Georgia does not do well under this formula but in terms of the impact aid assistance that it gets, Georgia does do well and can assist many of the similar kinds of children.

We have tried to look at the total range of different Federal aid, whether in the areas of Indian education, which benefits States like New Mexico, or other programs that affect poor children and benefit other States that do not do quite as well in this formula.

So, Mr. President, in any of these various considerations, whatever we do, there are areas which we know—all of us—that there are needy and poor children that still are not having the kind of attention and assistance that any of us would like.

Under the Bumpers amendment, however, we have States that have some of the lowest State child poverty rates in the country, 10.7 percent statewide child poverty rate in one State. And under the Bumpers amendment, that State gets the same kind of per pupil allocation as the high-poverty States that he's listed out here.

How do you figure that? How do you think of that?

Mr. President, as I started off, I regret this debate because I have too much respect and affection for all those who are sponsors and leaders on the other side. They are all talking about people that I care very deeply about and that we would like to help and to assist, and those are the neediest children in our country.

I take no satisfaction in this debate and discussion, and we always find that these are difficult and complex issues. Maybe those are not the best ways. Obviously, there is a balance. There are many considerations.

You can vary and change each of those ingredients in just a very small or minor way, just by a few percentage points, and you will see the swings of millions of dollars away from poor children in one place to another.

So as I mentioned, I regret that we are in the situation where we are struggling for the allocations of resources.

I know my friends and colleagues from Arkansas and from Mississippi and from other States that are out here, the people that are making this case, are the ones that care the deepest about those children, and those that are debating on the other side I think are among those that have the deepest commitment.

So I appreciate and I respect and admire the arguments which are made, but I do think that there is sufficient justification for the existing formula that it should be retained.

Mr. President, how much time remains on each side?

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Massachusetts has 45 and ½ minutes; the Senator from Arkansas has 39 and ½ minutes.

Mr. BUMPERS. Mr. President, does the Senator from Rhode Island wish to speak?

Mr. PELL. I request 3 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am afraid that some of us must oppose the amendment offered by Senator COCHRAN and Senator BUMPERS. It has the effect of producing dramatic swings in funding largely to accommodate regional demographics. Such a shift could threaten the widespread support for title I funding that exists today regardless of the region of the country from which one of us comes. Actually, it could result in States ending up with a larger piece of the pie and others with a smaller piece. But it should be borne in mind that no State loses under a hold harmless provision.

By contrast the committee formula is well balanced and fair. Those who benefit come from the North, South, East and West. The committee worked pretty hard with the formula to acknowledge that State spending on education should be linked to both the cost of education and to the State's fiscal capacity. The adjustments already in the committee-reported formula add several Southern States, some of which are not wealthy but do make a major investment in education and deserve to be rewarded.

The pending amendment also includes a second fiscal capacity effort in which need is measured without sufficient consideration of the differences in the cost of living in different areas of our Nation. Several large States with very large concentrations of poverty experience significant losses of funding, something I believe we should avoid.

Also, the amendment—and here I am talking about the amendment—strikes the incentives in the committee formula that help States that spend heavily on education relative to their overall fiscal capacity, and it helps those States that have brought a substantial level of equity to their State education finance programs. I fear that removing both the effort and equity incentives would send a wrong message to the States. It would create a situation where States that do not devote a large portion of their resources to the education of children would, in the end, receive the most title I funds. This obviously is not fair and I know we all would wish to avoid it.

I urge, therefore, that our colleagues join me in opposing the amendment.

The PRESIDING OFFICER. Who controls time?

Mr. BUMPERS. Mr. President, I yield to the Senator from Mississippi 20 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me start off my remarks by inviting attention to this chart that is displayed behind my desk here.

It shows in yellow those States which will do better under the Bumpers-Cochran amendment than they do under the committee bill. They will get more money under the chapter I program.

The States in white will get less under the Bumpers-Cochran amendment than they will under the committee bill, but this does not mean that they do not get a lot of money. Some of those States already get very high percentages of funds in relation to the number of poor students in those States.

There are 30 States in yellow which do better under the Bumpers-Cochran amendment. There are 20 States in white.

The other thing that is shown on this map is the location of the students throughout the country who suffer from the highest poverty rates. Those are the poorest students in America, and you can see by looking at this map where they are located.

The purpose of bringing that to the attention of the Senate is to confirm what the distinguished Senator from Arkansas said when he talked about where the money goes under the amendment we are proposing as compared to where the money goes under the committee proposal.

Mr. President, children who live in poverty are the most vulnerable children. They are the ones who are the most likely to do poorly in school. They are the ones who are most likely to drop out. They are the most likely to end up with low-wage jobs or with no job at all. They are the most likely to go to prison. They are the most likely to end up on welfare.

In testimony before the Labor Committee, Secretary Riley pointed out that 82 percent of those in prison in America today are school dropouts.

Poor students in high-poverty schools perform worse than poor students in low-poverty schools.

As a matter of fact, the performance of all students in a school, regardless of their economic circumstance, suffers because of a high concentration of poverty. This achievement gap between the students in the high- and low-poverty schools widens as the children move through elementary grades into junior high school.

In 1965, the Congress passed legislation to allocate Federal funds to help provide remedial education instruction to the poorest school districts in America.

Congress recognized the impact that concentrations of low-income families have on student achievement and the ability of school districts to support adequate educational programs.

The chapter 1 program has evolved from that beginning, and it has made a tremendous difference in the lives of millions of children over the past three decades.

In another statement to the committee, Secretary Riley, said earlier this year:

When you have a flood that threatens a levee, you give most of your attention over to sandbagging the weakest part of the levee. You don't spread your sandbags around. You concentrate. Well, that has to be true with education as well, and we have a flood of problems in our high poverty schools.

But under the committee bill, chapter 1 is insufficiently targeted to high-poverty communities and schools. The scarce resources are spread very thin, and will dilute our efforts to make a real difference.

The ineffectual targeting of these funds will leave the poorest districts with insufficient funds to serve all of their high-poverty schools and low-achieving children.

While I commend very sincerely the committee and its membership for the hard work they put into this bill and the commitment the chairman and ranking member have shown to the children of America, I do not believe the Improving America's Schools Act as proposed, fulfills the original promise of title 1. It does not adequately concentrate the funds where they are needed most, in the poorest schools. Our resources must be focused in those areas that have a particularly high number of educationally disadvantaged and low-income students.

Included in the statement of purpose of the committee bill is the following declaration;

The most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools.

In order to fulfill the purpose, the bill calls for distributing resources, in amounts sufficient to make a difference, to areas where needs are greatest.

But does the bill accomplish its stated purpose? Do these funds get to the children who need them most?

The answer, I am afraid, is "no."

The bill provides a generous funding effort bonus, which was described very well by the distinguished Senator from Arkansas. It goes to those States that spend the most on their students from State resources. This so-called effort factor is also used in the cost factor elsewhere in the bill and has the effect of rewarding wealthy States because they have the resources to spend more on their students.

Now, in my State of Mississippi, as in other States where the tax base is relatively low compared to the more wealthy States, you may be surprised to find that we spend a much higher percentage of tax revenues on education than most other States do. I think Mississippi is in the top 10.

And do they get anything for that effort, that effort to allocate the highest percentage of their tax revenues to education? No, under this bill they do not get anything for that. That is not counted as effort.

You only get rewarded for effort if you are rich to start with. That is what this committee formula does. Not only does that penalize the poorest States, it does not take into account the number of school-aged children a State is responsible for educating. That is contrary to the very purpose of the act.

The bill also creates a new equity bonus. This factor uses a coefficient of variation among school districts—which is the average difference in district spending per pupil from mean or overall average district per pupil expenditure in an individual State. If this sounds confusing—it is.

Try to figure out how to measure that and what it measures. I will be surprised if any 2 of the 100 Senators would come out with the same answer.

Mr. President, this equity bonus is bad policy. The bonus purports to promote State-wide equalization of funding by the States with floor and ceiling limits that keep it from having any real leverage.

The only real effect the equity bonus has is to increase the funding that will be allocated to the State of Iowa.

Now I know that is not the intent. I did not say that was the intent. I said it was the only real effect.

The Bumpers-Cochran amendment has been developed from an analysis done by the Government Accounting Office. It is consistent with the purpose of the chapter 1 program, and it conforms to the policy of helping those who need the help most.

This amendment redirects chapter 1 funds to those States with the greatest percentage of school-aged children living in poverty. That is what it does. It ensures that each State continues to receive sufficient resources to continue and operate its programs. It does not penalize these States in white. They still get a lot of money out of this program.

The amendment does not affect the within State targeting formula, either, which will provide better targeting to the poorest schools within a State.

I want you to look at this bar graph and what it shows. It shifts very little, really, from the States that derive funds under this bill that are so-called wealthier States to those that are poorer.

Here is a general depiction of what current law gives those States. That is what the committee bill would do. It leaves them relatively unchanged as far as their positions with each other is concerned.

But what the Bumpers-Cochran amendment does is lift poorer States more nearly to the level of the amount that larger States and wealthier States are getting per student in poverty. And that is the difference between Bumpers-Cochran and the committee formula.

Let me just give you one example of the changes that are made by the Bumpers-Cochran amendment.

A poor student in the State of Mississippi would receive $817 in chapter 1 funds in remedial instruction assistance. Under current law, that same student would receive $711. In contrast, a poor student in Connecticut would receive $927 instead of the $998 he or she would receive under current law. The committee bill, however would increase the Connecticut student's share to over $1,000.

So the Bumpers-Cochran formula replaces the committee "effort" and "equity" factors with a more accurate measurement of children in poverty to be served. The Bumpers-Cochran amendment uses a "relative income per school-aged child factor" which is calculated simply by dividing adjusted county income by the number of school-aged children. And we can all figure that out. It is not mysterious or convoluted as the committee bill's equity formula is.

Ours is the only formula under consideration that fulfills the promise of the chapter 1 program by targeting our resources to high-poverty areas. The chapter 1 program is not a general-aid-to-schools program. It was and is intended to meet the needs of children in poverty and to improve their educational opportunities and give them the chance—to give them the chance—that children in wealthier schools have.

Under our formula, 28 States do better in the first year than they do under the Pell-Kennedy formula and 3 stay the same. In the third year, when the hold harmless is reduced to 85 percent, 30 States do better than under the Committee formula. The 10 States with highest concentrations of poverty receive increases; the 10 States with the smallest percentages of poor children receive reductions.

I urge Senators to help us provide better opportunities for the most disadvantaged students in America and vote for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield the Senator from New Mexico 8 minutes.

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

The PRESIDING OFFICER. Twenty-seven minutes.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I appreciate the time being yielded by the Senator from Arkansas. I congratulate the Senator from Arkansas and the Senator from Mississippi for the amendment, which I support. This amendment does seek to improve the formula which the committee has proposed for the distribution of title I funds from the Federal level to the States. It improves it by making the formula more related to poverty, and it eliminates two very highly questionable elements that are included in the committee's proposed formula; that is, the elements of effort and equity, which the Senator from Arkansas and the Senator from Mississippi both discussed.

Before describing the deficiencies in the committee's formula, I want to just refer to the charts that have been referred to by my colleagues and point out how this issue affects my own State of New Mexico.

If you look at the chart that the Senator from Arkansas has put by his chair, you can see that the child poverty, the percent of children living in poverty in my State of New Mexico is among the highest of any States listed on that chart. There are two others higher, Mississippi and Louisiana. Mississippi is at 33 percent, Louisiana is at 30 percent, and then New Mexico is at 26 percent.

The map which the Senator from Mississippi has put up I think makes the point very dramatically. I have a small copy of that here. He has here a map that shows in black the distressed counties, which are defined as "twice the U.S. poverty rate, low-income, or 3 years of unemployment." That is how they determine that. When you look at where the black on that map occurs, an awful lot of it occurs in the State of New Mexico. Clearly, the children in my State are significantly impacted by how this debate is resolved tonight.

I have been very disturbed by the formula which has been incorporated in the committee substitute—disturbed because, at the Federal-to-State level, the formula, in my view, does not achieve the targeting which we are trying to accomplish: to poor students, especially those students who attend schools with high concentrations of poverty, which we have been saying throughout the more general debate are so important in this bill.

The formula does work for the goal of targeting within-State allocations. However, it does not do so in the portion of the formula that deals with the allocation from the Federal Government to the States, and that is what Senator BUMPERS and Senator COCHRAN are trying to correct. The reason it does not do this is because, though it does include a weighting factor which looks to numbers and percentages of children in poverty, it also includes these other two factors which are unrelated to poverty or to the targeting to poverty. The two factors, again, are the effort factor and the equity factor.

The equity factor penalizes States which are not very equalized, as measured by the measurement set out in the formula as the coefficient of variation. This gets fairly arcane, to try to describe all the detail of this. But, suffice it to say that, clearly, there is a great weight put on this equity factor, which, as I said before, does not target poor children, which is the main purpose of the overall title I legislation that we are trying to pass here.

We have very limited Federal resources to help our poor children, and, clearly, to direct those resources to States which may or may not have a need for them solely on the basis of an equalization factor does not make sense. We need to target that funding on the basis of income in those States and on the basis of their ability to help their children.

On the issue about resources, I had a group of principals in my office today from my home State. They repeatedly expressed concern about the fact that less than 2 percent of our Federal budget goes to education. Clearly, when we have a very, very small amount of the Federal budget going to education, we need to do everything in our power to see that those funds go where they are most needed.

The other factor used by the committee, and eliminated by the Bumpers-Cochran amendment, is the effort factor. That factor simply, again, does not belong in a title I formula because it invariably results in penalties for poor States, and this is, after all, intended to help poor States. If we want to measure effort, why do we not measure a State's total resources and compare it to a State's total expenditures on education? Use that measure of effort, and my State of New Mexico comes out in the top 10 States. Or look at how much a State taxes itself compared to its own tax base. If you use that measure, Mississippi gets a very substantial boost.

But if you use the committee's measure, which compares per capita income to per pupil spending, then every single one of the States with the highest child poverty rates in the Nation, with the exception of West Virginia—all of those States do worse. Why is this so? States with low per capita incomes can simply not afford to dedicate as high a proportion of their spending to education as richer States do. They have to take care of sewers and roads and public safety as well as education. They just do not have as much to spend. Furthermore, their citizens have lower incomes and are unable to be taxed at the level that States with wealthier citizens are able to tax.

I would be very pleased to see this amendment adopted and see the emphasis on effort and equity eliminated from the formula.

I am also happy to see the income factor brought into this formula, as the Bumpers-Cochran amendment would. That factor brings into the formula a recognition that it is low-income areas that have the most difficulty in supplying remedial services to their poor children. By and large, these are the same areas that have the most profound problems—the most profound problems—of dropouts and teen pregnancies and low-birthweight babies and poor academic achievement. It is clearly true that big cities with high per capital incomes, such as New York and Boston, have their problems as well. But the fact is that rural America—the States with the highest child poverty rates are in rural America, and generally they do not have the resources.

A recent report by the Department of Education on the condition of education in rural schools states that rural schools have limited fiscal resources to address rising education costs and that increases in poverty have disproportionately impacted rural children.

Thus, the formula which looks to income, and not to things like effort and equity, is much more logical as a way of providing funds for poverty.

I understand the interest of the committee in school equity. It has been a long time interest of mine. Last year, I proposed a bill to establish a Commission on School Financing to study this issue and how more equitable school financing could be promoted not only within States but across the country. Although my proposed legislation did not find support from the committee at that time, the committee did hold hearings on school finance equity. We heard from several witnesses—all of whom were quite eloquent with respect to the vast disparities in school funding and the resulting disparities in educational opportunity for students.

However, those witnesses could not describe for us a single measure of school equity—it was clear from that hearing and from the research I have done that different conditions in different areas could require different levels of spending. One dollar spent in a homogeneous suburb would not equal $1 spent on a remote school serving children from an Indian reservation or $1 on children in the inner city.

Recognizing the complexity of this issue, I have asked the General Accounting Office to study the issue of school finance equity, how it can be measured and achieved, and methods of encouraging it at the State and local level. That work will take many months and will encompass many tasks. It is a complicated issue.

But the committee has made it a simple issue—it has adopted the coefficient of various approach to school equity. While it may be the only objective measure we have of equity at the moment, it is certainly not a very good

one. Let me quote from the Congressional Research Service memorandum of July 26, 1993, on Variations in Expenditures Per Pupil Among Local Educational Agencies with the States which describe the limitations and disadvantages of using Census Bureau expenditure data for calculating expenditure disparities—that is, the COV—among State LEA's

These calculations do not adjust for differences among LEA's in pupil needs, which in many cases are recognized by categorical State and Federal aid programs which provide additional funds to LEA's with high proportions of special needs pupils. For example, expenditures per pupil might be relatively high in an LEA because it has a high number of disabled, limited English-proficient, or poor children, such that the States' school finance program provides additional sums on behalf of such pupils. There might also be additional costs associated with population sparsity or density, for which these calculations also do not account * * *.

There are significant differences among LEA's in a State in the costs of providing educational services. In particular, salaries for teachers and other staff vary widely among LEA's in many States. While salary variations might partially reflect differences in teacher "quality," they are also influenced by such factors as overall labor supply and demand conditions in each area, average experience of the LEA's teacher, general living costs, or the extent and effectiveness of teacher unions * * *.

These reasons, plus problems with the data collection process itself—that is, that data are often stale and reported inconsistently within States—make this COV disparity test a rough and often misleading measurement of a State's equalization.

Yet, based on this very rough measure of equity, the committee moves millions of dollars away from States which may or may not be meeting pupil's needs in an equitable fashion to the handful of States which have successfully equalized—by reason of either a rigorous equalization scheme, or by virtue of small size or homogeneity as CRS notes is the case with Rhode Island and Delaware, or by virtue of having predominantly broad-based, county-level LEA's which is noted by CRS with respect to the relatively low equalization coefficient of North and South Carolina, Florida, and West Virginia. States that have large county wide LEA's will encompass disparity within the LEA and the differences between LEA's will be considerably less—thus the COV which is the basis for the equity factor, will be considerably lessened.

To reiterate, we have very limited Federal resources to help our poor children—why should we direct those resources to States which may or may not have a need for them—solely on the basis of an equalization factor that may be more the result of geography or LEA size than deliberate equalization efforts?

For these and a host of other reasons the equity factor as applied by the committee is simply not the way we should go if we want to do something about school equity. And I most certainly do.

The other factor used by the committee and eliminated by the Bumpers-Cochran formula is the "effort" factor. That factor simply does not belong in a title 1 formula because it invariably results in penalties for poor States and this is, after all, a poverty program.

If we want to measure effort—why don't we measure a State's total resources and compare it to a State's total expenditure on K-12 education? Use that measure of effort and New Mexico comes out in the top 10 States. Or look at how much a State taxes itself compared to its tax base. Use that and Mississippi gets a big boost. But use the committee's measure—which compares per capita income to per pupil spending and every single one of the States with the highest child poverty rates in the Nation—all save West Virginia—does worse. Look at Feinstein formula—those States all improved considerably when this element removed. Why is this so? States with low per capita incomes can simply not afford to dedicate as high a proportion of their spending to education as richer States—they have to take care of sewers and roads and public safety along with education—they just don't have as much to spend. Furthermore, their citizens having lower income, they are unable to tax at the levels that States with wealthier citizens are able to tax.

So I am very happy to see effort and equity go. And I am happy to see the income factor brought in. That factor brings into this formula a recognition that it is low-income areas that have the most difficulty in supplying remedial services to their poor children. By and large those are the areas that have the most profound problems of dropouts, teen pregnancy, low birth weight babies, and poor academic achievement.

It is true that big cities with high per-capita incomes such as New York and Boston have these problems too—but those cities frequently have more resources to try to deal with those problems than do the poor areas. The fact is that rural America—and States with the highest child poverty rates are rural States—generally does not have those resources. The recent report by the U.S. Department of Education on the condition of education in rural schools states that rural schools have limited fiscal resources to address rising education costs and that increases in poverty have disproportionately impacted rural children. Thus a formula which looks to income and not to things like effort and equity is much more logical approach to providing funds under a poverty program. And that is what this is supposed to be—a poverty program—although it is difficult to tell that when the committee propounds a formula which gives a bigger percentage increase to title I funding to Connecticut with 10.2 percent child poverty rate, than to Alabama with a 23.3 percent rate.

We have serious problems in this country—our educational system is failing to help our most vulnerable citizens—poor children. If we seriously intend to help those children we have to recognize that our precious Federal resources have to go where the need is greatest—and that might not be our own particular State. In the committee I proposed and voted for a formula which would have provided New Mexico with less money than the committee formula—but I did it because I thought it was the right thing to do—because my formula got more money to more poor kids. The Bumpers-Cochran formula shifts title I resources away from States with high income counties and lower concentrations of child poverty and to the poorer States. We all know of hideously poor areas in our States and all want as much help for those areas as we can get—but we cannot ignore the kind of evidence of need which Senators BUMPERS and COCHRAN have brought to us today.

In my State over 1 in 4 children lives in poverty; in Senator COCHRAN's almost 1 in 3 children is poor. It is time to finally send our money where the children living in concentrations of poverty live and to send that money in amounts sufficient to make a difference in their educations.

I urge my colleagues to support this amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

As we mentioned before, in this formula we have tried to consider a variety of factors. But this is not a redistribution of income program. That has never been the purpose of this program. The purpose of this program is to try to positively impact the lives of children who are particularly disadvantaged. That has been the spirit of the program, and that is what we have tried to do in our formula.

In fact, we have considered a variety of factors: the weighted formula factor to aid areas with high concentrations and high numbers of students in poverty; the cost factor; the State effort factor; and the equity factor.

The fact of the matter is, New Mexico receives a 14 percent boost in our formula over current law. New Mexico also receives $8.3 million under title I of the Bureau of Indian Affairs set-aside. That also represents money for poor children. In effect, New Mexico's poor children are counted once under Title I, and if they are children of Indians, they are counted again. They do not do that in other States, but they do in New Mexico. And we still increased

their funding 14 percent in our formula. That is not even to mention the $34.5 million that New Mexico receives in impact aid. We did not say, "Well, because they get the impact aid, we will give them less Title I money."

While people are getting so worked up about the inequities of our formula, we might pause to ask what the logic and rationale of counting poor children twice in New Mexico is. Understand, I am not opposed to how it works. I think the challenges for Native Americans are some of the most difficult, compelling challenges children anywhere face. However, when we are coming out and talking about justifying all of our positions on this, I find it somewhat difficult to agree with my colleague from New Mexico. I certainly agree that impact aid is important; we receive about $5 million in my State too, and we are glad to get every dollar of it. And I think we should be careful to keep the whole picture in mind during this debate: Title I, impact aid, and other programs as well.

I think, Mr. President, that the effect of this amendment would be to significantly reduce the kind of assistance to children delivered in major poverty areas. Under this amendment, California will receive $50 less for every poor child. That figure reaches $100 per pupil in New York, and over $100 per poor child in the State of Florida. Puerto Rico loses $12 million under this formula and has a child poverty rate of 66 percent, twice the poverty rate of any State in the Union.

We may not have it perfectly right, but I daresay, even the Washington Post wrote approvingly that:

> The Clinton administration has been pushing hard for a better formula. . .. The Senate Labor and Human Resources Committee last week produced a compromise that would phase out some of the misdirection in two years, partly by changing the formulas by which states can reduce a school's allocation one year to the next (currently, it's very slow), and partly by cutting a few steps out of the elaborate State-to-county-to-district-to-school process by which the funds reach their ultimate direction.

As I said, it is difficult to argue with the concept of getting additional funds into areas where there are poor children. I made that argument before, and I am not going to state it again.

If I could yield to the Senator from Illinois and then the Senator from Iowa. How much time remains, Mr. President?

The PRESIDING OFFICER. Thirty-eight and a half minutes.

Mr. KENNEDY. I yield 10 minutes to the Senator from Illinois, and 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. SIMON. Mr. President, I know it is easy when you are on this floor and you put a formula together and you get the numbers, to get 50 votes. But I have from time to time voted for formulas where the State of Illinois was not a beneficiary because I believed it benefited the Nation. And that is the kind of situation we are in right now.

Take a look at that map behind Senator COCHRAN. It is very impressive. There is only one minor thing that is wrong with that, it ignores the poverty numbers. In the city of Chicago, there are 313,000 poor kids in the public schools. If you look at this map, it does not even get a dot on there. I look down at my State, and I see three small rural counties and they are on the map. Something is wrong. The Robert Taylor Homes in Chicago probably has more population than any one of these three counties. It is just totally ignoring the numbers.

I heard the distinguished Senator from Arkansas say this is the worst formula he has ever seen. Let me tell you how we have improved the current law. Under the current law, in my State of Illinois, the North Brook/Glenview District, which has 1 percent of students in poverty, gets $12,309 per student in poverty. The city of Chicago, which has 313,000 poor students, gets $453 per pupil. Lake County, the Lake Forest School District, a very wealthy school district, gets $3,900 per pupil. The Waukegan School District with 5,714 poor students gets $165.

I could go on.

This really is a fair formula. I do not see our friend from Arkansas on the floor, but the cosponsor is the Senator from Mississippi. I would be interested, if he can respond, the current law gives 43 percent of these funds to the highest poverty districts. The Senate bill, the formula we have, makes it 54 percent. What is the percent under the Bumpers-Cochran amendment, if my colleague can give me the answer?

Mr. COCHRAN. Mr. President, if the Senator will yield, the percentage the Senator is asking for is what percentage of what?

Mr. SIMON. Is what?

Mr. COCHRAN. What is the percentage referred to? I heard your percentages. You said current law is 43 percent, the committee bill is 60 percent, or something like that.

Mr. SIMON. Twenty-five percent of school districts with the highest poverty rates. This focuses on them.

Mr. COCHRAN. What our bill does is target the money to those with the highest percentage of poverty within their districts.

Mr. SIMON. What I am trying to get at is the flaw in the Senator's amendment. He is focusing on percentages rather than numbers. The map shows that. The city of Peoria—I do not remember the numbers in poverty there, but it is a very high percentage. It does not even make it. Milwaukee, WI, has some poor people, poor students in Milwaukee, WI. Sorry, it does not make it on this map. I think we have to recognize a deficiency there.

Second, I would underscore to my colleague from New Mexico, for whom I have great respect, if we are going to do just what benefits our State, each one of us, then I am not going to vote for American Indian education. Now the reality is I support it because I think it is important. But Illinois does not get a penny from that. If each of us is going to be so provincial that we say if this does not benefit my State another $10 I am not going to vote for it, we are not going to benefit the Nation.

I cannot tell you how, when there is a poor child in Milwaukee, WI, and that poor child does not get help, that it is going to hurt Illinois. But I know, intuitively, that is the case. And so we put a formula together that ignores the numbers.

Yes, we may pick up 51 votes here, and I suppose the odds are that we will, but we do not serve the Nation well. I hope we have the courage to do the right thing.

This formula may not be perfect; no formula is. It is always a lot of compromise. But this formula really concentrates on helping poor children, and that is what we ought to be about in this body.

Mr. BUMPERS. Mr. President, I wonder if the Senator from Illinois will yield.

Mr. SIMON. Very briefly for a question.

Mr. BUMPERS. I was in the Cloakroom, and I heard the Senator ask me and Senator COCHRAN how our formula works.

Mr. SIMON. Yes.

Mr. BUMPERS. It is weighted like yours except for two things: equity bonus factor and the effort bonus factor, both of which the GAO says will take us in the opposite direction of what we are trying to accomplish.

Mr. SIMON. I have not read the GAO report, but let me talk about the equity factor. If there is anything in here I criticize, it is that we did not put enough for the equity factor. The disparity that we have between rich and poor school districts in our States is something we ought to be addressing and we are not addressing. We address it just slightly here, and we ought to be addressing it more.

The second is the effort factor, and I would make a correction to my friend from New Mexico on this. This is State spending on education relative to States' fiscal capacity. It is not that you are spending a flat amount per pupil. I think these are both very properly in this formula. I think we have put together here something that makes sense for the Nation.

Real candidly, it may not make sense temporarily for your State, whatever State you are from. But it really makes sense for the Nation. I am sensitive to the people of the State of Illinois, and I try to fight for the people of the State of Illinois, and, yes, my State

does benefit slightly from this. But my title is not Illinois Senator; it is United States Senator. We have to look at the national interest as we cast this vote.

I yield my time.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa is recognized for 10 minutes.

Mr. HARKIN. Mr. President, we have a lot of formula fights around here, and none of them are ever perfect. However, I believe the Pell-Kennedy formula is fair and it is balanced. I think any effort to change it ought to be rejected. It is more fair and more balanced, I believe, than the one being proffered by the Senator from Arkansas and the Senator from Mississippi.

I was listening to what the Senator from Illinois was saying. I noticed Iowa here. We have some counties down here in southern Iowa with poverty rates exceeding 20 and 25 percent. They are not depicted on there.

I see Florida. Florida has a lot of intense areas of distressed counties, yet they lose money. They lose money under Bumpers and Cochran. So does Colorado, and they have a lot of these little black dots, if that is what you are looking at there. They lose money under Bumpers and Cochran.

I heard my friend from Mississippi say a little while ago that the Pell-Kennedy formula only helped rich States. Well, I am sorry. Go back and look at it. Our formula helps West Virginia, helps it quite well, and that is certainly not a rich State.

I think the alternative formula misses the mark. Let me try to explain what the Pell-Kennedy formula does again. The Federal-to-State allocation includes a weighting provision to provide additional funds to areas of high numbers or percentages of low-income children. That is in the Pell-Kennedy formula.

However, there is an additional part of the formula that includes incentive payments for State effort and equity. With the addition of these incentives, this formula breaks new ground.

Some say they are unnecessary. I disagree. I think we have to recognize a few simple realities. First, the underlying premise of title 1 programs is that it will provide supplemental services for the education of economically disadvantaged students. Unfortunately, in far too many schools the resources are insufficient and title 1 is not providing the supplemental services that were envisioned.

Second, the Federal Government right now provides about 6 percent of the revenues for elementary and secondary schools—small but very important. In 1980, it was 11 percent, and that has fallen to 6 percent, and with the budget constraints, it is probably not going to go up very much more than now.

Some States have placed a high priority on education and providing State resources for K through 12. Schools in all these States are heavily financed by local property taxes, and so what happens, Mr. President? We know what happens. If you have high property values, you have good schools. If you have poor areas, you have bad schools.

Now, some States have taken very aggressive action to equalize funding so that all children will have an equal opportunity to succeed. However, other States have not addressed these huge financing differences.

So what we have built into the Pell-Kennedy formula is a carrot, a reward to say to States: Look, if you will do a better job at equalizing your formulas, you will get better help. That is what the effort and equity provisions are for, to reward and encourage these States.

Read Jonathan Kozol's book "Savage Inequities." He portrays the differences that exist in our Nation's schools.

In our country, property taxes fund local schools. So if you have a wealthy district, you have good schools; poor districts, you have poor schools.

Now, in my State of Iowa—and I am very proud of it—in the 1970's, our State legislature passed very aggressive laws to equalize this, to say that if you have a rich district, you are going to get less of the State aid for schools than if you have a poor district. That started in the 1970's. I think it is one of the reasons why our Iowa students K through 12 always place in the highest in all of the tests—math and science and everything else. Iowa students always place highest because we have equalized it to the greatest extent possible. There are other States that have not done that.

I ask the proponents of this amendment, the Senator from Arkansas and the Senator from Mississippi, how have your States done in equalizing their benefits to these poor school districts? Take a look at it. That is what we are saying here. If your State has made a good effort, you will get a little bit more. We are trying to provide that incentive. I say it to the Senator from Arkansas, too. That is all we are trying to do. We do not have enough money to spend in every rich district in the country, so we are trying to get the States to make a little bit more of an effort.

That is all the Pell-Kennedy formula does. You can talk about how many States win and how many States lose, but the Pell-Kennedy formula is fair. It may not be perfect. Obviously, if each of us could draft a formula, we would draft it to benefit our States. But that is not the case here. We drafted a careful formula to do two things: provide money for concentrations where that is necessary, to meet the needs of those kids in highly concentrated areas, and, second, to try to give some incentive to States to do better on their own in equalizing their formulas. That is why I would urge my colleagues to support the Pell-Kennedy formula and to reject the proposed change in that formula.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eighteen minutes.

Mr. BUMPERS. And how much time does the——

The PRESIDING OFFICER. Twenty-four minutes.

Mr. BUMPERS. Mr. President, Senator COCHRAN and I are not trying to punish the more affluent States, but if you look at the map, you can see where the poverty is. You see those black areas? That is where twice as many people live below the national poverty rate. That, friends, is poverty. And what does this formula do to redress that? It gives more money to the more affluent States. It is true that poor States get a little bit more, under the committee formula.

While most States get a little bit more under the committee's proposed formula, it is because there is a $7 billion-plus authorization. But please do not do us any more favors like this. We cannot stand it. I am reminded, in looking at that map of Willie Sutton. Someone asked him, "Why do you rob banks?" He said, "Because that is where the money is."

This program is intended to help poor children and the money ought to be going where the poor people are, and it is not. Take the State of Massachusetts—and I am not picking on the floor manager's State—but take the State of Massachusetts with 6 million people, and Arkansas with 2½ million people; 24 percent of our children are in poverty, and 13 percent of the children in Massachusetts live in poverty. We get $704 under the committee bill. Massachusetts gets $1,023, 40 percent more than we get per child. They get between $40 million and $50 million more even though they have only slightly more poor children than we have.

Do not do me any more favors like this.

In Arkansas, we are at 70 percent of the per-pupil expenditure of the national average, which is a little over $5,000 per pupil. Thirty-one States are below the national average. But if you, like Arkansas, are at 70 percent, and you are about third or fourth from the bottom in per capita income, I promise you my children will be dead before they match the 95 percent level for effort the committee bill has demanded. The committee says that until you reach 95 percent of the national per-pupil expenditure average, you cannot get another penny under this formula.

You think about that. And when you are trying to reach such massive figures as the difference between 70 percent and 95 percent of the national average, the children in my State will be

dead before they get another nickel under this formula.

What did the General Accounting Office say about the so-called equity bonus on disparities? In my State we have a property tax which pays about 50 percent of our education expenditures. You might not like it, but that is the way it is. We have a property tax. The more affluent counties spend more money on schools, but not because of a State requirement. The State actually sends more money to the poor counties than they do to the more affluent counties. But if the counties that have a little more money and want to spend a little more on education and increase their property tax a little bit more, why should they not? They should. But they should not ever plan on getting any more money under this formula because they will never reach the 95-percent level in the equity bonus set out by the committee, or the so-called "equity bonus per person" expenditures per child.

Here is what the General Accounting Office said. I want you to listen to this. This is what the General Accounting Office said about the equity bonus factor:

> The equity bonus factor has a floor on it that eliminates the incentive for improvement in States with the greatest spending disparities.

The Senator from Illinois made much of the fact that the committee is trying to get the States to eliminate the disparities in spending on students, and that is a very laudable goal. But the formula in effect says, don't worry about it, you will never reach it.

The General Accounting Office says there is no incentive to improve—and there is not—especially for those poor States. Then why have such a factor?

I will tell you exactly why it is in there. It is in there to make sure that the wealthiest States in America—New York, Maine, Connecticut, Rhode Island, Pennsylvania, Illinois, Ohio—get the money. They get the money, and they will continue to get more. I thought the Civil War was over. However, the States on that map with all those black dots will never benefit from this formula.

Mr. President, somebody had to come early and stay late to think up this formula. How in the world can you justify the most affluent States of America, which I just named, getting anywhere from $1,000 to $1,200 per poor child, and the State of Arkansas getting $704, the State of Alabama getting $710, and the State of Mississippi getting $742? How do you justify that? Answer: you cannot.

We probably will not prevail on this vote. A few in this body have gone to dinner, will walk in not having heard the debate, and will walk down to the floor managers, and, say, "How should we vote?"

It is so discouraging, Mr. President. You do not see any little black dots in Massachusetts. You do not see any little black dots in New York. You do not see any in Iowa. You do not see any in Indiana. Look where they are. Why do you think I have worked as hard as I have on this amendment? Because this is a demonstration of a significantly inequitable formula.

There is one thing I want to say about this that is good. The committee said if you do not have 5 percent of children in poverty in your school district, you get nothing. That is a step in the right direction.

Mr. President, I yield the floor, and reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened carefully to the Senator from Arkansas. I draw his attention to the fact, for example, under his formula the State of Utah—which has the third or fourth fewest poor children in the country, third or fourth lowest number of poor children in the country—and under the Bumpers formula, they have one of the highest increases; one of the highest increases. They go up 9.8 percent, and they have 10.9 percent poor children.

So, with all respect, I would have the facts, and tell those to the mothers of children in California or New York or Florida where you have hundreds of thousands; 350,000 poor children in Florida; 600,000, 970,000, and every one of those poor children under the Senator's formula goes down. You wonder why we work so hard at the formula.

We might not have it perfect, Mr. President. But if you start balancing these various factors out—this is just looking over the list. I was beginning to become convinced, until I started looking over the facts of this: 10.9 percent; three other States have lower numbers; 9.8 percent increase, and one of the fewest numbers.

Mr. President, we have tried. All right. Go back to the percent of income—Utah is 15,000; Arkansas, 15,006; and, Utah 15,007—and we find that the income is virtually the same, one of the lowest numbers of poor children in Utah, one of the highest increases under the Bumpers formula.

Yet, we see the dramatic reduction in the coverage of where the concentration of poor children are. As we have said, and as the Senator from Arkansas said, this is not a redistribution formula, this is not a redistribution; it is a program that should be targeted on the children, targeted on the cost of education, targeted on the efforts that are being made in those States to provide funding for the education, and targeted on the efforts of the State to reduce the disparity. Those are the factors that we have included in there. You can vary those to some extent. You can say "just poor children" and come out one way. It does seem to me that this is a balanced formula.

As I say, I regret the fact, and I wish we had additional kinds of resources to be able to deal with all of those. But, quite frankly, when you look at how the formula works in those particular instances—and I did not have the chance to go through others, but I think there are others—look at how it even works on Puerto Rico. Under this formula, Puerto Rico loses $12 million, and they have a child poverty rate of 66 percent, which is twice the rate of any State in the Union. I do not know how they fell through the cracks when you are talking about the number of poor children. But that is the effect. There are going to be more poor children that are going to be adversely affected under this program.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 19 minutes remaining.

Mr. KENNEDY. I yield 5 minutes to the Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. I thank the chairman. There is one State the chairman left out. If this formula is so all-fired perfect, I say to my friend from Arkansas, here is New Hampshire with one of the lowest poverty rates—7 percent—and they get an increase. If it is all-fired perfect, how come that happens?

To follow up with what the chairman said, the Senator from Arkansas leaves the implication out there that somehow the formula we came up with does not help poor States. Well, tell that to Mississippi. Mississippi, under the Pell-Kennedy formula, is better than current law—not as good, obviously, as what the Senator from Mississippi wants, but it is better than current law; Louisiana, better than current law; West Virginia, better than current law; South Carolina, better than current law. These are all poor States. We just did not give as much as what the Senator from Arkansas wants.

Second, let us turn to this chart. I have been looking at this, and I was quite intrigued by it. I saw the big chart on the other side. I looked at the little one here with all these little black dots on it. I could not quite figure it out at first, but now I have it figured out. It is a very ingenious little chart, all these little black dots, with a lot in Arkansas and a lot in Mississippi. I looked down here at New Mexico and Arizona, and I saw big counties with these big black dots out there. I read what those black dots mean. It says "a distressed county with twice the U.S. poverty rate, low income and/or 3-year unemployment."

So what could happen is you could have a county out here in West Virginia—it is colored black there—with twice the U.S. poverty rate—I will take the extreme—which might have two people living in the county. But you could have a county up here in Massachusetts, or in Chicago, and it could have 5,000 kids, maybe not twice the poverty rate but may be one-and-a-half

times the poverty rate. It does not show up here. This chart is as phony as a $3 bill. It does not give you an indication of where the real need is, because you might have just a few people in one of those counties out there and, yet, you have high concentrations in New York, or Chicago, or Miami, or even, yes, Los Angeles, south Los Angeles. This chart really does not tell it all.

I believe the Pell-Kennedy formula is fair. It does not provide for these big swings in States, which this amendment will do. What the effect of this amendment, I fear, will be is that it will start to pit States against one another, with poor kids in one State against poor kids in another State. Hopefully, that is what we tried to fight against in the formula we came up with.

Last, the Senator from Arkansas is a good pleader. If I ever have to go to court, I want him as my attorney. He makes a great argument. But if you look behind the argument, you have to ask yourself in these States: What is the State doing in its effort to equalize, to make sure that those areas of the State where they have high property taxes, high-income areas, where the State is saying you have a responsibility to fund other parts of the States, where we have low property taxes and poor people and low incomes? That is part of the formula we build in here, and I believe it is vital that we send that strong message to the States.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. BUMPERS. Does the Senator from California wish to speak?

Mrs. FEINSTEIN. I do. If there is time, I might speak at this time, or I will speak later.

Mr. BUMPERS. You are opposed to the amendment, are you not?

Mrs. FEINSTEIN. That is correct.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 15½ minutes.

Mr. KENNEDY. I yield 7 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, I understand the emotion and the passion behind the comments of the Senator from Arkansas, and I must say I feel some emotion and some passion about this subject, too. As a matter of fact, I had my staff pull the text of Ecclesiastes, chapter III, which says there is a point in time for everything, and a time for every affair under the Heavens. It goes on to say that there is a time to be born and a time to die, a time to plant and a time to uproot the plant.

I think that tonight is the time really to join the fight on chapter I, because I am one of those that joins Senator BUMPERS in a dissatisfaction over chapter I. I would like to, hopefully, without too much passion and emotion, make the case, because the way I look at it, it comes down to one basic elemental truth: a poor child is a poor child. You can have redundant factors, and you can have hold-harmless formulas, but if the money does not follow the poor children of the Nation, an enormous disservice is done. And the money does not follow the poor children of the Nation under the Kennedy-Pell formula.

As Senator KENNEDY pointed out, my State has the largest number of poor children in the Nation—969,762 poor children. Yet, we are a high-cost State, not a poor State. And there are pockets of poverty all over the State. A poor child in California, under the Pell-Kennedy formula, would get $783. A poor child in Connecticut—and a poor child is a poor child—would get $1,025. A poor child in Massachusetts, $1,024. A poor child in New York, $1,082. A poor child is a poor child. A poor child in Rhode Island, $1,064. In Connecticut, there are 53,000 poor children. In Massachusetts, there are 120,570. In New York, there are 597,134. In Rhode Island, there are 20,539.

My point is that the money does not follow the poor children, and that is the flaw with whatever formula any committee comes up with. The time has come to change the formula. In Texas, it is $729 a poor child, not $1,000, with 803,000 poor children.

So my State loses $21 million, a State that has a deficit of $5 billion, that cannot raise local taxes because of proposition 13, that has a budget deficit that is $5 billion in debt, and that spends 40 percent of its budget on the education of children.

So the more children you have that are poor, the more you are disadvantaged under this formula. It is just fact. It happens that way. You can add cost, you can add effort, you can put redundancy on redundancy, and all it does is keep money from where the poor children are in the Nation and where they are moving. The fact is poor children move.

That is what appeared to me last year when Senator KENNEDY and I entered into a colloquy, and this year the proposal is going to be worse. Only 2 percent of chapter 1 funds go to school districts in which more than 75 percent of students are poor. Less than half of chapter 1 funds goes to schools considered to be high poverty areas.

We will receive 11 percent of all chapter 1 grants, $667 million out of $6.3 billion. While the number of poor children in my State grew by almost 250,000 children, almost 40 percent between 1980 and 1990, there was no adjustment in California's allocation for 13 years or any other States. For California the failure to use updated data cost $126 million in 1993 and cost growth States a total of over $400 million in that year alone.

The money does not follow the child. A poor child is a poor child. The money should be directed on an absolute formula grant as to where the poor children really are in this Nation, and they should follow those children. It should be updated periodically. It should not have to wait 10 years or 13 years. If we follow this same rationale, by the year 2000 there is going to be enormous discrepancy—if we follow this same formula.

So, I would like to just point out a couple of things in my State that are going to happen. This is a projected increase between 1990 and 2005. We will have a greater than 40 percent increase in poor children in these areas; San Diego, San Bernadino, Riverside, the Los Angeles area, in the entire central valley, Fresno. More and more by then, California will be dominantly people of color, poor—which already is happening—more and more immigrants, more and more illegal immigrants.

In the areas that are slashed diagonally, there will be a 25 percent to 40 percent increase, and in the areas this way a 25 percent increase in poor children.

So the situation is only going to compound dramatically under Kennedy-Pell in terms of numbers.

The difference in per-pupil resources is created by something in the chapter 1 formula called the cost factor, and that raises or lowers State allocations by up to 20 percent. As an example of one of the school districts getting the less funding——

The PRESIDING OFFICER (Mr. ROBB). The time yielded to the Senator from California has expired.

Mrs. FEINSTEIN. Is it possible to have yielded a few more minutes?

Mr. KENNEDY. I had thought the Senator was going to speak in opposition to the Bumpers amendment, mistakenly. I have others who want to address that.

I think in fairness to those, particularly since those States are going to be affected, maybe the Senator from Arkansas will yield time.

Mrs. FEINSTEIN. That is fine. I have all night. I can wait.

I thank the Senator very much.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. How much time do I have?

Does the Senator have someone who wishes to speak?

Mr. KENNEDY. Senator JEFFORDS wished to speak. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for up to 5 minutes, with the time charged to the time of the Senator from Massachusetts.

Mr. JEFFORDS. Mr. President, I rise in support of the title 1 formula.

Vermont really does not have anything to gain or lose by either formula. We are going to get the same amount under the Bumpers-Cochran as we did under the Kennedy formula, the committee formula.

But I believe that it is important for those of us on the committee to take a look at the problems and priorities of the Nation on a more global scale and put regional differences aside.

The formula we are considering today is a result of 2 years of investigation on the part of the committee, 2 years of crafting a formula which incorporates and combines suggestions from policy experts, children advocates, the administration, the General Accounting Office, and others, and represents a constructive new direction for Federal chapter 1 funding.

Most importantly, the committee formula represents an intricate balance between several interrelated factors; State poverty, the cost of providing educational services, State tax efforts for education, and the degree to which a State has equalized funding across State lines. This last factor I consider particularly important.

I urge my colleagues not to tinker with one part of the formula, for it will affect the delicate balance that has been created.

The formula recognizes that it costs more to educate poor children when they attend schools which have high numbers of concentration of poor students and provides grants up to 40 percent higher to serve students in those types of schools. It recognizes that the cost of providing educational services to children also varies from State to State on account of cost-of-living differences between those States and the cost-of-education difference between those States.

Furthermore, for the first time, the formula provides rewards and incentives to those States which carry a high tax burden for education, and to those states which have achieved a sufficient degree of equity in funding for public schools across the State. And that has been a very severe national problem. We should reward those States that have tried to do something about the equalization of funding among the States.

No formula will account for the needs of every State. I think the chairman did an excellent job crafting a formula that puts policy before politics, and in doing so sets a bold and positive new policy for Federal education funding.

Let me just make a few points about the competing formula which has been advocated here by Senators BUMPERS and COCHRAN. This formula ignores the effort and equity factors put forward by the committee. As I said, these are very important factors for a new formula, factors which I believe represent a constructive new Federal policy.

In the committee formula, States are rewarded when they show a high fiscal effort to support education, regardless of their wealth. States are rewarded when they have made progress towards equalizing funding across district lines.

My State and many States will tell you it is incredibly difficult, and we failed this year in our effort to make our system better. The formula we are debating now will eliminate the factors and, in my mind, will be a significant step backward in developing a formula for the future.

While no formula is perfect, this one would reward those who spend the least on education for their children in those States where the Federal Government already picks up more than their fair share of the tab.

Many of these same States have significant amounts of federal money coming from various programs across the spectrum. Vermont, I know from my own analysis of our situation, has less Federal money coming in from other Federal programs, education and otherwise, than many of the States who would benefit under this formula.

In addition, while the formula would benefit my own State only slightly, it would destroy the chapter 1 program in several States where the problems of poverty are severe. That is why I would be against it and recommend a vote against it.

For instance, California with nearly one-eighth of the poor children in the country, would lose nearly $50 million under the competing formula.

Mr. President, I again want to echo that I feel it is critically important that we establish new Federal policy, and the formula this committee has worked on has done an excellent job to bring new factors in that will provide a much more equitable situation for our schoolchildren, especially those in poverty.

Mr. President, I yield the floor and yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, how much time do I control?

The PRESIDING OFFICER. The Senator from Arkansas controls 8 minutes and 40 seconds. The Senator from Massachusetts controls 2 minutes and 3 seconds.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, my friend from Iowa, one of the dearest friends I have in the U.S. Senate, called the map which sits behind Senator COCHRAN, phony. You think about that. I know that he is a well-intentioned person. I know that he cares about poor people. I know his heart is in the right place.

But how can he call those black dots, where the poverty rate is twice the national average, phony? I would like to take the Senator from Iowa over into the Delta of eastern Arkansas and take him to about 10 or 15 counties where those black dots are. It is not two poor people, as he suggested. It is thousands and thousands of poor children, mostly black.

The Senator from Iowa said, if we stay like this, we are just going to pit States against each other. You could not have fired on Fort Sumter and come up with a worst case of pitting States against States than the committee formula.

I have pointed out at least twice, and maybe three times, in the course of the evening that the big bucks, $900 to $1,200 per poor child, are going to New York, Massachusetts, Pennsylvania, Connecticut, Rhode Island, Indiana. No black dots in those States. They have poor children, but they do not have the concentrated poverty that I am talking about. It is not just the concentration of poverty, it is the concentration of poor children.

I do not begrudge New York, Massachusetts, or any of those States the amount of money they get under this formula. I want them to educate their poor children as well.

Why is a poor child in New York or Pennsylvania or even Vermont worth $1,200 each and a poor child in my State only worth $700? Talk about pitting State against State.

And the Senator from Massachusetts said, "Well, look at Senator BUMPERS' and Senator COCHRAN's formula. My goodness gracious, look at Utah. Poor little old Utah, with about a million people and an 11 percent poverty rate, 2 percent less than the State of Massachusetts, and they are getting just about the same amount of money Massachusetts is getting."

Well, look at Utah.

Our formula is not perfect. It is designed on what the GAO said was the best you could do.

I was practicing law one time and another lawyer told me a story about a guy that had just been charged with murder. And he told the cop, he said, "Why are you looking at me? Look at that jaywalker. Why don't you arrest him? The guy committed murder and he says, "Get that jaywalker."

And here we have, "Look at Utah. Why don't you look at Utah? Don't look at New York and Connecticut and Rhode Island and Massachusetts and all the other States that make off like bandits. Look at Utah."

Mr. President, there is one unassailable fact: the wealthy get wealthier under this formula.

If this were just a Senator from Arkansas speaking, pay no attention. It is the investigative arm of Congress on whom we rely for almost everything, the General Accounting Office. What do they say? They say that this formula to disburse $7 billion-plus, to try to help poor students in the schools of America, has the very opposite effect. Not me, the General Accounting Office.

They say the equity bonus factor inserted in the committee's formula, under the guise of saying we want disparities eliminated will have the very opposite effect. It will not eliminate the disparities.

And in light of that, they said, "Why is this even in the formula?" And with regard to the so-called effort bonus factor, where you take the average per pupil expenditure in your State and compare it with the per pupil expenditure as a national average, 31 States are below the national average.

My State is at 70 percent. The committee bill says, "Until you get up to 95 percent, you are stuck at $704."

Do you know what that would require in a State like mine? It would require something like a 20-percent property tax increase; a 2-cent sales tax increase. We cannot do it. We are a poor State. That is the reason I am pleading.

But the committee says this is the fairest formula they could come up with. And what they are saying is, "Senator, your children will lie in their graves before the State of Arkansas will ever get to 95 percent of the effort. And, therefore, as long as this formula is in effect you will never get another penny under the so-called effort equity bonus."

What did the General Accounting Office say about that? There is no incentive for the poor States, where most of the poverty children are, to try to reach it, because they cannot. It is not an incentive. Neither the effort to eliminate disparities within States has an incentive in this, nor does the incentive to get people to spend more per pupil in this bill. On the contrary, both of them are disincentives.

And so let me just say, in closing, to my colleagues, if you are from Massachusetts, New York, Ohio, Illinois, Pennsylvania, Rhode Island, or Connecticut, you would be an idiot to vote against this. It is what we call in Arkansas "a bird nest on the ground."

And if it passes and it becomes law, to all the States that we are talking about, you are locked in. It would take a mammoth effort to ever get another nickel under this formula.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 21 seconds remaining.

Mr. BUMPERS. I yield to the Senator from Mississippi the remainder of my time.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for up to 15 seconds.

Mr. COCHRAN. I thank the Senator for yielding.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the GAO addressed to me and the Senator from New Mexico [Mr. BINGAMAN], on an evaluation of the formula alternatives before the Senate now.

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

GENERAL ACCOUNTING OFFICE,
HEALTH, EDUCATION AND HUMAN SERVICES DIVISION,
Washington, DC, June 7, 1994.

B-257503

Hon. THAD COCHRAN,
U.S. Senate.

Hon. JEFF BINGAMAN,
U.S. Senate.

The Senate is considering a new formula for distributing federal assistance for the educationally disadvantaged under title I of the Elementary and Secondary Education Act amendments of 1994. The new formula, described in Senate bill S. 1513, would distribute federal aid for the educationally disadvantaged on the basis of four factors. In response to your request, this letter provides our views of these four factors in light of the program's objective to target funds to children with the greatest need.

Under S. 1513, funds would be allocated under one formula, which contains four factors:

The first is a weighted measure of poor children that serves as a proxy for the number of educationally disadvantaged children. The weighting scheme provides a higher per child allocation to school districts in counties with high poverty rates and high numbers of children in poverty.

The second is a state average per pupil expenditure factor, a measure of total state and local spending on education per pupil, that serves as a proxy for state costs of providing chapter 1 services.[1] Under current law, this factor cannot exceed 120 percent or fall below 80 percent of the U.S. average. Under S. 1513, this factor would range between 115 and 85 percent of the average per pupil expenditure in the United States.

The third is an effort bonus based on state per pupil spending expressed as a percentage of state income, which is a proxy for the level of "effort" the state makes in funding elementary and secondary education in the state. However, this factor must range between 95 and 105 percent of the nation's average effort, rewarding those states with the greatest effort with a bonus in their chapter 1 per pupil funding.

Fourth, an equity bonus generally based on the coefficient of variation in per pupil education spending in the state[2] serves to reward states that have low disparities in per pupil spending in the state; states with great disparities will be penalized. This factor must also range between 95 and 105 percent; states with the lowest disparities are weighted 105 percent, giving them a bonus in their chapter 1 per pupil funding.

In summary, while the goals of S. 1513 are laudable, the new grant allocation formula may not be appropriately designed to increase targeting to high poverty areas and to reward states that reduce inequities in per pupil spending. An unintended consequence of adopting the new formula may be to produce less—rather than more—targeting to educationally disadvantaged children.

EXTRA WEIGHTING FOR AREAS WITH HIGH POVERTY LEVELS COULD BE INCREASED

The bill's proposed formula provides extra weighting, which results in somewhat higher funding per child, to target additional funds to serve children in areas with high concentrations of poverty. In a 1992 report, GAO recommended that counts of children receive greater weight in high poverty areas to better reflect the greater number of educationally disadvantaged children in these areas.[3] However, the weighting scheme adopted in S. 1513 may not provide high enough weight to sufficiently target dollars to counties with high concentrations of educationally disadvantaged children. For example, the need for chapter 1 funding in high poverty counties may be as high as 150 percent of the need in low poverty counties, but the weighting scheme in S. 1513 is insufficient to provide allocations that will compensate for this 150 percent difference in need.

STATE AVERAGE PER PUPIL EXPENDITURE IS A POOR PROXY FOR COST OF CHAPTER 1 SERVICES

Our earlier report also criticized the current cost factor because it overstated cost differences and unfairly benefitted wealthier states that can afford to spend more on education. S. 1513 tries to correct this bias to some extent by reducing the range of this factor from between 80 and 120 percent of the U.S. average to between 85 and 115 percent. However, we believe that the current measure of per pupil expenditure is a poor proxy for the cost of providing chapter 1 services.

EFFORT BONUS FACTOR MAY NOT TARGET HIGH NEED STATES

The effort bonus may target more aid to states with lower concentrations of children in poverty and less to states with the highest concentrations of such children. Such targeting would be contrary to the objective of the program, which is to target more money to those places with greater concentrations of poverty and, hence, more educationally disadvantaged children.

The rationale for using an effort factor is to introduce a financial incentive into the formula for low spending states to increase their effort to adequately fund their educational systems. However, placing a floor on this factor of 5 percent less than the national average substantially reduces the impact of this incentive. Because of the 95-percent floor, a low spending state that increases its effort may get little additional benefit in the form of a larger chapter 1 grant. Similarly, by placing a 105-percent ceiling on this factor, a high spending state that decreases its effort may not have its chapter 1 grant reduced substantially.

EQUITY BONUS FACTOR MAY NOT PROVIDE INCENTIVES FOR STATE REDUCTIONS IN SPENDING DISPARITIES

Finally, the equity bonus factor, while well intended, is not likely to serve its intended purpose—as an incentive for a state to decrease in-state per pupil spending disparities—for three reasons:

(1) Chapter 1 funding is such a small portion of total school spending that it is unlikely that it will cause states to change their school aid formulas to produce smaller spending disparities.

(2) The floor placed on the factor so that it cannot be less than 95 percent substantially weakens the incentive for states to reduce per pupil spending disparities for precisely those states with the largest inequities.

(3) The restriction that the factor can be no more than 105 percent significantly reduces the penalty for states with the smallest variation in per pupil spending whose performance deteriorates.

The equity bonus may tend to target less aid to some states with larger spending disparities in per pupil funding and generally higher rates of child poverty and educationally disadvantaged children while targeting more assistance to some states with the smaller spending disparities and generally

Footnotes at end of letter.

lower concentrations of child poverty and educationally disadvantaged children. This would happen because some states with smaller spending disparities also generally have smaller economic disparities and, hence, fewer poor children.

ADDING A FUNDING CAPACITY FACTOR WOULD IMPROVE FORMULA

One way of both targeting high poverty areas and promoting greater equalization is to include a measure of county or state funding capacity in the allocation formula. For example, in our 1992 report, we recommended the inclusion of an income factor that would target localities with limited capacity to fund remedial services. Such a factor would target more—rather than less—assistance to areas with the highest concentrations of educationally disadvantaged students.

Copies of this correspondence will be provided to interested parties upon request. If we can be of any further assistance please call me on (202) 512-8403 or Jerry Fastrup on (202) 512-7211.

Sincerely,

CORNELIA M. BLANCHETTE,
Associate Director,
Education and Employment Issues.

FOOTNOTES

[1] Under S. 1513, chapter 1 is redesignated as title I.

[2] The coefficient of variation in per pupil spending is a statistical measure of the degree to which per pupil spending varies in a given state.

[3] "Remedial Education: Modifying Chapter 1 Formula Would Target More Funds to Those Most in Need" (GAO/HRD-92-16, July 28, 1992).

TARGETING CHAPTER 1 FUNDS—AN EVALUATION OF FORMULA ALTERNATIVES

BACKGROUND

The goal for funding Compensatory Education Services was established at 40 percent of state per pupil spending when Chapter 1 was authorized in 1965. This need standard is reflected in the current Chapter 1 formula which allocates federal funds in proportion to 40% of state per pupil spending.

Appropriations for Chapter 1 amount to only 35% of remedial education spending needs, leaving 65% either unfunded or at the discretion of states and local school districts to make up the funding gap.

Low-income school districts are at a funding disadvantage due to their relatively weak local tax bases. They must undertake substantially larger tax burden to meet the 40% funding goal for remedial education.

CHAPTER 1 REAUTHORIZATION ISSUES RELATED TO THE SCHOOL FINANCE EQUALIZATION ISSUE

S. 1513 brings federal policy into the school finance equalization issue by including an "equity" factor that rewards states that have low spending disparities among local school districts.

The S. 1513 equity factor is a flawed indicator of states' success in achieving equalization and should not be used because it directs limited federal resources to low-need states.

Chapter 1 funds should be allocated from the Federal government to the States using an equalizing formula that offsets the funding disadvantage of low-income schools. This can be accomplished by introducing an income factor that targets Chapter 1 funds to low-income areas.

The income factor proposed in the Bumpers/Cochran Amendment is the same type of factor most states use in allocating their school aid funding, including, for example, Massachusetts, Kansas, New York, Mississippi, and Utah.

COMPARISON OF VARIOUS FORMULA ALTERNATIVES IN TERMS OF TARGETING ADDITIONAL AID TO HIGH POVERTY STATES

Formulas Compared:

(1) Current Law
(2) S. 1513 (Committee)
(3) S. 1513: no effort (Feinstein)
(4) S. 1513: no effort or equity factor
(5) S. 1513: no bands on equity factor (Hatch)
(6) Current Law with income factor (Bumper/Cochran)

TABLE 1.—FUNDING PER CHILD IN POVERTY

Formula	13 High poverty States	13 Low poverty States
Poverty rate (percent)	23.6	11.2
Current law	$736	$902
Percent difference from current law:		
S. 1513	+0.1	+0.6
No effort or equity factor	+2.6	−2.2
Feinstein	+3.2	−0.4
Hatch	+3.9	+2.3
Bumpers/Cochran	+10.2	−6.1

Conclusions: In terms of targeting increased aid to high poverty states,

The committee formula is virtually no different from current law. Current law provides $736 per poor child to the high-poverty states and $902 per child to the low-poverty states. S. 1513 provides slightly more to both groups and, by implication, less to the states in the middle group.

The Bumpers/Cochran option is the only formula under consideration that substantially increases targeting to high-poverty areas, increasing aid to high poverty states by 10% while reducing aid to low-poverty states by 6%.

Eliminating the tax effort and equity factors from S. 1513 provides a modest increase in targeting to high poverty states (an additional 2.6%) and reduces aid the low-poverty states a modest 2.1%.

The Feinstein and Hatch proposals provide additional assistance to the high poverty states but this is accomplished by reallocating aid from the middle group of states. The Feinstein proposal reduces aid to low poverty states by only 0.4% while the Hatch proposal reallocates aid from the middle group to both high- and low-poverty states.

EQUALIZATION ACHIEVED UNDER VARIOUS FORMULA ALTERNATIVES

The tax burden local school districts would have to undertake to reach the 40% funding goal for Chapter 1 is much greater in low-income school districts. Their greater tax burden reflects the economic disadvantage they face in funding remedial services.

Under the current law formula, low-income states would have to tax themselves at rates 35% above the national average. In contrast, the low-poverty states could meet the spending goal with tax rates nearly half the national average (see table 2).

TABLE 2.—LOCAL TAX BURDENS REQUIRED TO FULLY FUND REMEDIAL SERVICES UNDER THE CURRENT CHAPTER 1 FORMULA

[U.S. average=100]

	Percent—	
	Poverty rate	Tax burden
13 High poverty States	23.6	136
13 Low poverty States	11.2	52

The goal of school finance equalization is to distribute grant funds so that all school districts are able to makeup the funding shortfall with equal tax burdens.

How equalizing a particular formula is can be determined by comparing the extent to which they offset disparities in tax burdens required to fully fund remedial education expenditures needs.

Table 3: Reduction in financing disparities under various formula alternatives compared to current law

Formula alternative:	Disparity reduction (percent)
S. 1513	4.0
Feinstein (no tax effort)	6.4
S. 1513 no effort or equity factors	5.6
No floor or ceiling on equity favor	5.6
Bumpers/Cochran	15.5

These results lead to the following conclusions:

All the formula options make only modest improvements in offsetting the financing disadvantage of high poverty states.

The committee formula (S. 1513) makes the smallest improvement in equalizing the allocation of chapter 1 funds, reducing tax burden disparities by just 4%.

The Bumpers/Cochran alternative makes a significant improvement, equalizing tax burden disparities 15.5%.

The G formula reduces financing disparities the most, 19.3%.

The Feinstein, LA1 (the Committee formula without the tax effort and equity factors), and the Hatch formula alternatives provide only slightly more equalization than the committee formula but considerably less than the Bumpers/Cochran alternative or the G formula.

The attached table provides information on the tax burden disparities of all 50 states.

The PRESIDING OFFICER. All time under the control of the Senator from Arkansas has expired.

Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator controls 1 minute and 40 seconds.

Mr. KENNEDY. I yield the remaining time to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for up to 1 minute and 40 seconds.

Mr. SPECTER. Mr. President, I oppose the amendment offered by Senator BUMPERS and Senator COCHRAN because the committee amendment is an equitable formula. It rewards the States which have made a greater effort to fund education and it also accommodates the States with concentrations of poor people.

Frankly, I prefer the existing law to the new committee amendment because my State, Pennsylvania, does a little better under existing law.

But I oppose the Bumpers-Cochran amendment, candidly, because my State does substantially worse under the Bumpers-Cochran amendment.

Under the committee formula, contrary to what the Senator from Arkansas said, there are many of the States which are not affluent that do better

under the committee amendment than under current law—Kentucky, Louisiana, Mississippi, Arkansas, Georgia, West Virginia.

The committee amendment has been worked out after consideration, after hearings, after a great deal of thought.

There are other formulas in the wings to be offered by other Senators. These formula changes have been calculated so that their own individual States will receive more funds. If we start to remanufacture the formulas based on what does best for each of our States, we are going to end up with 50 different suggestions.

My strong recommendation to this body is to accept the committee amendment and reject the pending amendment.

Mr. DOMENICI. Mr. President, I am pleased to cosponsor the Cochran/Bumpers amendment regarding chapter 1 funding. The Chapter 1 Program is currently our largest education program we have to serve our disadvantaged students. When Lyndon Johnson created this program back in 1965, he probably never imagined it would be this large or serve as many students as it does today.

But part of the problem with the Chapter 1 Program is that it does serve so many students. And some of the students served under this program would hardly be classified as poor or disadvantaged students. Under the current formula, chapter 1 funds are going to 93 percent of all school districts, and 66 percent of all public schools.

According to a July 18, 1994 article in U.S. News and World Report, only 2 percent of the $6.2 billion we currently spend on this program go to school districts in which more than 75 percent of the students are poor. Less than half go to high-poverty areas. More alarming, the article continues, $310 million goes to school districts in which fewer than 5 percent of the students are poor.

With this in mind, I am pleased we are now taking the opportunity to ensure that we do a better job sending increasingly scarce Federal resources to the school districts that need them most—the very poor. Students who are poor are disadvantaged in more than just a financial sense. They often lag behind their peers in academic as well as social skills. Chapter 1 programs have given many students the assistance they need to achieve on a more level playing field.

The formula we have in the committee substitute does make some significant steps toward targeting chapter 1 funds toward needy students. I am pleased with some of the innovative changes in the formula, such as assigning students weights according to percentages and numbers of children in poverty, and using a cost factor—which factors into the formula a State's average per pupil expenditure—makes a good start toward ensuring funds get where they are needed most.

However, I do not believe the effort and equity factors—both of which are new elements in the formula—are accurate indicators of children in poverty to be served. That's why I am pleased to support this amendment, which uses a relative income per school age child factor. This factor is calculated by taking into consideration the county's income per child and comparing it with the national standard. Injecting this element into the formula results in Federal resources going where they are most needed by targeting those areas with higher numbers of children and lower incomes.

Mr. President, while my home State of New Mexico will receive additional funds under this alteration in the formula, I want to point out that New Mexico stands to gain under almost any change in the formula including the one in the committee substitute. Unfortunately, when funding formulas are based on poverty, as is the chapter 1 formula, New Mexico will almost always do very well. However, regardless of the amount New Mexico would receive under this formula, I feel this formula is the most equitable and fairest of any of the changes in the formula we will see before us.

I thank the Senator from Mississippi and the Senator from Arkansas for their diligence in this matter, and I am pleased to lend my support to this amendment.

THE TITLE I FORMULA

Mr. CHAFEE. Mr. President, I believe that the formula for title I allocations that is included in S. 1513 is fair. Title I provides funds to local school districts to help them to meet the educational needs of low-achieving students in poor neighborhoods. Until now, the funds were allocated, through States to the local level, based on a formula that considers the State-wide average expenditure per pupil, the number of children below the Federal poverty line, and the number of children whose families are receiving AFDC.

Under the formula proposed by S. 1513, the allocation to the States would be based on the number of poor children multiplied by the State expenditure per pupil, except that each child is assigned a weight based on county poverty rates or numbers of poor children. In other words, the higher the poverty rate, the higher the average child grant a State would receive. The new formula also considers effort and equity. These factors reward States that spend heavily on education in relation to their fiscal capacity. The title I formula is extremely complicated, but one thing is clear. The proposed formula will send a message to States that those who make education a high priority will be rewarded for doing so.

The formula in S. 1513 provides each State with at least as much as they received this year, through a hold harmless provision. So, there are no losers with this approach. As I understand it, the amendment before us would result in dramatic swings in funding that are linked entirely to regional demographics.

This afternoon, I met with three elementary school principals from my State. Each of them reported receiving substantially less funding this year then they did in years past. Under the proposed amendment, these schools would experience even greater reductions. The Bumpers-Cochran amendment would result in a loss of $1.5 million for Rhode Island's neediest children.

I oppose this amendment and urge my colleagues to do the same.

Mr. HATCH. Mr. President, I support the Bumpers-Cochran amendment to the title I formula in S. 1513.

The use of county income data as a factor to determine a State's allocation would help a lot of States in need.

I believe my colleagues have presented a commendable proposal. However, this is not the only meritorious approach to the difficult issue of school finance reform.

As my colleagues are aware, I have prepared my own amendment to the title I formula which I believe has merit as well.

Senator FEINSTEIN has circulated a proposal that is sound.

Mr. President, I believe as well that the formula in S. 1513 is a credible and valid formula.

I don't think there is only one way to go on this. The one sure way to have a formula fight is to get locked in on a specific theory or factor.

I support the Bumpers-Cochran formula because it meets my criteria for measures such as school funding formulas.

My criteria is quite simple, Mr. President.

First, the formula must be supported by sound policy that can be argued compellingly and substantively. The Bumpers-Cochran formula accomplishes this. I certainly believe my amendment achieves this and so does the formula included in S. 1513. There are legitimate points in favor of each of these ideas.

Second, the formula must be good for my state of Utah.

When the policy is solid—and I have not yet seen an amendment to this formula where the policy is not solid—then the question becomes one of how Utah fares under the formula in question.

As my colleagues will see, the Bumpers-Cochran formula does benefit Utah relative to the formula in S. 1513.

Therefore, I plan to support it.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the hour of 9:30 having arrived, the question occurs on amendment 2428.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—46

Baucus	Dole	McCain
Bennett	Domenici	McConnell
Bingaman	Dorgan	Murkowski
Bond	Exon	Nickles
Boren	Faircloth	Nunn
Breaux	Gramm	Packwood
Bumpers	Hatch	Pressler
Burns	Heflin	Pryor
Cochran	Hollings	Rockefeller
Cohen	Hutchison	Sasser
Conrad	Johnston	Shelby
Coverdell	Kempthorne	Simpson
Craig	Kerrey	Thurmond
Danforth	Levin	Wallop
Daschle	Lott	
DeConcini	Mathews	

NAYS—54

Akaka	Graham	Mikulski
Biden	Grassley	Mitchell
Boxer	Gregg	Moseley-Braun
Bradley	Harkin	Moynihan
Brown	Hatfield	Murray
Bryan	Helms	Pell
Byrd	Inouye	Reid
Campbell	Jeffords	Riegle
Chafee	Kassebaum	Robb
Coats	Kennedy	Roth
D'Amato	Kerry	Sarbanes
Dodd	Kohl	Simon
Durenberger	Lautenberg	Smith
Feingold	Leahy	Specter
Feinstein	Lieberman	Stevens
Ford	Lugar	Warner
Glenn	Mack	Wellstone
Gorton	Metzenbaum	Wofford

So the amendment (No. 2428) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I appreciate the cooperation that we have had during the afternoon and the early evening. It is my understanding there are two more formula amendments, Senator HATCH from Utah and Senator FEINSTEIN from California. It would be my preference, and I think Senator JEFFORDS', since we have been talking about these matters, and I think the Members are familiar with it, that we would deal with those issues this evening. Senator GREGG had an amendment just to strike existing programs which would take a short time, and then there is one further amendment that I am familiar with. That is Senator Danforth's amendment.

So we would like to try to accommodate the schedule of the leaders to move ahead. Obviously, the schedule is going to be decided by the leadership. But we are prepared to move ahead on those matters, and we would like to be able to do so with the idea of getting some resolution—I see Senator FEINSTEIN here. She was prepared to vote this evening.

Mrs. FEINSTEIN. Yes. I want a rollcall vote.

Mr. KENNEDY. Could we do that in an hour?

Mrs. FEINSTEIN. Yes. Probably, yes.

Mr. KENNEDY. Senator FEINSTEIN is prepared to agree to a time limitation and to a vote.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. I ask unanimous consent that Senator FEINSTEIN now be recognized to offer her amendment; that there be a 1-hour time limitation on the amendment equally divided in the usual form; that no amendments be in order either to her amendment or to any language that may be stricken, and that upon the conclusion or yielding back of time the Senate vote on or in relation to the Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. I object.

Mr. HATCH. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Utah reserves the right to object.

Mr. HATCH. It was my understanding that the Hatch amendment would go next, and I think it might resolve the matter if we do it. I am hopeful it would.

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

Mr. HATCH. I would say we can certainly do it in an hour, maybe even less.

Mr. MITCHELL. Mr. President, I put the same request except that I propose that it be the Hatch amendment as opposed to the Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object.

Mr. JEFFORDS. I object.

The PRESIDING OFFICER. The Senator from Wyoming reserves the right to object.

Mr. WALLOP. Mr. President, it may not occur to either the Senator from Massachusetts or Maine, but the hour is 10 o'clock, and therefore I object.

The PRESIDING OFFICER. Objection is heard.

The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Yesterday morning, the Senate spent nearly 3 hours in what was an unnecessary delay on the matter, and I predicted at the time that either last evening or this evening we would get to a point where we were making progress on the bill and people would say, well, it is too late to proceed. If we had been able to devote those 3 hours yesterday morning to the bill instead of the pointless delay which occurred, we might not be in this position.

Mr. President, Senators can, of course, object to any proposed agreement and can prevent votes on amendments from occurring. The only recourse which the majority leader has is to compel votes on procedural matters. I have done so only sparingly and with great reluctance and will not do so this evening.

But I will simply say to my colleagues that more than a month ago I wrote a letter to every Senator. I read the letter in this Chamber. I placed the letter in the Congressional RECORD. I advised Senators well in advance that we have a certain amount of business which we have to complete. If we continue to encounter delays during the day, then we have no alternative but to conduct our business in the evening.

What simply cannot be accepted is the circumstance where we have delays during the day and then we cannot act in the evening.

Mr. President, I will modify my request. Senator HATCH was of the impression his amendment was going to be next. So I will ask unanimous consent that Senator HATCH be recognized to offer his amendment; that there be a 1-hour time limitation on the amendment equally divided in the usual form; that no amendments be in order either to his amendment or to any language that may be stricken, and that the vote on the Hatch amendment occur at 10 a.m. on Monday.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mrs. FEINSTEIN. Reserving the right to object, then would I have an opportunity for my amendment?

Mr. MITCHELL. Mr. President, I further request that following disposition of the Hatch amendment, on Monday, Senator FEINSTEIN be recognized to offer her amendment under a comparable 1-hour time limitation and that upon the use or yielding back of that time the Senate vote on or in relation to the Feinstein amendment.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified? The Chair hears none, and it is so ordered.

Mr. MITCHELL. I thank my colleagues. The next vote will be on the Breyer nomination tomorrow, upon the completion of the time. The Hatch amendment will be debated this evening. The vote will occur at 10 a.m. Monday. Then there will be 1 hour of debate on the Feinstein amendment, and then a vote on the Feinstein amendment. I thank my colleagues.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Under the previous order——

Mr. MURKOWSKI. Mr. President, may I address the leader?

The PRESIDING OFFICER. Under the previous order, the Senator from Utah will be recognized to offer an amendment.

Mr. MURKOWSKI. Mr. President, ordinarily Senator Jake Garn would have had this obligation, but I am not quite clear on the majority leader's statement relative to what time the vote would occur tomorrow.

Mr. MITCHELL. Under the agreement entered, debate would begin at 9 a.m. There will be 6 hours for debate equally divided. If all time is used, the vote will occur at 3 p.m. If time is yielded back, the vote will occur prior to 3 p.m. in direct proportion to the amount yielded back.

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

Mr. MURKOWSKI. Mr. President, so it is the majority leader's intention then to have the last vote tomorrow no later than 3 p.m.?

Mr. MITCHELL. Well, under the order, unless unanimous consent is granted to extend the time, the vote will occur at 3 p.m., if all time is used. If all time is not used, it will occur prior to that.

So the answer is, yes, it will occur no later than 3 p.m. I hope and expect that it will occur before then. I do not believe all the time need be used, but that is up to individual Senators.

Mr. MURKOWSKI. Mr. President, the Senator from Alaska would object if the unanimous consent were asked beyond 3 p.m.

Mr. MITCHELL. I do not intend to ask it.

Mr. MURKOWSKI. I understand.

Mr. MITCHELL. It is a very regular practice for Senators to come in the Chamber and ask unanimous consent for more time, so I suggest the Senator be here and diligent during the day.

Mr. MURKOWSKI. The Senator from Alaska will be here at 3 p.m. I thank the chair.

Mr. MITCHELL. No. No, I suggest the Senator be here at 9 a.m..

Mr. MURKOWSKI. I will be here for the vote.

I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, with regard to the Breyer vote at 3 p.m., I do not know what my friend, the ranking member of the committee, Senator HATCH, has determined, but to the best of my knowledge there is not the necessity of using all 6 hours. So I just want to let people know that the managers of the bill will not be offended if people do not use all 6 hours because at least two dozen of you asked me whether or not I am going to "Keep that going 'til 3 o'clock."

I am ready to vote at 9:30, and we go in at 9 a.m. So I just want you to know that anyone wishes to vote earlier, encourage your friends to just show up earlier to vote. You may all be able to leave, and we may be able to move this much more quickly.

Mr. CHAFEE. Mr. President, this week we have begun consideration of the Improving America's Schools Act, and I am pleased to be an original cosponsor. This bill provides more than $12 billion in Federal assistance to State and local educational agencies, primarily to assist children at risk—including children in poverty and children with limited proficiency in English—to attain the high academic standards being developed as a result of the Goals 2000: Educate America Act, which was approved earlier this year.

I am particularly pleased with the reauthorization of the Even Start Family Literacy Act, which I authored in 1987 and which was enacted into law as part of the 1988 Elementary and Secondary Education Act. This began as a very modest program, first authorized at $50 million. In 1992, the program was reauthorized at $100 million, and this year, we go even further by authorizing Even Start at $120 million.

Even Start provides services to children, from infants to 7-year-olds, and their families. One of our Nation's gravest challenges is the persistence of illiteracy. I introduced the Even Start Program because illiteracy tends to be passed from one generation to the next. Tragically, even parents with the best intentions tend to pass their illiteracy on to their children. Study after study indicates that children who are read to during their preschool years, learn to read more easily than children who are not read to. Children of nonreaders too often grow up to be nonreaders, and these children begin school at a distinct disadvantage.

Even Start strives to break this cycle of illiteracy by funding literacy programs directed specifically at nonreading parents and their preschool children. We all agree that parents are their children's first teachers, and that children, whose parents are involved in their education, flourish. Even Start helps parents to develop the skills needed to participate, in a meaningful fashion, in the education of their children.

The Even Start Program includes core services, such as adult literacy training, training for parents to prepare them to assist in their children's education, and early childhood education. Additional services may include child care services, testing and counseling, education of parents and their children in their own homes, and transportation. Even Start helps in our efforts to achieve three of our Nation's educational goals: Goal one "all children will start school ready to learn," goal six "every adult American will be literate * * *," goal eight "every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional and academic growth of children."

Even Start tackles the dilemma of parents who are unable to help their children succeed in school because of their own literacy problems. Imagine the anguish of parents who know they should be reading to their children, but cannot; who cannot interpret or response to notes from teachers or bulletins; and who must stand by helplessly while their children struggle to handle the challenges of school all alone. Imagine the despair of the child who gets no reinforcement at home for what he or she learns at school. Even Start attacks this problem from both sides, by assisting the child and the parent.

Funds authorized by S. 1513 for Even Start will be targeted toward teenage parents, 78 percent of whom are likely to live in poverty. Teenage parents and their children are of special concern, because too often these teen parents have no alternative but to drop out of school. Without a program like Even Start, the children of these parents would be likely to fall into the cycle of illiteracy.

In addition to the Even Start Family Literacy Program, S. 1513 reauthorizes a number of worthwhile programs that I wholeheartedly support, including the national writing project, which helps teachers to improve their writing skills and the teaching of writing skills; the Star Schools Program, which provides grants for telecommunications partnerships for distance education services in math, science, and foreign languages; the Magnet Schools Program, which has been successful in discouraging segregation; The Dropout Prevention Demonstration Program that I introduced with Senators Stafford and PELL, to identify likely dropouts and to encourage children who have failed to complete high school to return to school; The Blue Ribbon Schools Program, which authorizes the Secretary of Education to identify and reward individual schools for achieving excellence; and the Jacob Javits Gifted and Talented Program, which assists schools in providing special programs for our most talented students.

I am pleased that the Safe and Drug Free Schools Act has been reauthorized. The role of our schools has changed drastically in the past three decades, and schools have taken on extraordinary new burdens. Children of all ages, in every State across the Nation, have access to guns. When I was Governor in my State, the worst one might hear of at the schools was a fistfight. A gun incident, or shooting, was unheard of. Rhode Island is not a major urban area. Yet this year we have seen a dozen gun incidents in our schools.

What is the only route for school administrators to take? To ensure the safety of all who are in the school, administrators are forced to divert scarce funds from books to $4,000 metal detectors. In July 1992, 25 percent of the 45 largest school districts were using metal detectors; today, 69 percent are using them.

The Safe Schools Act authorizes Federal grants to school districts to fight violence in their schools. The presence of guns in schools diminishes the work of educators across the country. This bill takes steps to ensure that our heavily burdened schools are free of guns and the violence that results.

S. 1513 also encourages professional development. We have asked our Nation's schools to reach for the stars, to encourage our children to achieve high standards in every core academic area. Our teachers must be prepared to meet this challenge. The bill assists teachers in doing so by providing funds for ongoing training and teacher development.

I am particularly pleased that the committee included the Library Media and Technology Act, which I cosponsored. The technology at work in the automatic teller machines of most banks exceeds the technology present in most of our Nation's schools. This is an unacceptable situation. Our Nation is paving the way for the Information Highway and our schools must be ready to bring our students down this road.

S. 1513 encourages our schools to continue their efforts to achieve excellence and to prepare our children for the challenges of the 21st century by emphasizing programs that we know work. This bill encourages and assists local schools to develop the reforms and high standards called for in Goals 2000. So, Mr. President, I want to express my strong support for S. 1513 and urge my colleagues to do the same.

Mr. HATFIELD. Mr. President, off reservation boarding schools represent the last hope for many of the at-risk native American youth who live there. Whether emotional young people strive to succeed or fall into the path of destruction can depend directly upon the quality of individual experiences with the teachers and counselors who hold the power to shape their lives.

Many of the problems these schools face are very familiar: Alcohol and drug abuse, parental neglect, emotional suffering, and patterns of delinquency. As in any school system, without programs that meet their specific needs, at-risk youth are not adequately educated and are destined to failure. Total opening enrollment at off-reservation schools was over 2,600 students last year. But, closing enrollment was only slightly over 1,500 students. Some of the schools have dropout rates near 50 percent.

Reports analyzing these schools around the country raise many questions regarding their administration and funding. The amount spent per student at off-reservation boarding schools, such as the Chemawa Indian School in Salem, OR, varies from $10,000 to $15,000 per year. By comparison, the Oregon Department of Corrections estimates their per-inmate cost in youth institutions at $47,450 per year.

The issues here are complex and the budgets are extremely tight. But, I believe that we can not afford to overlook a 50 percent dropout rate—the social and economic costs are too high to ignore. Also, we must not forget that around 15 percent of the children in these schools are classified as gifted and talented students. How are the missions of the schools addressing their high potential for achievement?

In a recent hearing in the Indian Affairs Committee, we took a closer look at these schools. At that time, there was widespread support from administration officials and others to move toward a therapeutic school model that would be better tailored to meet the needs of these children by restructuring the residential and academic programs and enhancing the social and mental health focus of the schools.

Because some of these schools are struggling to move this direction already, I support this amendment to encourage the administration to set up demonstration programs in those schools. While I remain concerned about the lack of resources that all of these schools face, I believe that this amendment can be a step in the right direction toward ensuring that limited funds are used in the best manner possible for the well-being of these children.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized to offer an amendment.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. If the Senator will permit me to obtain an agreement——

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following amendments be the only first-degree floor amendments remaining in order to S. 1513, the elementary and secondary education authorization bill; that they be subject to second-degree amendments, provided they are relevant to first degree to which offered; provided, further, that upon disposition of the amendments the bill be read a third time; and that the Labor committee then be discharged from further consideration of H.R. 6, the House companion; that all after the enacting clause be stricken and the text of S. 1513, as amended, be inserted in lieu thereof; that H.R. 6 be advanced to third reading; and the Senate then vote on passage of the bill with the above occurring without any intervening action or debate; that upon disposition of H.R. 6, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees; and that the Senate measure then be indefinitely postponed.

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

The text of the agreement follows:

S. 1513 (ORDER NO. 495)

Ordered, That when the Senate resumes consideration of S. 1513, to Improve America's Schools, the following amendments by the only first-degree amendments in order; that they be subject to second-degree amendment provided they are relevant to the first degree to which offered:

Biden—Crime.
Biden—Relevant.
Brown—Relevant.
Conrad—Indian Education.
Craig—Relevant.
Craig—Relevant.
Craig—Relevant.
Danforth—Same Gender Education.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dorgan—Indian Education.
Dorgan—Relevant.
Dorgan-Feinstein—Gun-Free Schools.
Feinstein—Relevant.
Feinstein—Relevant.
Feinstein—Relevant.
Feinstein—Relevant.
Graham—State reimbursement.
Gramm—Crime.
Gramm—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Hatch—Formula Change.
Hatch—Formula Change No. 2429.
Helms—Relevant.
Helms—Relevant.
Helms—Relevant.
Hutchison—Relevant.
Hutchison—Relevant.
Jeffords—Relevant.
Jeffords—Relevant.
Kassebaum—Relevant.
Kassebaum—Relevant.
Kennedy—Relevant.
Kennedy—Relevant.
Kennedy—Relevant.
Lautenberg—Relevant.
Lautenberg—School drivers.
McCain—Agency Requirements.
Mitchell—Relevant.
Mitchell—Relevant.

Nickles—Relevant.
Pressler—Relevant.
Pressler—Relevant.
Pressler—Relevant.
Simpson—Relevant.
Smith—Funding.
Smith—Relevant.
Stevens—Native Alaskan Education Program.

Ordered further, That debate on amendment No. 2429 shall be limited to 1 hour equally divided in the usual form, with no amendment in order thereto or to any language that it might propose to strike, and that a vote shall occur on the amendment at 10:00 a.m., Monday, Aug. 1, 1994.

Ordered further, That upon the disposition of amendment No. 2429, Senator Feinstein be recognized to offer an amendment on which there shall be 1 hour of debate equally divided in the usual form, with no amendment in order thereto or to any language that it might propose to strike, and that a vote shall occur on the amendment upon the use or yielding back of time.

Ordered further, That upon disposition of the listed amendments, the bill be read the third time and the Labor Committee then be discharged from further consideration of H.R. 6, and the Senate proceed to its immediate consideration, and all after the enacting clause of H.R. 6 be stricken and the text of S. 1513, as amended, be inserted in lieu thereof; that H.R. 6 be read the third time and a vote occur on passage, without intervening action or debate.

Ordered further, That upon the disposition of H.R. 6, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees; and that S. 1513 be indefinitely postponed. (July 28, 1994.).

Mr. MITCHELL. Mr. President, I send the list of amendments to the desk.

I thank my colleagues, and I especially thank the Senators from Massachusetts and Vermont for their diligence in pursuing this.

And I thank the Senator from Utah for his courtesy.

Mr. HATCH. Mr. President, why do I not just put the amendment into the RECORD and the speech in the RECORD tonight so people will know what it is about, and we will spend time on it, if the Senator from Massachusetts so desires.

Mr. MITCHELL. I will proceed in whatever manner the Senator from Utah wishes.

Mr. KENNEDY. That is fine.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I would like to say we will be in session all day Monday with votes during the day and into the evening in an effort to make further progress and, hopefully, complete action on this bill on that day.

So Senators should be aware of that and plan their schedules accordingly.

I thank my colleague.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2429

(Purpose: To amend the Title I formula in S. 1513, the "Improving America's School Act of 1994")

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. BENNETT, proposes an amendment numbered 2429.

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

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

The amendment is as follows:

Beginning on page 554 line 21, strike all through line 15 on page 556 and insert in lieu thereof the following:

(iii)(I) Except as provided in subclause (II) the equalization factor for a local educational agency shall be determined in accordance with the succeeding sentence. The equalization factor determined under this sentence shall be calculated as follows: First, calculate the difference (expressed as a positive amount) between the average per pupil expenditure in the State served by the local educational agency and the average per pupil expenditure in each local educational agency in the State and multiply such difference by the total student enrollment for such agency, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Second, add the products under the preceding sentence for each local educational agency in such State and divide such sum by the total student enrollment of such State, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Third, divide the quotient under the preceding sentence by the average per pupil expenditure in such State. The equalization factor shall be equal to 1 minus the amount determined in the previous sentence.

(II) The equalization factor for a local educational agency serving a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall have a maximum coefficient of variation of .10.

Mr. HATCH. Mr. President, I rise today to offer an amendment to what has become known as the equity bonus of the title I formula included in S. 1513. My amendment would treat all States equally under the equity bonus included in S. 1513. I believe, Mr. President, that an equity factor certainly is the one place to treat all States equally.

I want to begin my making it clear to my colleagues that my amendment does not change any of the other three factors that comprise the four-part title I formula. In crafting my amendment, I wanted to work within the framework established by Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS. I have been very pleased to work with my distinguished colleagues on this bill. I appreciate the hard work done by the majority and minority leaders on the full committee and subcommittee and their respective staffs. They are dedicated professionals who care deeply about improving the education of American children.

Yet, I believe this formula can still be improved.

My amendment very simply removes the arbitrary floor and ceiling that limits the overall effect of this formula factor. These boundaries have the effect of grouping States into one of three tiers, each tier having a single multiplier for the purpose of computing the formula. Each State, therefore, does not benefit individually.

I am referring to my proposed modification as an equalization factor so as not to confuse my colleagues. My amendment proposes an equalization factor that treats States equally and is based on a factor that States can control: the equal distribution of resources among local school districts in the State.

The principal measure in both the S. 1513 equity bonus and the Hatch equalization factor is known as the coefficient of variation. This is defined as the difference between the local education agencies [LEA's] within a State having the highest and lowest per pupil expenditures. This coefficient of variation [COV], according to the Congressional Research Service is widely considered to be one of the best measures of school finance disparities.

Since they say imitation is the sincerest form of flattery, let me note several ways in which the Hatch equalization factor is the same as the S. 1513 equity bonus in addition to the use of COV measure.

This measure for the average disparity in expenditures per pupil among the local education agencies of a State—meaning the COV—has accounted for differences in enrollments for these local education agencies and applies an extra weight of 0.4 for the number of poor children. This is the same as the S. 1513 formulas equity bonus.

My amendment includes a 100-percent hold harmless for the first year and caps the amount a State can gain at 115 percent. This is the same as in S. 1513.

My amendment recognizes the strain placed on particular States severely affected by a reduced tax base as a result of Federal installations and ensures that these federally impacted States are not penalized under the Hatch equalization amendment to the title I formula. This is the same as in S. 1513.

My amendment would benefit three-quarters of the States. If they haven't seen it already, I would draw my colleagues' attention to the chart I have placed in the rear of the Chamber. As my colleagues will observe, 38 of the 50 States benefit under the Hatch equalization amendment to the title I formula and four States receive the same amount of money.

It would be nice to find a formula that would benefit every State. It would certainly be my desire that every State could be a winner. But, unfortunately, the budget process notwithstanding, Congress hasn't figured out how to overcome the basic rules of mathematics. Given a specific amount of money, different formulas must produce winners and losers.

I believe, however, that the modification to S. 1513 I am suggesting pays significant dividends to education in the large majority of States while hurting the fewest possible number of States.

Mr. President, I believe this equalization factor, which treats all States equally is a solid formula for the following reasons:

First, an unequal distribution of resources denies needed resources to poor and minority children.

Some of my colleagues may argue that my equalization factor treats poor kids unfairly—that what we ought to be doing is directly targeting resources to poverty-stricken schools.

I would argue that an equalization factor is a poverty factor. I believe that the unequal distribution of resources among school districts disproportionately affects poor and minority students. One of the main goals of this reauthorization has been to target poor kids. A stronger equalization factor helps accomplish this.

A report prepared by the Policy Information Center of the Educational Testing Service, titled "The State of Inequality," concludes that,

Thus, it can be established with national data that educational resources are unevenly distributed. It is also clear that, on average, students in poorer areas are likely to have fewer educational resources than those in wealthy areas. There are also wide variation in the effectiveness of schooling, after differences in socioeconomic status are considered.

Further studies have also determined that high-poverty and minority students have fewer opportunities to take critical gatekeeping courses in math and the hard sciences, thus preventing access to institutions of higher learning.

A report prepared for the House Committee on Education and Labor, titled, "Shortchanging Children: The Impact of Fiscal Inequity on the Education of Students At Risk" found that, "Inequitable systems of school finance inflict disproportionate harm on minority and economically disadvantaged students."

A Rand report concludes, "The most effective way to overcome the adverse effects on the disadvantaged of disparities in state and local education expenditure is to eliminate the disparities themselves."

Some would argue that equalization of resources would penalize kids in poor, urban areas, who need greater resources than kids in wealthy, safer suburban neighborhoods. As the CQ Researcher points out, however,

* * * in the past three decades the non-academic scope of schools, especially inner-city schools, has expanded considerably. Schools now offer, among other things, special programs for handicapped and immigrant children. And the role of schools has evolved from providing instruction to children to dealing with all facets of students lives, from teen pregnancy to increasing violence. The sad fact is that in some schools, some of the increase in per-pupil spending has been for metal detectors and security guards.

The point I am trying to make here, Mr. President, is that when you differentiate expenditures for classroom resources, from expenditures for other purposes, urban schools spend far less for classroom needs.

This is why I support a weighted factor for poor kids. I completely agree that, under this formula, poverty LEA's should be given a boost.

Not only does the Hatch equalization factor retain the .4 weight for poor children that is in the S. 1513 equity bonus, but it also retains the weighted child factor as part of the four-part formula.

I should also note that my amendment proposes no change in the bill's formula that distributes title I resources within a State or the formula that allocates funds from the district to individual schools. Both of these calculations target funds to high-poverty school districts and to high-poverty areas within districts.

So, some of my colleagues are asking, if the formulas are so similar, what difference does it make.

I believe my Federal to State distribution is better than the proposal in S. 1513 because, first, equalization has been documented as a way to assist low-income LEA's, and my amendment encourages States in that direction without being dictatorial about it; and second, all States are able to capture all the benefits of their equalization efforts on an individual basis. They are not thwarted by an arbitrary cap.

The one problem with the limitations on the equity bonus in S. 1513 is that it does not permit this formula factor to do what it should do—direct State and local resources, as well as Federal, where they are most needed.

I repeat, all my amendment does is treat all States equally under the title I formula.

Second, title I is ineffective if it merely layers resources where the resources are inadequate

Title I should ideally be providing additional resources for needy children. Unless resources are equalized, one of the primary principles under which this initiative was undertaken will be lost. The layering of resources where resources are already inadequate will not meet the needs of disadvantaged children. Title I was meant to provide additional resources, all else being equal. Title I was not meant to compensate for an inadequate financial commitment to poorer LEA's on the part of States.

The purpose of Title I is to give educationally and economically disadvantaged students additional assistance: teachers, textbooks, and additional education resources. These resources were never intended to comprise the entirety of aid to an educationally or economically disadvantaged student.

However, it has recently been concluded that the chapter 1 program does not spread resources on an already even playing field. In fact, often, too often, chapter 1 is the field. Mr. President, this must change if all students are going to be successful in meeting the national education goals.

Research completed by Rand's Institute on Education and Training determined that, "The potential effectiveness of chapter 1 depends on its supplemental character, which in turn depends on equality of base expenditure across LEA's."

This report concludes that, "In sum, the present chapter 1 funding mechanism has not been designed to make Federal aid supplemental, except in the narrowest, most local sense, in the face of an inequitable system of general education finance."

These conclusions are supported by testimony delivered before the Senate Labor and Human Resources Committee on August 3, 1993. William Taylor, a Washington attorney and children's advocate, drew from the report by the Independent Commission on chapter 1 entitled, "Making Schools Work for Children in Poverty."

Finally, the failure to deal with educational inequity makes chapter 1 an inefficient program and prevents it from achieving its goals. Chapter 1 has been built on the fiction of a level playing field, that is, that Federal funds are provided as a supplement for economically disadvantaged children to an educational program that is already adequate for them. In many places, this is not the case.

Indeed, a review of the report issued by the Commission reveals that they concur on the issue that chapter 1 should supplement where resources are equal, not subsidize an unequal distribution of resources.

Mr. President, some might argue that my equalization factor should not be the only determining factor in allocating desperately needed title I funds. To them I say, I totally agree with you. The equity bonus included in S. 1513 is only one factor in a four-factor formula.

I also agree that there are many other factors which contribute to a State's ability to finance education. I wish again to remind my colleagues that all I am doing here is attempting to have States treated equally and fairly, which the three-tier grouping does not do.

Mr. President, I repeat: Economically disadvantaged and minority kids are adversely affected by the disparities in

educational financing. Title I should be used to give added resources to these economically and educationally disadvantaged kids. We need to change the status quo, and certainly the formula included in S. 1513 does that. But, by making one simple adjustment, we can make it so much more effective.

Third, failure to improve the equal distribution of resources will prevent all kids from making progress achieving the national goals for education.

The current level of inequity makes progress toward achieving the national education goals for all students unlikely, thereby preventing real educational reform.

I would like to read from the testimony presented on July 26, 1993, in the Labor and Human Resources Committee by Dr. Bob Berne, a professor at the Robert F. Wagner Graduate School of Public Service, who has studied equity in school finance for over 15 years:

> * * * the current inequities in our school finance system are every much [sic] as serious a national education problem as inadequate early childhood education, overly bureaucratized schools, non-existent or low educational standards, and substandard preparation of our teaching force. In fact, if the finance inequity issues are not addressed simultaneously with these other problems, the solutions, if they can be found and implemented, will only benefit a subset of our students.

The unequal distribution of resources affects all kids. Unless we make equity a priority, then the goals we have codified for teachers, students, parents, and schools will not be realized.

Fourth a fair equalization factor will promote bottom-up education reform that will help all kids make progress towards achieving the national goals.

Real education reform must take place at the grassroots level. A series of edicts issued from Washington, DC is not going to improve education for Americans. State and local education agencies must take on this daunting challenge. This is one of the major reasons why I support having an equalization factor that treats all States fairly.

The degree to which a State equalizes funding for education is a factor that a State can control. A State that equalizes is a State that will benefit under a fair equalization factor.

Also, equalization is a factor that can be quantified. So much of what the Congress is asking the State and local education agencies to do requires a judgment based on a series of qualitative analyses. A fair equalization factor does not rely on subjective determinations.

A fair equalization factor does not rely on mandates or guidelines for how a State should achieve equalization. I, for one, would oppose a measure that specified how a State was to engage in equalization. On the contrary, I believe States are perfectly capable of figuring this out for themselves.

Fifth, including an equity factor in the title I formula could help prevent costly, time-consuming lawsuits.

On July 13, 1994, the Washington Post reported that "the New Jersey Supreme Court declared the state's method of funding public schools unconstitutional, saying that it did not go far enough in eliminating disparities in spending between rich and poor school districts. This ruling is the latest in a series of high-profile cases around the country * * *"

In its ruling the court stated unanimously that funding disparities within the State created a "separate class of students within the state * * *. 'Many [are] undereducated, isolated in a separate culture, affected by despair, sometimes bitterness and hostility, constituting a large part of society that is disintegrating.'"

Twenty-four States currently face lawsuits over the unequal distribution of resources. Washington Post, July 13, 1994. The practice of suing a State because of financial disparities has a long history, spanning over 30 years. Several States have had their school finance systems declared unconstitutional. One thing, however, is apparent: every State is vulnerable to legal challenges based on financial disparities. My point, here, Mr. President, is that this issue is not going to go away. Furthermore, I believe we are today in a position to encourage action in this area and, hopefully, to help head off unproductive and costly legal battles.

The report from the Educational Testing Service, "The State of Inequality," has concluded that:

> The issue of inequality in providing public education and inequity in its financing has, for at least two decades, been framed as a legal issue debated and decided in State courthouses * * * . It is a policy issue for executive and legislative branches as well, at all levels of government.

We have an opportunity today to help address what has been called the savage inequalities that exist within our Nation's schools.

All my colleagues understand the problem. I urge them to support my amendment to help do something about it.

Mr. President, I am prepared to debate this matter for an hour on Monday then, if it is all right with the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator. I think in terms of the membership, I doubt if we would be able to have much of an impact on our friends and colleagues tonight. So I will look forward tomorrow morning to reading the speech with great diligence.

Mr. HATCH. I thought the Senator would. I have to say I am looking forward to it. I hope the Senator puts his speech in the RECORD so I can read it. I know it will not be nearly the debate unless the Senator from Massachusetts has an audience on the floor.

Mr. KENNEDY. Mr. President, I understand I will be able to put in some remarks in response to the statement.

Mr. President, we have been debating these issues all evening, and I doubt if there is much that we could add to the discussion tonight.

I will include in the RECORD some remarks in response to the Senator's amendment.

I understand we have been accorded time on Monday morning to debate this prior to the Senate making a judgment on it at 10 a.m. So that is the way that we will proceed. As the majority leader has indicated, we will have a full day on Monday. Hopefully, we will finish the formula amendments in the morning. Senator DANFORTH has an amendment, Senator GREGG has an amendment, and Senator GRAHAM has an amendment as well. We will plan to have a full day on Monday through Monday evening.

Again, I thank all of the membership for their courtesy and for their cooperation this evening. We look forward to completing the legislation, hopefully, on Monday and no later than Tuesday.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes.

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

BRUCE BARTLETT'S COMMONSENSE ARGUMENT AGAINST TAXING CIGARETTES TO PAY FOR HEALTH CARE

Mr. FAIRCLOTH. Mr. President, as a life long farmer and businessman, I feel it is important to be honest with the American people about the hoax being played on them by supporters of funding socialized medical reform with the revenue from increased cigarette taxes. The reformers claim that their plan can be funded by jacking up the tax on cigarettes, while at the same time promoting good health by discouraging people from smoking. That doesn't make common sense. The two goals are mutually exclusive.

In North Carolina alone, 88,000 people work directly in the tobacco business;

growing it, auctioning it, or manufacturing cigarettes. North Carolina farmers sold over $1 billion worth of tobacco at auction last year. And over 150,000 North Carolinians work in jobs indirectly dependent on tobacco. According to Price Waterhouse, the proposed $.75 tobacco tax increase will put 12,676 North Carolinians out of work, in addition to thousands of others around the country.

Those people will be put out of work because consumers will smoke fewer cigarettes. Common sense tells us that any revenue derived from a product with declining consumption will itself naturally decrease over time. Unfortunately, the administration and the socialized medicine establishment deliberately avoid acknowledging that fact.

The issue, however, is honestly discussed in an article by Mr. Bruce Bartlett, "Cigarette Taxes, Smuggling, and Revenues", which appeared in the June 3, 1994 edition of Tax Notes. Mr. Bartlett, a senior fellow of the Alexis de Tocqueville Institution, makes an excellent and succinct case against relying on a tax to both reduce consumption and raise revenue. Furthermore, Bartlett relates the experience of Canada, and how that nation's cigarette taxes reached the point that organized crime stepped in and created smuggling operations rivaling those of the Prohibition era in the United States.

Mr. President, I ask unanimous consent that Mr. Bartlett's article be entered into the RECORD.

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

CIGARETTE TAXES, SMUGGLING, AND REVENUES

(By Bruce Bartlett)

I. INTRODUCTION

In 1993, President Clinton asked Congress to raise the tobacco excise tax by 75 cents per pack of cigarettes to help fund his national health insurance program. More recently, a congressional subcommittee has proposed an even larger increase of $1.25 per pack, also to fund health insurance. Meanwhile, a number of states, such as Maryland, are proposing increases in state tobacco taxes as well.

Although these proposed cigarette tax increases largely are being fueled by antismoking concerns about the impact of smoking on health, they are also driven by fiscal necessity. Increased cigarette tax revenues would fund 17 percent of the Clinton health plan, for example. And throughout the United States, tobacco taxes are an important element of state budgets. However, because higher cigarette taxes are motivated by contradictory motives, there is some question as to what the appropriate tax burden on tobacco should be.

On one hand, those who favor the ultimate abolition of smoking clearly would favor the highest tax rate possible, regardless of the revenue effect, to encourage as many people as possible to quite smoking. On the other hand, fiscal requirements would suggest a moderate tax rate to minimize any reduction in cigarette sales and raise maximum revenue. Thus, the fiscal and nonfiscal goals of tobacco taxation are in conflict with each other.

The purpose of this paper is to review some of the economic issues related to tobacco taxation in the interest of furthering public debate on this important question.

II. BACKGROUND

Contradictory actions regarding the regulation of tobacco are nothing new. As early as 1621, the British Crown had forbidden the American colonies from exporting their tobacco anywhere except to England. The purpose was to keep down prices for colonial tobacco and allow the mother country to capture high profits by reselling it on the world market. However, the low prices discouraged colonial production and caused great hardship among tobacco growers. So, to mitigate the effects of the English monopoly on the purchase of colonial tobacco, in 1625 the Crown further ordered that only American tobacco could be sold in England, thus excluding Spanish and Portuguese tobacco from the British market, and forbid the growing of tobacco in England.

We thus see an early example of how the Crown's merchantilist desire to enrich England at the expense of the colonies was frustrated by the actions of the colonists, requiring the Crown to introduce a subsidy, in the form of a monopoly on sale in the British market, to offset the burden that had been imposed on the colonists.

A. First Tobacco Taxes

In 1685, England imposed an import tax on tobacco for the first time. Subsequently, the rate was increased to such an extent that smuggling became a serious problem. In fact, by the early 1800s, revenue from tobacco taxes was falling even though population and consumption were rising. In 1826, however, a legislative drafting error caused the tobacco tax to be cut by 25 percent. The effect was to so reduce smuggling that revenue from the tobacco tax actually increased.

The possibility that tax or tariff rates might be so high as to reduce their revenue yield had been noted by Jonathan Swift as early as 1728:

I will tell you a secret, which I learned many years ago from the commissioners of the customs in London: They said, when any commodity appeared to be taxed above a moderate rate, the consequence was to lessen that branch of the revenue by one half; and one of those gentlemen pleasantly told me, that the mistake of Parliaments, on such occasions, was owing to an error in computing two and two to make four; whereas in the business of laying heavy impositions, two and two never make more than one; which happens by lessening the import, and the strong temptation of running such goods as paid high duties.

By 1776, Swift's observation had been endorsed by Adam Smith, who wrote in "The Wealth of Nations":

"The high duties which have been imposed upon the importation of many different sorts of foreign goods, in order to discourage their consumption in Great Britain, have in many cases served only to encourage smuggling; and in all cases have reduced the revenue of the customs below what more moderate duties would have afforded. The saying of Dr. Swift, that in the arithmetic of the customs two and two, instead of making four, make sometimes only one, holds perfectly true with regard to such heavy duties."

The founding fathers also were concerned about this problem. In the "Federalist Papers," Alexander Hamilton wrote extensively about how high taxes and import duties encourage smuggling, to the detriment of the Treasury's revenue. In Federalist No. 22, for example, Hamilton said, "If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds." In Federalist No. 35, he wrote, "Exorbitant duties on imported articles would serve to beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself."

B. Sumptuary Laws

Despite the negative impact that high tax rates have often had on revenues, such taxes have continued to be imposed throughout time because they also serve a nonrevenue purpose: to control behavior. In this respect, the tax laws are often akin to sumptuary laws, which have existed since immemorial to regulate the consumption of various commodities. In medieval times, these laws could be extremely detailed, strictly regulating such things as clothing according to one's precise rank in society. Then, as now, such laws were often justified by the need to protect the lower classes from wasteful extravagance or other evils. Today, taxes on alcohol and tobacco are often called sumptuary taxes for this same reason.

In the 20th century, the desire to control individual behavior and prevent the consumption of commodities deemed harmful has often taken the form of outright prohibitions. The best example of this is the federal prohibition between 1920 and 1933 on the sale or distribution of alcohol. Today such outright prohibitions are largely confined to narcotics, such as heroin and cocaine. However, taxes can also be used to prohibit consumption. Hugh Dalton explains how:

"If, as the rate of a particular duty is increased, the revenue yielded increases, the duty is predominantly a tax. But when the rate is increased above the point at which the yield in revenue is a maximum, it is clear that some element of penalty is present, and we finally reach a duty of prohibitive amount, whose yield is very small or non-existent. This is closely akin to a simple prohibition of production or importation, with a penalty for infraction."

C. Prohibition

Prohibition, however, was a total failure. Although motivated by the same genuine concerns about health and public safety that today motivate concerns about smoking, the effort to prohibit alcohol consumption altogether proved to be too costly for society to bear. In particular, Prohibition gave rise to a massive increase in crime. Among the reasons for this increase are the following:

Despite Prohibition, millions of Americans still desired to obtain alcoholic beverages.

Because such beverages could no longer be produced legally by legitimate producers and because of higher costs associated with illegal production, prices for alcohol increased sharply.

Higher profit margins led new producers to enter the industry, leading established firms to use violence to protect their market share.

Such profits also drew many ordinary citizens into criminal activity simply because of their desire to consume alcohol.

Wide public acceptance of alcohol consumption, high profits, and criminal organization eventually led to corruption of public institutions, including the police and the courts.

In short, Prohibition led directly to an increase in crime. This fact is shown graphically in Figure 1, which shows the homicide

rate before and after Prohibition.[1] As one can see, the onset of Prohibition before World War I caused a sharp increase in murders. Within a few years of the repeal of Prohibition, however, the homicide rate had dropped as sharply as it had risen. This strongly suggests that Prohibition itself, for the reasons outlined above, was the direct cause of increased crime.

III. CIGARETTE BOOTLEGGING

As noted earlier, taxes can act like prohibitions when they raise prices to such an extent that they discourage consumption and reduce tax revenues to below what more moderate rates would bring in. Cigarette taxes have long been known to have such an effect. In particular, the fact that state taxation of cigarettes varies greatly from state to state has given rise to organized cigarette bootlegging—buying cigarettes in low-tax states for resale in high-tax states. As Table 1 illustrates, the range of tax rates between high- and low-tax states can be as much as 63.5 cents per pack (between Virginia and the District of Columbia). Moreover, as in the case of Virginia and D.C., there are often wide variations in tax rates between contiguous jurisdictions, thus making bootlegging an easy crime to commit.

Table 1.—State Cigarette Tax Rates (cents per pack)

State	Tax
District of Columbia	65.0
Hawaii	60.0
New York	56.0
Washington	54.0
Massachusetts	51.0
Minnesota	48.0
Connecticut	47.0
Illinois	44.0
North Dakota	44.0
Rhode Island	44.0
Texas	41.0
New Jersey	40.0
Wisconsin	38.0
Oregon	38.0
Maine	37.0
California	37.0
Maryland	36.0
Iowa	36.0
Nevada	35.0
Nebraska	34.0
Florida	33.9
Arkansas	31.5
Pennsylvania	31.0
Alaska	29.0
Utah	26.5
Michigan	25.0
New Hampshire	25.0
Ohio	24.0
Delaware	24.0
Kansas	24.0
Oklahoma	23.0
South Dakota	23.0
New Mexico	21.0
Colorado	20.0
Louisiana	20.0
Vermont	20.0
Montana	18.0
Mississippi	18.0
Arizona	18.0
Idaho	18.0
West Virginia	17.0
Missouri	17.0
Alabama	16.5
Indiana	15.5
Tennessee	13.0
Georgia	12.0
Wyoming	12.0
South Carolina	7.0
North Carolina	5.0
Kentucky	3.0
Virginia	2.5

Source: Tobacco Institute.

A 1977 report from the Advisory Commission on Intergovernmental Relations indicated that cigarette bootlegging was one of the fastest rising crimes in the U.S. Among the reasons:

Cigarettes are relatively easy to handle and transport, and smuggling them across open borders is difficult to detect.

Penalties for cigarette bootlegging are generally light and are not an effective deterrent to bootleggers.

Cigarette bootlegging is not a federal offense and the interstate nature of the problem hampers state and local law enforcement efforts.

Potential profits in cigarette bootlegging are so great that a wide variety of people are attracted to this illegal activity.

Because of the high profit potential, organized crime has become heavily involved in bootlegging.

The ACIR concluded that high-tax states were losing $391 million per year in revenue due to cigarette smuggling (equivalent to $540 million today).

Other research confirmed the growth of cigarette smuggling. A study of tax evasion by economists Carl Simon and Ann Witte found that in 1975 cigarette smuggling netted between $100 million and $200 million. New York was a major market for bootlegging, with smugglers netting $30 million to $50 million in that state alone. The magnitude of such losses even led to a major effort in New York to cut the cigarette tax specifically to reduce crime. Supporters of the effort estimated that state and local governments combined were losing $100 million per year due to smuggling and that organized crime was earning $1.5 million per week in the process. In an editorial, The New York Times backed the proposal, arguing that it might even lead to an increase in tax revenue:

Moved by pure greed, the state has raised the tax on cigarettes so high * * * that half the smokers in New York City buy bootlegged cigarettes, usually without knowing it. The money that should flow as tax payment to government goes instead into the pockets of well-organized criminals and their truck-driving colleagues. * * * Since the state's present taxes took effect in 1972, revenue from cigarette taxes has dropped far below estimates even though smoking has not. The difference is so great that a reduction in the tax rate to put the smugglers out of business would probably produce greater income for the state. It is estimated that a 9-cent reduction in the tax would take the profit out of smuggling and stimulate the growth of normal, tax-paying patterns of distribution. It would also, in time, end the threat of gangster control of large parts of the cigarette business.

Although passage of a federal law against interstate cigarette smuggling in 1978 (Public Law 95-575) has reduced bootlegging, it remains a serious problem.

IV. INTERNATIONAL EXPERIENCE

The recent experiences of Europe and Canada illustrate the potential for tax differentials to stimulate smuggling on a massive scale when tax rates get too far out of line. In Europe, this resulted from the elimination of all tariffs among members of the European Community starting on January 1, 1993. With the elimination of all tariffs, different rates of domestic sales taxes—especially value added taxes (VAT)— took on new economic significance. It was now easier than it had ever been before to drive across national borders to buy goods at a lower tax rate than that in one's own country. Indeed, entrepreneurs quickly set up retail operations just across borders, catering to those seeking such tax bargains.

A. Canada

The experience of Canada is even more dramatic. Owing to imposition of a VAT in 1991, as well as higher rates on tobacco, the price differential between Canadian cigarettes and those sold in the United States rose to over $35 (Canadian) per carton. Organized, as well as casual, smuggling skyrocketed. According to an industry-sponsored study, one in nine cigarettes smoked in Canada in 1991 had evaded Canadian taxes. As a result, Canadian governments lost approximately $1 billion (Canadian) in revenue that year alone. The study also noted that consumption of contraband cigarettes was increasing rapidly and that such smuggling was giving rise to a vast criminal network, to which ordinary people were turning a blind eye. The study concluded:

Many ordinary Canadians feel no compunction about breaking tax-related law. Canadians now wink at cigarette smugglers the same way Americans did at bootleggers in the 1920s. Smokers and non-smokers alike not only feel the high taxation rates on tobacco products are unfair, but have now engaged in the smuggling of tobacco solely for profit with little regard for the law and law enforcement officers. As long as the disparity in prices between Canada and the U.S. exists, smuggling organizations will become increasingly more sophisticated to avoid detection from the authorities. Once these organizations become established and, from our intelligence they have indeed become so, it becomes virtually impossible to dismantle them. As we have reported, commercial smugglers have merely adapted their operations to maintain the flow of supply to their distributors. Unless prices are substantially reduced, it appears Canada's tobacco smuggling problem will not disappear.

Among the major smuggling networks are the Mohawk Indians, whose reservation straddles the New York/Canada border, and who may be responsible for half of all contraband cigarette sales in Canada. (The Mohawks also do a healthy business selling contraband cigarettes in New York.) Fishermen are another major source of bootleg cigarettes. And, of course, organized crime is heavily involved. Canadian police have identified Asian gangs known as Triads as being especially active in cigarette smuggling. The use of violence in their activities is commonplace. The mayor of the border town of Cornwall, Ontario, was even forced into hiding recently due to threats on his life from organized crime, after launching a campaign against cigarette smuggling.

Interestingly, the original source of most contraband cigarettes is Canada itself. Legitimate cigarette manufacturers, who produce cigarettes specially for the Canadian market, have lately been exporting cigarettes to the United States in large numbers. In just the first seven months of 1993, Canada exported 9.7 billion cigarettes to the U.S.—an 88-percent increase. Since there is no apparent demand for Canadian cigarettes in the United States, the presumption is that virtually all of these cigarettes were ultimately smuggled back into Canada.

B. Smuggling Encourages Tax Evasion

By the end of 1993, the Canadian government was becoming alarmed by the extent of

[1] Figure 1 not reproducible in the RECORD.

cigarette tax evasion, which was contributing significantly to its fiscal problems. Said Canadian Finance Minister Paul Martin, "More and more people consider it acceptable not to pay taxes." In December, Canada's Minister of National Revenue, David Anderson, suggested that perhaps the tobacco tax rate ought to be cut so as to reduce smuggling. "Tobacco taxes have gone up so sharply in the last three or four years that people feel it is very much an overtaxed commodity," he said.

In January, opposition to high cigarette taxes went beyond passive tax evasion and developed into a political revolt. On January 24, 75 store owners in the border town of St. Eustache, Quebec, who had seen their sales and profits suffer as a result of smuggling, began selling contraband cigarettes at cut-rate prices, in open defiance of the police. A large crowd turned out to buy the cheap cigarettes and to protest Canadian taxes.

Such blatant defiance of the law is unusual in Canada and government leaders were becoming alarmed. In particular, there was concern that cigarette tax evasion was having a spill-over effect, leading to evasion of other taxes as well. It was noted that since imposition of the VAT in 1991 use of cash in the economy had surged, which is often a sign of a growing underground economy, where cash, rather than checks or credit cards, is the preferred medium of exchange. Tax evasion was said to be rampant in certain businesses, such as home renovation, where such evasion could cut costs by up to 50 percent. A poll found that one in four Canadians considered tax evasion to be acceptable, and 30 percent saw nothing wrong with smuggling.

Finally, in February, the government decided to cut the cigarette tax by $5 per carton and also enacted measures to encourage the provinces to cut their cigarette taxes as well. At the same time, an $8-per-carton tax was levied on cigarette exports to discourage round-tripping, and the corporate tax rate was increased for tobacco companies. The tax on cigarettes in Quebec was expected to fall from $44 per carton to $23. Combined with the proposed increase in U.S. tobacco taxes, this action is expected to sharply reduce the profit incentive in smuggling cigarettes across the Canadian border.

V. CONCLUSION

The lessons of history and foreign experience make it clear that there is a limit to excise taxation. When rates get too high they simply lead to smuggling and tax evasion. They may even reduce government revenue to below what more moderate rates might raise. The prime beneficiary is organized crime.

It is difficult to say whether President Clinton's proposed 75-cent-per-pack increase in the federal cigarette tax would have the kind of impact that higher cigarette taxes had in Canada. Obviously, purchasing cheaper cigarettes in Canada is not a viable alternative. However, one should not underestimate the ingenuity of the American people in evading taxes—there is already an underground economy in the United States of probably 10 percent of GDP, some $600 billion per year. And the failures of our nation's wars on alcohol in the 1920s and on drugs more recently do not inspire confidence that governments effectively can prevent people from evading cigarette taxes if rates are set too high.

While it is true that most other countries tax cigarettes more heavily than does the United States, even with President Clinton's proposed increase, it should be remembered that rates charged do not necessarily correspond to rates paid. Especially in developing countries, virtually all economic activity takes place in the underground economy. High statutory tax rates on incomes and commodities simply are not paid. Thus, comparisons between the United States and other countries in this regard are not necessarily meaningful.

The effectiveness of a given tax to accomplish its objective may also be related to the question of fairness. If it were believed that the government was unfairly picking on smokers just because smokers are politically vulnerable, many nonsmokers would sympathize with their plight and look the other way at efforts to evade cigarette taxes. Sympathy for smokers by nonsmokers may also result from the fact that tobacco taxes are extremely regressive, taking far more out of the pockets of those with lower incomes than those with high incomes, as indicated in Table 2.

TABLE 2.—TOBACCO EXPENDITURES AS A SHARE OF INCOME, 1991

Quintile	Average income	Tobacco expenditures	Percent
Lowest	$5,981	$181	3.0
Second	14,821	274	1.8
Third	26,073	310	1.2
Fourth	40,868	339	0.8
Highest	81,594	285	0.3

Source: Bureau of Labor Statistics, Consumer Expenditure Survey.

Given that many people will not quit or reduce smoking in response to higher taxes, the effect of such taxes will be to reduce their real incomes, leaving them less money to spend on food, shelter, and other necessities, for themselves and their dependents. It thus is quite possible that higher cigarette taxes could lead to suffering and depravation among many innocent nonsmokers, such as dependent children. For these reasons, one can be opposed to higher taxes on tobacco products without necessarily endorsing smoking.

There is also the question of revenue. As noted at the beginning of this article, the sumptuary effect of tobacco taxes is clearly in conflict with their revenue purpose. Insofar as such taxes reduce smoking, they reduce tax revenue as well. The most recent evidence indicates that a permanent 10 percent increase in the price of cigarettes reduces consumption by 4 percent in the short run and 7.5 percent in the long run. (The difference is mainly due to the impact on young people who are discouraged from taking up smoking in the first place.) Thus, both the Clinton administration and the Congressional Budget Office have forecast that cigarette tax revenues will rise by about half of the percentage increase in the cigarette tax rate.

Meanwhile, a number of states have found that recent increases in cigarette taxes have failed to raise as much revenue as anticipated. Although this may partly be due to more aggressive antismoking campaigns, bootlegging has also been cited by state tax officials as a major factor. California officials are especially concerned about an increase in smuggling across the Mexican border, where seizures of cigarettes have increased by 887 percent since 1991; smuggling accelerated after a tripling of the state cigarette tax in 1989. And this was before passage of the North American Free Trade Agreement (NAFTA), which presumably will make cross-border cigarette smuggling easier. Interestingly, many of the cigarettes seized are not Mexican brands, as had been the case earlier, but American brands that previously had been exported to Mexico.

In conclusion, there are strong reasons for being cautious about raising cigarette excise taxes. Bootlegging is already a serious problem at the state level and a 75-cents or $1.25-per-pack increase in the federal tax on top of already high state rates may only stimulate more of this activity. Moreover, the potential for cross-border smuggling between the Mexico and the United States cannot be dismissed casually, given the recent experience of Canada and the passage of NAFTA. In the end, not only will revenues suffer, but we could see spillover effects in the form of increased crime and its attendant violence and an increase in overall tax evasion. Higher cigarette tax revenues thus may be offset by lower revenues from other taxes.

NOW IS THE TIME FOR THE LAW OF THE SEA CONVENTION

Mr. PELL. Mr. President, tomorrow, July 29, will be a historic day. In New York, the U.S. Ambassador to the United Nations—Madeleine Albright—will sign an Agreement that will bring our country closer to a major bipartisan foreign policy goal: the conclusion of a widely acceptable Convention on the Law of the Sea. The Agreement was adopted today in the General Assembly by a vote of 121 nations in favor, none opposed; 7 countries abstained.

The signing of the Agreement also brings me a large measure of personal satisfaction; U.S. oceans policy has been a major interest of mine throughout my Senate career. In September 1967, I introduced the first in a series of resolutions related to oceans policy issues. That resolution, Senate Resolution 172, called for the negotiation of a treaty that would extend the international legal order for the oceans beyond the then-existing international regime. At the time, I was particularly concerned about the possible appropriation of the resources of the seabed floor by other nations or groups of nations as well as the possible deployment of weapons of mass destruction on the seabed floor.

I amplified these views further in November of the same year in Senate Resolution 186. That resolution laid out specific principles to govern the activities of states in the exploration and exploitation of ocean space.

In addition to presaging the Law of the Sea Convention, these resolutions, and related measures that I introduced, led to the negotiation of the Seabed Weapons Convention which forbids the emplacement of weapons of mass destruction on the seabed floor. In essence, this reversed the normal treaty making process by instructing the executive branch on the parameters of a treaty to be negotiated. Although little known, I believe that this Convention was extraordinarily significant, shutting down one potential avenue for the U.S.-Soviet arms race which in the late 1960's and early 1970's was particularly intense.

When formal negotiations on a new Law of the Sea Convention began in 1973, I participated as frequent Senate observer, following them through their conclusion in 1982 and the Reagan administration's announcement that the United States would not sign the Convention because of concerns over part XI of the Convention relating to deep seabed mining.

Now, more than a decade later, the Convention will enter into force on November 16, 1994, since the requisite 60 countries have already ratified. With the signing of the Agreement modifying the deep seabed mining provisions of part XI in New York, our country is in a position to reap the many benefits offered in the Convention. Without this Agreement, the Convention would enter into force in November, leaving the United States and other industrialized countries outside of this important regime. With this Agreement, the principles of the Law of the Sea Convention will be universally applied by developed and developing countries alike.

This is fully consistent with past U.S. policy. In 1980 in the Deep Seabed Hard Minerals Act, the Congress stated that:

(I)t is in the national interest of the United States and other nations to encourage a widely acceptable Law of the Sea Treaty, which will provide a new legal order for the oceans covering a broad range of ocean interests, including exploration for and commercial recovery of hard mineral resources of the deep seabed.

In 1982, the Reagan administration announced that it was prepared to support ratification of the Convention, provided that its concerns with part XI could be resolved. Unfortunately, the administration was not able to achieve the changes that it had sought in time for the United States to sign the Convention. As a result, neither the United States nor the other industrialized countries signed the Convention.

During the Bush administration, with the prospect that the Law of the Sea Convention would enter into force, however, informal consultations were begun at the United Nations with the aim of resolving concerns with part XI.

This aim appears to have been achieved. Indeed, a large number of developed countries have indicated their intention to sign the agreement as have a number of developing countries. The way should now be open for the United States to become a party to the Law of the Sea Convention. I ask unanimous consent that a paper describing the manner in which the objections of the United States to the original provisions of part XI pertaining to the deep seabed mining regime be included in the RECORD at the conclusion of my remarks.

There are numerous benefits for the United States in the Convention.

First and foremost, the Convention will enhance our national security. The Convention establishes as a matter of international law freedom of navigation rights that are critical to our military forces. A letter from Secretary of Defense William Perry and Secretary of State Warren Christopher states:

As one of the world's major maritime powers, the United States has a manifest national security interest in the ability to navigate and overfly the oceans freely.

A study by the Department of Defense and the Joint Chiefs of Staff found that U.S.:

* * * national security interests in having a stable oceans regime are, if anything, even more important today than in 1982 when the world had a roughly bipolar political dimension and the U.S. had more abundant forces to project power to wherever it was needed.

I would emphasize that these are not my judgments, but the judgments of the professionals whose job it is to ensure our Nation's security.

I have heard some arguments that the Convention's provisions on freedom of navigation are not really important because they already reflect customary international law. I strongly disagree with that argument. It rests our national security on the shifting sands of customary international law.

Customary international law is inherently unstable. Governments are likely to be less scrupulous about avoiding new precedents under customary law than they are about avoiding such actions in violation of a treaty. Moreover, not all governments and scholars agree that all of the critical navigation rights protected by the Convention are also protected by customary law. They regard many of those rights as contractual and, as such, available only to parties to the Convention.

I would note for example, that it was not long ago that the United States claimed a territorial sea of only 3 miles. Now it is 12. I am certain there are countries that would like to expand their territorial sea even further. Only the Convention establishes limits on countries, claims to territorial seas and for that matter exclusive economic zones or EEZ's as a matter of international law.

These navigational rights are of very real importance to our Armed Forces. There have been recent situations where even U.S. allies denied our Forces transit rights in times of need. For example, during the 1973 Yom Kippur war our ability to resupply Israel was critically dependent on transit rights through the Strait of Gibraltar. Again, in 1986, U.S. aircraft passed through the strait to strike Libyan targets in response to that government's acts of terrorism directed against the United States.

I do not doubt that, if necessary, the U.S. Navy will sail where it needs to to protect U.S. interests. But, if we reject the Convention, preservation of these rights in nonwartime situations will carry an increasingly heavy price for the United States. By remaining outside of the Convention, the United States will have to challenge excessive jurisdictional claims of states not only diplomatically, but also through conduct that opposes these claims. A widely ratified Convention would significantly reduce the need for such expensive operations. It would also afford us a strong and durable platform of principle to ensure support from the American people and our allies when we have no choice but to confront claims we regard as illegal.

The Convention's provisions on freedom of navigation are also vitally important to the U.S. economy and the thousands of U.S. workers whose jobs are dependent in some way on exports and imports. We live in an interdependent world and 80 percent of trade between nations in this interdependent world is carried by ship.

Oil is one example of this. In 1993, 44 percent of U.S. petroleum products supplied came from imported oil. This oil was carried on tankers that pass through straits, territorial waters, and exclusive economic zones of other nations on a daily basis. The United States has a vital interest in the stability of the international legal order that serves as the basis for this commerce. It also has an interest in avoiding higher prices for consumers and job losses that can result from costly coastal state restrictions on navigation. Universal adherence to the Law of the Sea Convention would provide the predictability and stability which international shippers and insurers depend upon in establishing routes and rates for global movement of commercial cargo.

The benefits of the Convention extend to many other areas. Protection of submarine cables is one example. The new fiber optic cables that connect the United States to other countries are crucial for international communications and our increasingly information-based economy. These cables are enormously expensive. A new fiber optic cable connecting the United States to Japan can carry up to one million simultaneous telephone calls, and is valued at $1.3 billion. The total value of existing cables is measured in the many billions of dollars. When these cables are broken, U.S. companies, and ultimately U.S. consumers, incur huge repair costs. The Convention contains new provisions that strengthen the obligation of all states to take measures to protect the cables and cable owners.

The Convention also provides a framework within which to address many of the pressing fisheries and marine environmental challenges we face

today. It establishes firm and enforceable duties to protect the marine environment and to ensure the conservation of living resources, including marine mammals and high seas fisheries.

Mr. President, the Convention contains many other benefits. I hope that the Convention and the Agreement will be transmitted to the Senate for its advice and consent this fall and that we can have hearings in the Committee on Foreign Relations early next year. Those hearings will provide an opportunity to explore the Convention in depth.

Mr. President, I would like to turn for a moment to an issue that is of importance to the Senate as an institution. Since there is insufficient time before November 16, 1994—the date the Convention enters into force—to bring the Agreement into force, the Agreement states that it shall be applied provisionally from November 16, 1994, until its entry into force. Provisional application shall terminate on November 16, 1998, if it has not entered into force by that date.

Concern has been raised that provisional application undercuts Senate prerogatives. This is obviously an issue of great importance for the Senate and one to which I have devoted some thought. Certainly I do not want to see the prerogatives of this institution encroached upon, even if it is for a cause that I support.

That being said, I believe that provisional application of the Agreement in acceptable in this instance.

I would note at the outset, that the concept of provisional application of an agreement is not new. There is precedent for provisional application of agreements in the United States. Moreover, article 25 of the Vienna Convention on the Law of Treaties specifically provides for provisional application of agreements.

Most important in this instance is that the United States will apply the Agreement in accordance with existing laws and regulations. I want to emphasize that point. Existing legislation provides sufficient authority to implement likely U.S. obligations under the Agreement during the period of provisional application. No new obligations will be assumed by the United States beyond those authorized by U.S. law. Only the Agreement will be provisionally applied, not the Convention as a whole.

The fundamental purpose for provisional application is to prevent the older more onerous version of part XI from automatically entering into force on November 16, 1994, with the rest of the Convention.

Provisional application will allow the United States to advance its seabed mining interests by participating in the International Seabed Authority from its inception. The new Agreement gives the United States considerable influence over such decisions, which will be lost if the United States cannot participate.

Further, without provisional application, the modifications made by the Agreement could only come into force in accordance with the cumbersome amendment procedures contained in the Convention itself. Those procedures could prevent those modifications from ever from coming into force.

Mr. President, this has been a rather lengthy presentation, but this is an issue about which I feel very strongly. I believe this Agreement and the underlying Convention—both the culmination of efforts by Democratic and Republican administrations—contains substantial benefits for our country. We stand on the threshold of a new era in oceans policy. In that era U.S. national interests in the world's oceans will be protected as a matter of law. This is a success of U.S. foreign policy that will redound to our Nation's benefit—and to the world—in the decades to come.

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

MODIFICATION OF THE DEEP SEABED MINING PROVISIONS OF THE LAW OF THE SEA CONVENTION

Part XI of the Law of the Sea Convention—relating to deep seabed mining on the high sea—was one of the most contentious issues discussed during the negotiations of the Law of the Sea Convention and the issue that ultimately led the Reagan Administration to decide not to sign the convention. The Bush and Clinton Administrations shared the Reagan Administration's concerns with Part XI. However, in 1989, then-U.S. Ambassador to the United Nations, Thomas Pickering was authorized by the Bush Administration to investigate developing countries' willingness to discuss changes to Part XI. This began a series of informal consultations under the auspices of the U.N. Secretary General.

The consultations, which concluded on June 3, 1994 in New York, made significant progress in meeting United States objections, as well as those of other industrialized countries, with respect to the deep seabed mining provisions of Part XI of the Convention. It is anticipated that an agreement modifying Part XI will be adopted by the United Nations General Assembly on July 27-28 and open for signature on July 29, 1994. Secretary Christopher has informed the Senate that the United States will sign this Agreement on July 29 and transmit it and the Convention to the Senate for its advice and consent at the end of the 103rd Congress.

PREVIOUS OBJECTIONS TO THE DEEP SEABED MINING REGIME

The 1982 seabed mining regime of the Convention failed to provide the United States, and other states with major economic interests that would be affected by deep seabed mining, a voice commensurate with those interests. It was based on principles for the organization of economic activity that would have interfered with market forces and effectively preempted private investment in deep seabed mining. Consequently the 1982 regime would have impeded access to deep seabed resources when market conditions warranted their development.

In order to carry out Part XI, the Convention established the International Sea Bed Authority (the "Authority") as the international body chartered to organize and control seabed mining. The Authority included the following subsidiary bodies: an Assembly, made up of all States Parties to the Convention, to establish general policies for the Authority, a 36 member Council as the executive organization, a Secretariat to support the operation of the Convention; and "the Enterprise" to be the commercial operating arm of the Authority. The Authority, through the Council, had broad powers to regulate deep-sea bed mining.

The specific problems with the 1982 seabed mining regime identified by the Reagan, Bush and Clinton Administrations fell into two broad categories: institutional issues; and economic and commercial issues. Institutionally the U.S. had objected to the fact that it was not guaranteed a seat on the Council of the International Seabed Authority. It also objected that developing countries would dominate the organization by virtue of their numbers and the voting rules, including the relationship between the Council and the Assembly.

On the economic and commercial front, the U.S. objected to the requirement that commercial enterprises, as a condition to the awarding of mining rights, had to transfer their mining technology to either a competing operating arm of the seabed authority known as the Enterprise, or possibly to developing countries. The U.S. also objected to the Enterprise benefiting from discriminatory and competitive advantages over other commercial enterprises through funding of its initial operations by state parties via loans and loan guarantees, and by a 10-year holiday from paying royalties. Additionally, objections were raised to the regime's production control arrangements which limited the level of the production from the seabed in order to protect land-based producers of the minerals that would be produced from the seabed. Finally, the U.S. objected to the regime's onerous system of financial payments that would be owned by commercial miners, in particular a U.S. $1 million annual fee payable beginning with the exploration stage.

In addition the U.S. objected to the fact that the Convention's provisions could be amended thereby binding the U.S. without its consent. The U.S. also objected to the possibility that future revenues from deep seabed mining might be distributed to liberation movements.

HOW UNITED STATES OBJECTIONS HAVE BEEN RESOLVED

The Agreement concluded in the Secretary General's consultations in New York on June 3, 1994 will provide the United States and other industrialized countries influence commensurate with their interests: it will ensure that free market principles govern the administration of the resources of the deep seabed; it will recognize claims to seabed mine sites established on the basis of exploration work already conducted by U.S. and other companies; and, it will provide for study of the potential environmental impacts of deep seabed mining.

United States negotiators have stated that in response to the specific objections of the United States, the agreement to modify the deep seabed provisions of Part XI will:

Recognize free market principles in the administration of the regime.

Increase the influence of the United States and other industrialized countries within the Authority by: (1) guaranteeing a United

States seat in the Council; (2) allowing the United States and two other industrialized countries, acting in concert, to block decisions in the Council; (3) preventing the Assembly from acting independently of Council recommendations; and (4) establishing a finance committee, including the five largest contributors to the organization's budget, which must make decisions by consensus;

Ensure that future amendments to the regime could not be adopted over United States objections;

Eliminate provisions compelling the transfer of seabed mining technology;

Allow the U.S. acting alone to veto any plan to distribute revenues to states or other entities, such as national liberation movements;

Eliminate the power of the organization to limit production from the deep seabed to protect the interests of land-based producers and, in its place, establish restrictions on subsidization of seabed mining based on GATT provisions;

Grandfather in seabed mine site claims by three U.S.-led multinational consortia on terms "no less favorable than" the best granted to Japanese, French, Russian, Indian or Chinese claimants, which have already been registered;

Eliminate the U.S. $1,000,000 annual fee miners would have had to pay prior to commercial production; and

Constrain the Enterprise by: (1) requiring a future decision by the Council (which the U.S. and a few allies could block) to make it operational; (2) subjecting it to the same requirements as other commercial enterprises; (3) eliminating the requirement that parties to the convention fund its mining activities; (4) providing that it operate through voluntary joint ventures with other commercial enterprises; and (5) eliminating provisions that would compel other commercial enterprises to provide it with technology.

In addition to responding to the specific U.S. objections, the new seabed mining regime will streamline the Authority and emphasize the need to ensure an efficient organization in keeping with the recognition that commercial mining is not imminent.

Mr. DURENBERGER. Mr. President, I understand that I may proceed as in morning business.

The PRESIDING OFFICER. The Senator is correct.

NOMINATION OF STEPHEN BREYER TO THE U.S. SUPREME COURT

Mr. DURENBERGER. Mr. President, I rise in support of the nomination of Judge Stephen Breyer to the U.S. Supreme Court.

I have always taken very seriously my responsibility as a Senator to advise and consent on presidential nominations. In my mind, my role is not to confirm only those nominees who agree with me on political issues. I have never applied a litmus test on any subject, such as abortion and the death penalty for example, even though I have strong convictions about both.

Regardless of the party in the White House, I have always asked three questions to determine whether presidential nominees deserve confirmation. First, does the nominee have the experience necessary to do the job? Second, does the nominee have the temperament to serve honorably? And finally, does the nominee have the character to be entrusted with the responsibility?

Without a doubt, Stephen Breyer has the experience necessary to serve as a Supreme Court Justice. He has had an exemplary career in the executive, legislative, and judicial branches. He has served on the Federal bench for 14 years, and spent the last 4 years as chief judge of the First Circuit Court of Appeals.

On the question of temperament, I believe Judge Breyer is qualified to serve on America's highest court. His decisions on the Federal bench have the reputation of being thoughtful and well-reasoned, without suggesting any particular political agenda. I trust he will continue to apply the law neutrally and fairly.

And finally, based on the evidence that is available, I have concluded that Judge Breyer has the character necessary to be entrusted with a seat on the Supreme Court.

I am aware that questions have been raised about Judge Breyer's membership in Lloyd's of London—a syndicate that underwrites insurance for corporations with potential liability for environmental cleanup costs—at the same time he was reviewing toxic waste cases as a Federal appeals judge.

But there is no evidence that his decisions had a direct impact on any of his investments, and I believe Judge Breyer's assertion that his impartiality was not affected in any of those cases.

Rather than showing a defect in character, I believe this was a case of bad judgment. My distinguished colleague from Indiana, Senator LUGAR, has raised several valid points about the judgment that Judge Breyer exercised with respect to this investment.

However, I have concluded that this single error in judgment should not, in itself, preclude membership on the Supreme Court. I do not think that a reasonable measure of any person is the worst mistake they ever made. Instead, I look at the entire record of accomplishment, his record of reasonable decisions, his record of diligent work for justice, his temperament and his character. By that measure, Stephen Breyer is worthy of a seat on the Supreme Court. That is why I will vote to confirm this nominee.

JUDGE STEPHEN BREYER'S BOOK "BREAKING THE VICIOUS CIRCLE: TOWARD EFFECTIVE RISK REDUCTION"

Mr. DURENBERGER. Mr. President, in 1993 Judge Breyer published a book with the title, "Breaking the Vicious Circle: Toward Effective Risk Reduction." The central premise of his book is that the efforts of the federal Government to reduce risks to public health and the environment are not well focused and produce inconsistent and illogical results.

The cause of this problem in Judge Breyer's view is the disjointed decisionmaking process that we in the Congress and as a nation use to choose the risk reduction policies that are actually imposed. The sources of risk to human health and the environment come to the attention of the public and the Congress one-at-time. They are considered by a multitude of committees and subcommittees in the legislature. They are regulated under a series of statutes with disparate goals and objectives. The statutes are carried out by several departments and agencies of the executive branch.

In Judge Breyer's view, the result is a confusing and wasteful web of regulations that do not achieve the greatest risk reduction for the dollars we invest. He points to a swamp in New Hampshire that is cleaned up to extraordinary levels under the Superfund Program, while Boston Harbor remains polluted. He cites a fivefold discrepancy in risk assessment outcomes between EPA and FDA methods. He reports examples of risk reduction regulations that may actually increase health risks from other sources.

Judge Breyer is not alone in raising these concerns. In 1987, the EPA itself published a study called "Unfinished Business" which suggested that Government and private sector resources were being wasted because Government policy too often regulated low-level risks while larger threats went unaddressed. And in 1990, the Science Advisory Board of EPA came to a similar conclusion in its report, "Reducing Risk."

No one could argue with the proposition that we ought to allocate the resources we devote to risk reduction as carefully as possible. And everyone would agree that decisions based on solid scientific information are usually better than decisions guided by hunches, superstition or bias.

However, we must often make decisions before all the evidence is in. Congress is constantly called upon to make decisions that allocate billions of public and private dollars toward one problem or another often before the science on causes and solutions is settled. We make difficult choices that are criticized from every direction.

Judge Breyer proposes a new superagency with wide-ranging authority to reallocate Government efforts as a solution to these problems. But there is no technical, scientific or bureaucratic fix for our condition. There is no philosopher king or group of senior bureaucrats who can relieve the Congress of the difficult job of setting priorities in a world of competing interests and limited knowledge. And there is no reason to believe that Congress has chosen incorrectly in the past.

A complete response to the concerns that Judge Breyer raises in his book

would fill many pages of the RECORD. I would make just two brief points, today.

First, this is not a technical problem that can be solved by appointing an agency with broader powers and better staff. Allocating budgets, imposing regulatory costs, is an act of expressing values, and in a democracy we do it by voting.

There is not one objective yardstick on which one can rank the relative importance of all these competing objectives. How much do you spend on children' health, before you start spending money to save endangered species? This is a question of preferences that in our system of government is assigned to elected members of the Congress, not appointed members of science boards.

Second, even where one yardstick of risk can be applied, for instance the risk of contracting fatal cancer, it does not necessarily follow that allocating resources to achieve the largest risk reduction is an absolute guide to policy. I believe that the public is more willing to accept small risks widely distributed, than large risks focused on the few. It is not just the absolute mortality, but also the equity, the distribution of the risk, that informs the public's sense of priorities.

The public gets incensed about hazardous waste sites and leaking underground storage tanks because they are immediately devastating to their victims, even if those victims are few in number, and hundreds more could be saved by spending the same dollars cleaning up indoor air quality. Allocating public and private resources to achieve the greatest reduction in risk for each dollar spent is not the best public policy, because it fails to reflect the public's sense of equity and justice. How much an industry should be required to spend to prevent its externalities from imposing unjustified costs on others is, unless one takes an absolutist view, a value-laden decision that can only be made in the context of our entire social experience.

I am all for more science. And the Congress has a fundamental obligation to spend the taxpayers' money as wisely as possible. We often make mistakes. But I do not agree that the anecdotes cited in Judge Breyer's book call into question either the process we have used to select environmental priorities or the allocation of resources now reflected in the budget and regulations of EPA and the other agencies we charged to protect public health and the environment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

CONFIRMATION OF STEPHEN BREYER TO THE SUPREME COURT

Mr. PELL. Mr. President, I am pleased to support the nomination of Stephen Breyer to become an Associate Justice on the United States Supreme Court and I believe that President Clinton has made a wise and timely choice in choosing him for the upcoming vacancy on the Court.

In stating my support for Judge Breyer, I salute President Clinton for his primary role in making this nomination. The President has had two opportunities to fill vacancies on the Supreme Court and he has made outstanding choices in first nominating Ruth Bader Ginsburg last year and now Stephen Breyer. His choices reflect moderation and respect for the Court's role as the supreme arbiter of laws for all citizens in this country, regardless of political leanings and agendas. He has likewise taken the lead in appointing similarly qualified and diverse candidates to the lower courts. The President deserves great credit for carrying out with such attention and care his solemn duties with regard to appointing members of the Judiciary.

Specifically regarding Judge Breyer, he has gone through a confirmation process which has been pleasantly harmonious, and bipartisan. He is much praised for his intellect, moderation, compassion, temperament, dedication to principle, respect for the law, and his ability to forge consensus rather than encourage division. I join in these assessments of his record. I am also confident that he will bring these much-needed qualities to a Supreme Court which has been subject to polarization in recent years. A calm hand and a reasoned voice will be welcome and if history is any guide, Judge Breyer will provide just such an influence.

Accordingly, I wholeheartedly support the confirmation of Judge Breyer for the Supreme Court, congratulate him on the accomplishments of his career, extend every good wish as he assumes the duties and responsibilities of his post, and look forward to a long and distinguished tenure for him on the bench.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. OBEY, Mr. YATES, Mr. WILSON, Mr. OLVER, Ms. PELOSI, Mr. TORRES, Mrs. LOWEY, Mr. SERRANO, Mr. SABO, Mr. LIVINGSTON, Mr. PORTER, Mr. LIGHTFOOT, Mr. CALLAHAN, and Mr. MCDADE as the managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4649) 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, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DIXON, Mr. STOKES, Mr. DURBIN, Ms. KAPTUR, Mr. SKAGGS, Ms. PELOSI, Mr. OBEY, Mr. WALSH, Mr. ISTOOK, Mr. BONILLA, and Mr. MCDADE as the managers of the conference on the part of the House.

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-3119. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Forest Service for fiscal year 1993; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3120. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the status of multifamily housing; to the Committee on Banking, Housing, and Urban Affairs.

EC-3121. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation entitled "The Marine Navigation Trust Fund Act of 1994"; to the Committee on Environment and Public Works.

EC-3122. A communication from the Secretary of Energy, transmitting, pursuant to law, notice relative to the report entitled "Adequacy of Management Plans for the Future Generation of Spent Nuclear Fuel and High-Level Radioactive Waste"; to the Committee on Environment and Public Works.

EC-3123. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation entitled "The Advisory Committee Termination Act"; to the Committee on Governmental Affairs.

EC-3124. A communication from the Director of Employee Benefits of the Farm Credit Bank of Baltimore, Maryland, transmitting,

pursuant to law, the annual reports of Federal Pension Plans for calendar year 1993; to the Committee on Governmental Affairs.

EC-3125. A communication from the Vice President (Human Resource Management), Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC-3126. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation entitled "The Federal Acquisition Labor Law Improvement Act of 1994"; to the Committee on Labor and Human Resources.

EC-3127. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "Rail-Highway Grade Crossing Safety Act of 1994"; to the Committee on Environment and Public Works.

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-607. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 69

"Whereas, in order to achieve national ambient air quality standards (NAAQS), the CAA requires ozone nonattainment areas classified as serious to implement, at the state's or the driving public's expense, an enhanced automobile emissions inspection and maintenance program pursuant to standards set by the U.S. Environmental Protection Agency (EPA); and

"Whereas, Section 182(a) of the CAA requires EPA to issue "guidance" to the states providing them with "continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer;" and

"Whereas, the states, including Louisiana, have been effectively denied the flexibility provided in Section 182(a) by EPA arbitrarily withholding approval of any other program than its "model program"; and

"Whereas, the EPA's "model program" was formulated based on a hypothetical computer generated model using now outdated emissions data from 1980 model auto test fleet using assumptions which are seriously questionable based on recent data from real-world conditions; and

"Whereas, the implementation in the real world of Louisiana of EPA's hypothetical "model program" will most likely cause long waiting lines at inspections stations with the greatest cost and inconvenience impacting the driving poor; and

"Whereas, the program's benefits are highly speculative, uncertain, and very questionable as evidenced by a recent study conducted by EPA which showed that its basic assumptions regarding highway emissions are seriously flawed when real-world data such as traffic conditions and air conditioning use, are adequately considered; and

"Whereas, EPA's "model program" requires testing at one location and repair of "dirty" automobiles at another location, with long waiting liens likely at each; and

"Whereas, studies show that up to twenty-five percent of tested vehicles are falsely failed and on which no repairs are needed to bring such a vehicle up to standards; and

"Whereas, recent air quality monitoring indicates an improvement to such an extent that if classified now the Baton Rouge nonattainment area would not be required to implement an enhanced program, nevertheless the EPA's Part 51 rules do not provide credit for such "voluntary" improvements; and

"Whereas, although both federal and state governments want cleaner air, implementation of the "model program" is premature. As evidenced by the Government Accounting Office recent report that "EPA's enhanced I&M program could benefit from further research on technology, costs, and motorists' behavioral responses, which would be more prudent than committing the entire nation to a $5 billion per year program while major information gaps remain: Therefore, be it

"*Resolved*, That the Legislature of Louisiana does hereby memorialize Congress to seek suspension of the enhanced automobile inspection and maintenance program; or pressure USEPA into revising its mobile source rules to allow states reasonable flexibility in designing their programs as intended by the CAA amendments of 1990; or amend the Clean Air Act to provide for reclassification of a nonattainment area like the Baton Rouge ozone nonattainment area in which substantial progress toward ozone attainment has already been made; or take steps to allow other relief as may be required to allow for a more reasonable solution to Baton Rouge's air quality problems. Be it further

"*Resolved*, That the Congress encourage the EPA to implement the flexibility and waiver process ordered by the President in Executive Order No. 12875 issued on October 26, 1993. Be it futher

"*Resolved*, That a copy of this Resolution be transmitted to the presiding offices of the U.S. Senate and House of Representatives, to each member of the Louisiana congressional delegation and to the secretary of the Department of Environmental Quality ."

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. ROCKEFELLER:

S. 2331. A bill to amend title 38, United States Code, to extend or make permanent certain authorities and requirements under that title; to the Committee on Veterans Affairs.

By Mr. HATFIELD (for himself and Mrs. MURRAY):

S. 2332. A bill to amend the Federal Columbia River Transmission System Act to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2333. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel a certificate of documentation for the vessel *SHAMROCK V*; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS (by request):

S. 2334. A bill to improve safety at rail-highway grade crossings and railroad rights-of-way, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWN:

S. 2335. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require that OMB and CBO estimates for paygo purposes to recognize the increased revenues generated by economic growth resulting from legislation implementing any trade agreement; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 246. A resolution relative to the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 2331. A bill to amend title 38, United States Code, to extend to make permanent certain authorities and requirements under that title: to the Committee on Veterans Affairs.

VA AUTHORITIES EXTENSION ACT OF 1994

• Mr. ROCKEFELLER. Mr. President, as chairman of Committee on Veterans' Affairs, I am pleased to introduce a bill that would make permanent two authorities relating to activities of the Department of Veterans Affairs, and extend a third.

Mr. President, the first provision would give VA permanent authority to waive military retired pay forfeiture requirements in the case of registered nurses employed by VA in shortage situations. The second provision would make permanent procedures to be followed in the case of special pay agreements for physicians and dentists employed by VA—including both basic pay and special pay—that would provide for total annual pay exceeding the amount for a person in Executive Level, grade I. The third provision would extend for 2 years VA's authority to enter into enhanced use leases of VA real property.

Mr. President, the provisions contained in this bill are technical ones which are necessary to enable VA to continue practices which Congress has previously authorized. The bill would make permanent certain temporary authorizations, and extend a third. I hope and expect that my colleagues in the committee will support this measure, and that we will report this bill for consideration by the Senate in the near future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2331

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

SECTION 1. PERMANENT AUTHORITY FOR WAIVER OF REDUCTION OF RETIREMENT PAY FOR REGISTERED-NURSE POSITIONS.

Section 7426(c) of title 38, United States Code, is amended by striking out the second sentence.

SEC. 2. PERMANENT REQUIREMENT FOR REVIEW OF AGREEMENTS FOR SPECIAL PAY FOR PHYSICIANS AND DENTISTS.

Section 7432(d) of title 38, United States Code, is amended by striking out paragraph (4).

SEC. 3. EXTENSION OF AUTHORITY TO ENTER INTO ENHANCED-USE LEASES.

Section 8169 of title 38, United States Code, is amended by striking out "December 31, 1994," and inserting in lieu thereof "December 31, 1996".●

By Mr. HATFIELD (for himself and Mrs. MURRAY):

S. 2332. A bill to amend the Federal Columbia River Transmission System Act to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

BONNEVILLE POWER ADMINISTRATION REFINANCING ACT

Mr. HATFIELD. Mr. President, today I am pleased to introduce legislation which will end the decade-long battle to increase the electric power rates of the Bonneville Power Administration [BPA] in the Pacific Northwest. The legislation will resolve, once and for all, the perception by some that electric rates in the Pacific Northwest are subsidized by the Federal Government, and will discourage future proposals to raise electric rates to levels which would injure the region's economy.

The legislation is comprised of two primary elements: First, it provides for the refinancing of approximately $6.7 billion of Bonneville's low interest, appropriated debt, and replaces it with new debt that carries current market interest rates. Second, it provides an additional $100 million to the Federal Treasury, money that will be raised by BPA from its electrical customers.

In return for this arrangement, the Northwest's electrical ratepayers seek a permanent guarantee that the costs of repaying the Federal investment in the Columbia River hydroelectric system will not be altered further in the future. This is a proposal which is fair to both taxpayers and ratepayers and should be considered favorably by the Senate.

This legislation has its roots in a decade of proposals made by successive administrations to alter the repayment of the Federal investment in the Nation's hydroelectric system. As budget deficit grew, a cash-starved Federal Government looked to all sources of revenue generation to produce more dollars. The power marketing administrations, which produce large sums of annual revenues, became easy targets for those who look only at the bottom line. Little or no consideration was given to the impacts on local economies or the overall impact on Federal revenues. Let me recount some of the history associated with this issue.

In 1985, the first proposal to alter Federal power marketing administration repayment practices was offered by President Reagan. Under that initial proposal, electric rates for the Bonneville Power Administration would have increased from between 50 to 80 percent. The interest rates on outstanding investments would have been raised to current rates, and the methodology for defining the amount of repayment due in any given year would have been altered.

Then, in 1986, the Reagan administration proposed selling the power marketing administrations to the highest bidders. The methodology for selling the PMA's was never determined, however, and the potential impact of the proposal was impossible to calculate. It is safe to say, though, that the purpose of the initiative was to create at least as much money for the Treasury as the earlier proposal.

From 1987 through 1990, the Reagan and Bush administrations proposed various repayment schemes that would have resulted in PMA rate increases of 10 to 40 percent. In 1991 and 1992, the Bush administration lowered its sights and submitted a revised proposal which would have raised rates approximately 12 to 15 percent.

In 1993, the Clinton administration proposed increasing rates for the PMA's such that an additional $100 million would be generated annually. Because the costs of this proposal were not allocated between PMA's, it was impossible to identify the exact rate impact.

While none of these proposals ultimately was successful, each created a cost for the economies which depend on PMA electric power. Electricity is the cornerstone of much of the Nation's economy, particularly in the Pacific Northwest. The high reliability and low cost of electric power provides the United States, and especially the Pacific Northwest, with a global competitive advantage which benefits the entire Nation.

As each of these proposals was made, uncertainty over the future cost of electricity was created. In the Pacific Northwest, where over half the electric power consumed is marketed by the Bonneville Power Administration, these proposals cast a cloud of uncertainty over future electric power prices. Rate increases of the magnitude contemplated by the proposals would devastate the economy of the region by discouraging investment in infrastructure, including modernization of new plants and equipment, and close factories and businesses which operate on the margin, many of which were attracted to the availability of low cost hydroelectric power in the region.

In fact, the benefit of these proposals was overstated by every administration because the potential for lost tax revenue as a result of business failure or lack of investment was never taken into account.

Let me make it perfectly clear that I have opposed each and every one of these proposals over the years, and believe that they were, at best, misguided, if not hypocritical. Water projects throughout this country were built with no expectation of payback by the users of the facilities. Unlike these other situations, in the case of hydroelectric generation, the users are paying back the investment, with interest, based on the terms agreed to at the time the investment was made. Accordingly, there is no subsidy associated with the Federal Power Marketing Program. This situation is often, and aptly, compared to a home mortgage. Attempting to alter unilaterally the terms of these financial arrangements years after the investment was made, based on current financial conditions, is predatory and unfair.

But, Mr. President, this is politics and not business. The lure of short-term fixes to generate cash during periods of huge budget deficits will not vanish in the night. It is time, therefore, to resolve this matter and put it behind us, despite the fact that 50 U.S. Senators signed a letter in 1990 opposing repayment reform, and that every proposal that has been made has been rejected by the Congress.

The development of this legislation actually began over 3 years ago. In 1991, I urged BPA and its customers to develop proposals to resolve the issue permanently. Customers of other power marketing administrations also were invited to work with the Pacific Northwest, or to develop proposals on their own. In 1992, after a year of study and consultation involving Bonneville, its customers and the customers of other power marketing administrations, a study document was produced. That study identified a range of alternatives, including one to refinance BPA's debt to increase the rate of interest it pays to the Treasury.

When that study was completed, another meeting of BPA and other PMA customers was held in my Washington, DC office to discuss the ramifications of the study. At that meeting, a variety of views were expressed as to

whether PMA customers wanted to continue to fight each and every repayment alternative in the future, or if it was time to find a permanent solution. The Pacific Northwest's representatives voiced their interest in supporting an appropriate proposal, provided that it ensured long-term certainty to end the long-term threat of further rate increases on Bonneville's appropriated debt. Customer representatives for all PMA's also were encouraged to consider options which would benefit their systems, and support for any such changes was expressed.

A significant opportunity to advance the BPA proposal occurred last year with the release of Vice President GORE's National Performance Review [NPR]. To the Vice President's credit, the Department of Energy and others in the administration recognized that a new and realistic approach to repayment reform could be formulated. The NPR took the dramatic step of recommending the BPA debt refinancing proposal originally identified in the study developed by Bonneville and its customers. The NPR, however, also included a $100 million premium as an additional cost the BPA ratepayers would be required to pay—over and above the annual principal and interest payments on the appropriated debt. While this premium is distasteful, it will, over the long-term, benefit the Pacific Northwest ratepayers, and is a price worth paying.

The most fundamental concern with the $100 million premium is that it may suggest to some there is a subsidy of PMA customer electric rates. Let me be perfectly clear on this issue. There is no subsidy. Accordingly, the $100 million may be viewed as nothing less than extortion. In my opinion, however, the $100 million price tag is analogous to the costs a business might experience when settling litigation.

While the subsidy issue is important, it is merely a side show to the real issue, that being the urgent need of the Government to reduce the Federal debt. Considering the need to raise additional revenue, there may well come a time when the Congress will conclude that the path of least resistance is to embrace the dubious notion that subsidies for PMA customers exist. Given the inherent risk in that outcome, the $100 million premium is quite attractive. But, this transfer of wealth from Pacific Northwest ratepayers to U.S. taxpayers is supportable only if it is accompanied by a long-term guarantee there will be no future increases in the cost of repaying the Federal investment in the Northwest hydroelectric system. The NPR initiative included such a guarantee.

The NPR initiative led to hastily drafted legislation which was introduced in the Congress last October. That proposal would have allowed BPA to raise money in the private capital markets to fund the refinancing of its debt. The Congressional Budget Office, in its testimony before the Senate Committee on Energy and Natural Resources, indicated that the NPR proposal would lead to an increase in the Federal budget deficit. While this was disappointing, other alternatives remained available for consideration.

We are now on a different path. The legislation I am introducing today provides for the refinancing of BPA's appropriated debt through the U.S. Treasury rather than the private capital markets. It is my understanding this resolves the fundamental issue which concerned CBO and caused it to score the previous proposal as an increase in the deficit.

Let me take a moment to describe the specifics of the legislation. The legislation will require that BPA's outstanding repayment obligations on appropriations be reconstituted by resetting outstanding principal at the present value of the current principal and annual interest that BPA would owe to the Federal Treasury, plus $100 million. Enactment of the bill will represent agreement between Northwest ratepayers and the U.S. Government that the subsidy criticisms are resolved permanently. Interest rates on the new principal will be reassigned at the Treasury's current long-term interest rates. Interest rates on new investments financed by appropriations, which are now administratively set equivalent to long-term Treasury financing costs, will be required by law.

The legislation also proposes that certain credits be granted to BPA's cash transfers to the Treasury in connection with payments BPA would make under a proposed litigation settlement between the United States and the Confederated Tribes of the Colville Reservation. It is my understanding that it is the administration's view that these credits, taken together with the one-time judgment fund payment, represent an equitable allocation of the costs of litigation settlement between BPA ratepayers and Federal taxpayers. Section 9 of the legislation complements legislation submitted by the administration on the Colville settlement. This new legislation contains repayment credit provisions that are different in timing but achieve the same results in terms of the present value cost to ratepayers and taxpayers.

This proposal addresses only the repayment of the Bonneville Power Administration and not other power marketing administrations. As noted earlier, every attempt was made to keep the customers of other power marketing administrations apprised of our intentions to resolve the repayment issue. We have encouraged them to find solutions which also would resolve permanently their own concerns. If the customers of other PMA's are in a position to make changes that will ensure long-term certainty for them, they are invited to join this effort.

Besides providing a $100 million premium to the Federal Treasury, this legislation provides an additional benefit to taxpayers. Competition within the electric power industry is increasing dramatically, particularly since the passage of tne Energy Policy Act of 1992. That competition is felt most keenly at the wholesale level because the Energy Policy Act provided greater transmission access at that level. Bonneville is unique in that it operates essentially only in the wholesale arena. Competitors are attempting to attract BPA's customers away with some limited success. One primary reason given for departing the BPA system is that rates may escalate dramatically and swiftly in the future as a result of repayment reform. The elimination of this risk not only benefits Bonneville, but also provides greater assurance that the repayment of the Federal investment will be accomplished on time and in full.

Finally, this legislation also benefits taxpayers by assuring that any future investments in the Northwest hydroelectric system will be repaid with interest rates reflecting the Treasury's cost of money at the time the investment is made. This will assure that no additional or lingering charges of the existence of a Federal electrical subsidy are made with respect to future investments.

Mr. President, the administration was exceptionally helpful in developing this legislation, and I especially appreciate the assistance provided by the Office of Management and Budget and the Department of Energy. I understand that the administration is continuing to review certain aspects of the bill, and that various revisions may be necessary. I look forward to continuing to work with the administration over the next several weeks to identify any provisions in need of further clarification, and hope that all remaining issues can be resolved to our mutual satisfaction.

I ask unanimous consent that the bill and a section-by-section analysis of the bill be printed in the RECORD.

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

S. 2332

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 "Bonneville Power Administration Refinancing Act".

SEC. 2. DEFINITIONS.

Section 3 of the Federal Columbia River Transmission System Act (16 U.S.C. 838a) is amended—

(1) by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively;

(2) by inserting after paragraph (a) the following new paragraph (b):

"(b) The term 'capital investment' means a capitalized cost funded by Federal appropriations that—

"(1) is for a project, facility, or separable unit or feature, of a project or facility;

"(2) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

"(3) excludes a Federal irrigation investment; and

"(4) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of this Act."; and

(3) by adding after paragraph (d), as redesignated by paragraph (1), the following:

"(e) The term 'old capital investment' means a capital investment whose capitalized cost—

"(1) was incurred, but not repaid, before October 1, 1995; and

"(2) was for a project, facility, or separable unit or feature, of a project or facility placed in service before October 1, 1995.

"(f) The term 'repayment date' means the end of the period within which the Administrator's rates are to ensure the repayment of the principal amount of a capital investment.

"(g) The term 'Treasury rate', for a fiscal year, means a rate that the Secretary of the Treasury determines as soon as practicable after the beginning of the fiscal year and that is equal to the average prevailing market yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity. The average yield is computed as the average during the preceding fiscal year using the daily bid prices. When the average yield so computed is not a multiple of one-eighth of 1 percent, the rate is the multiple of one-eighth of 1 percent nearest to the average yield.".

SEC. 3. RECONSTITUTION OF OUTSTANDING PAYMENT OBLIGATIONS.

The Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.) is amended by adding at the end the following:

"NEW PRINCIPAL AMOUNTS

"SEC. 14. (a) Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

"(1) the present value, calculated using a discount rate equal to the Treasury rate for fiscal year 1996, of the old payment amounts for the old capital investment; and

"(2) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

"(b) The Administrator shall determine the new principal amounts for old capital investments. The Administrator shall obtain the approval of the Secretary of the Treasury of the Administrator's determination of the new principal amounts and the Administrator's assignment of the interest rate to the new principal amounts, on the basis of consistency with the provisions of section 14 and 15 of this Act.

"(c) For the purposes of this section, the term 'old payment amounts', in the case of an old capital investment, means the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if the Bonneville Power Administration Refinancing Act were not enacted, assuming that—

"(1) the principal were repaid—

"(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment; or

"(B) in the case of an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

"(2) interest were paid—

"(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment; or

"(B) in the case of an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at the Treasury rate for the fiscal year in which construction is initiated on the project, facility, or separable unit or feature the old capital investment concerns.

"INTEREST RATE FOR NEW PRINCIPAL AMOUNTS

"SEC. 15. As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 14 of this Act bears interest annually at the Treasury rate for fiscal year 1996 until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

"REPAYMENT DATES

"SEC. 16. As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 14 of this Act is no earlier than the repayment date for the old capital investment provided for under section 14(b)(1) of this Act.

"PREPAYMENT LIMITATIONS

"SEC. 17. During the period beginning on October 1, 1995, and ending on September 30, 2000, the total new principal amounts of old capital investments, as established under section 14 of this Act, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

"INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION

"SEC. 18. (a) The principal amount of a capital investment for a project, facility, or separable unit or feature, of a project or facility placed in service after September 30, 1995, includes interest in each fiscal year of construction of the project, facility, or separable unit or feature the capital investment concerns at a rate equal to the 1-year rate for the fiscal year on the sum of—

"(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year; and

"(2) accrued interest during construction.

"(b) The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature the interest calculated, accrued, and capitalized under subsection (a).

"(c) For the purposes of this section, the term '1-year rate', for a fiscal year, means the 1-year Treasury agency borrowing rate as determined by the Secretary of the Treasury for use during the first month of the fiscal year taking into consideration the average of market yields on outstanding marketable interest-bearing obligations of the United States with approximate periods to maturity of 1 year.

"INTEREST RATES FOR NEW CAPITAL INVESTMENTS

"SEC. 19. The unpaid balance on the principal amount of a capital investment for a project, facility, or separable unit or feature, of a project or facility placed in service after September 30, 1995, bears interest—

"(1) from the date the project, facility, or severable unit or feature the investment concerns is placed in service until the earlier of the date the capital investment is repaid or the end of the repayment period for the capital investment; and

"(2) at a rate determined by the Secretary of the Treasury for use in assigning interest rates to new capital investments during the month that includes the date the project, facility, or separable unit or feature the new capital investment concerns is placed in service, taking into consideration the average of market yields on outstanding marketable interest-bearing obligations of the United States with periods to maturity comparable to the repayment period of the capital investment.

"CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY

"SEC. 20. (a) Notwithstanding any other law, the Administrator shall apply against amounts payable by the Administrator to the United States Treasury a credit in the amount and for a fiscal year as follows:

"(1) $15,250,000 in fiscal year 1996.

"(2) $15,860,000 in fiscal year 1997.

"(3) $16,490,000 in fiscal year 1998.

"(4) $17,150,000 in fiscal year 1999.

"(5) $17,840,000 in fiscal year 2000.

"(6) $4,100,000 in each succeeding fiscal year so long as the Administrator makes annual payments to the tribes under the settlement agreement.

"(b) For purposes of this section:

"(1) The term 'settlement agreement' means the agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the tribes on April 16, 1994, and by the United States of America on April 21, 1994, which agreement resolves claims of the tribes in docket 181-D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims.

"(2) The term 'tribes' means the Confederated Tribes of the Colville Reservation, a federally recognized Indian tribe.

"CONTRACT PROVISIONS

"SEC. 21. In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services and that is in effect after September 30, 1995, the Administrator shall offer to include or shall offer to amend to include, as the case may be, provisions specifying that after September 30, 1995—

"(1) the Administrator shall establish rates and charges on the basis that—

"(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 14 of this Act;

"(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 15 of this Act;

"(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

"(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

"(2) apart from charges necessary to repay the new principal amount of an old capital

investment as established under section 14 of this Act and to pay the interest on the principal amount under section 15 of this Act, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

"(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by sections 14 through 21 of this Act; and

"(4) the contract provisions specified in sections 14 through 21 of this Act do not—

"(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States; or

"(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

"(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources; or

"(ii) design rates.

"SAVINGS PROVISIONS

"SEC. 22. (a) Sections 14 through 21 of this Act do not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the 'Administrator's net proceeds,' as defined in section 13 of this Act.

"(b) Sections 14 through 21 of this Act do not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.".

SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The Bonneville Power Administration (BPA) markets electric power produced by federal hydroelectric projects in the Pacific Northwest and provides electric power transmission services over certain federally owned transmission facilities. Among other obligations, BPA establishes rate to repay to the U.S. Treasury the federal taxpayers' investments in these hydroelectric projects and transmission facilities made primarily through annual and no-year appropriations. Since the early 1980's, subsidy criticisms have been directed as the relatively low interest rates applicable to many of these Federal Columbia River Power System (FCRPS) investments. This legislation, the Bonneville Power Administration Refinancing Act (the "Act"), amends the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.) (the "Transmission Act") with the intention of resolving permanently the subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on BPA's power and transmission rates.

The legislation accomplishes this purpose by resetting the principal of BPA's outstanding repayment obligations at an amount that is $100 million greater than the present value of the principal and interest BPA would have paid in the absence of this Act on the outstanding appropriated investments in the FCRPS. The interest rate applicable to the reset principal amount is based on the U.S. Treasury's long-term interest rate in effect at the time the principal is reset. The resetting of the repayment obligations is effective October 1, 1995, coincident with the beginning of BPA's next rate period.

While the Act increases BPA's repayment obligations, and consequently will increase the rates BPA charges its ratepayers, it also provides assurance to BPA ratepayers that the Government will not further increase these obligations in the future. By eliminating the exposure to such increases, the legislation substantially improves the ability of BPA to maintain its customer base, and to make future payments to the U.S. Treasury on time and in full. Since the Act will cause both BPA's rates and its cash transfers to the U.S. Treasury to increase, it will aid in reducing the Federal budget deficit by an estimated $50 million over the current budget window.

SECTION 1. SHORT TITLE

The short title for this Act is the Bonneville Power Administration Refinancing Act.

SECTION 2. DEFINITIONS

This section amends the definitions section, section 3, of the Transmission Act.

The Transmission Act is amended to add a new paragraph 3(b), which clarifies the repayment obligations to be affected under this Act by defining "capital investment" to mean a capitalized cost funded by a Federal appropriation for a project, facility, or separable unit or feature of a project or facility provided that the investment is one for which the Administrator of the Bonneville Power Administration (Administrator or BPA) is required by law to establish rates to repay to the U.S. Treasury. The definition excludes Federal irrigation investments required by law to be repaid by the Administrator through the sale of electric power, transmission or other services; and, investments financed either by BPA current revenues or by bonds issued and sold, or authorized to be issued and sold, under section 13 of the Transmission Act.

The Transmission Act is amended to add a new paragraph 3(e), which defines those capital investments whose principal amounts are reset by this Act. "Old capital investments" are capital investments whose capitalized costs were incurred but not repaid before October 1, 1995, provided that the related project, facility, or separable feature or facility was placed in service before October 1, 1995. Thus, the capital investments whose principal amounts are reset by this Act do not include capital investments placed in service after September 30, 1995. The term "capital investments" is defined in new section 3(b).

The Transmission Act is amended to add a new paragraph 3(f), which defines "repayment date" as the end of the period that the Administrator is to establish rates to repay the principal amount of a capital investment.

The Transmission Act is amended to add a new paragraph 3(g), which defines the term "Treasury rate" as a long-term rate determined by the Secretary of the Treasury based on marketable interest-bearing securities of the United States having terms to maturity of 15 years or more. The Secretary of the Treasury determines the Treasury rate for a specified fiscal year by reference to the preceding fiscal year's average of daily bid prices on such securities. For example, the "Treasury rate for fiscal year 1996" would be determined by reference to the average of daily bid prices in the twelve months comprising fiscal year 1995. The term Treasury rate, in particular the term Treasury rate for fiscal year 1996, is used to establish both the discount rate for determining the present value of the old capital investments (section 14(a) of the Transmission Act, as amended by this Act) and the interest rate that will apply to the new principal amounts of the old capital investments (section 15 of the Transmission Act, as amended by this Act). The term Treasury rate is also used in section 14(c)(2)(B) of the Transmission Act, as amended by this Act, to determine the interest that would have been paid in the absence of this Act on old capital investments, whose facilities are brought into service between the end of fiscal year 1993 and the end of fiscal year 1995. For example, if an old capital investment is brought into service in fiscal year 1994, the Treasury rate that would apply under new section 14(c)(2)(B) to that investment would be the Treasury rate for fiscal year 1994. The Treasury rate is not to be confused with other interest rates that this Act directs the Secretary of the Treasury to determine, specifically, the short-term (one-year) interest rates to be used in calculating interest during construction of new capital investments (section 17 of the Transmission Act, as amended by the Act) and the interest rates that apply to capital investments the related facilities of which are brought into service after September 30, 1995 (section 18 of the Transmission Act, as amended by the Act).

SECTION 3. RECONSTITUTION OF OUTSTANDING PAYMENTS AMOUNTS

Section 3 further amends the Transmission Act as follows:

New principal amounts

The Transmission Act is amended to add a new section 14, which establishes new principal amounts of the old capital investments, which the Administrator is obligated by law to establish rates to repay. These investments were made by Federal taxpayers primarily through annual appropriations and include investments financed by appropriations to the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and to BPA prior to implementation of the Federal Columbia River Transmission System Act. In general, the new principal amount associated with each such investment is determined (regardless of whether the obligation is for the transmission or generation function of the FCRPS) by (a) calculating the present value of the stream of principal and interest payments on the investment that the administrator would have paid to the U.S. Treasury absent this Act and (b) adding to the principal of each investment a pro rata portion of $100 million. The new principal amount is established on a one-time-only basis. Although the new principal amounts become effective on October 1, 1995, the actual calculation of the reset principal will not occur until early 1996, because the discount rate will not be determined, the BPA's final audited financial statements will not become available, until later in that fiscal year.

As prescribed by the term "old capital investments," the new principal amount is not set for appropriations-financed FCRPS investments the related facilities of which are placed in service in or after fiscal year 1996; for Federal irrigation investments required by law to be recovered by the Administrator from the sale of electric power, transmission or other services, or for investments financed by BPA current revenues or by bonds issued or sold, or authorized to be issued and sold, under section 13 of the Transmission Act.

The discount rate used to determine the present value is the Treasury rate for fiscal

year 1996 and is identical to the interest rate that applies to new principal amounts for the old capital investments. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate.

The discount period for a principal amount begins on the date that the principal amount associated with an old capital investment is reset (October 1, 1995) and ends, for purposes of making the present value calculation, on the repayment dates provided in this section. The repayment dates for purposes of making the present value calculation are already assigned to almost all of the old capital investments. For old capital investments that will be placed in service after October 1, 1993, but before October 1, 1995, no such dates have been assigned. The Administrator will establish the dates for these latter investments in accordance with U.S. Department of Energy Order RA 6120.2—"Power Marketing Administration Financial Reporting," as in effect at the beginning of fiscal year 1994. These ideas are captured in the definition of the term "old payment amounts."

The interest portion of the old payment amounts is determined on the basis that the principal amount would bear interest annually until repaid at interest rates assigned by the Administrator. For almost all old capital investments, these interest rates were assigned to the capital investments prior to the effective date of this Act. (For old capital investments that are placed in service after September 30, 1993, the interest rates to be used in determining the old payment amounts will be the Treasury rate for the fiscal year in which the construction of the related project or facility, or the separable unit or feature of a project or facility, was initiated. Section 3(g) of the Transmission Act, as amended by this Act, provides the manner in which these interest rates are established.) Thus, for purposes of determining the present value of an interest payment on a capital investment, the discount period for the payment begins on October 1, 1995, and ends on the date the interest payment would have been made.

The *pro rata* allocation of $100,000,000 is based on the ratio that the nominal principal amount of the old capital investment bears to the sum of the nominal principal amounts of all old capital investments. This added amount fulfills a key financial objective of the Act to provide the U.S. Treasury and Federal taxpayers with a $100,000,000 increase in the present value of BPA's principal and interest payments with respect to the old capital investments. Since the $100,000,000 is a nominal amount that bears interest at a rate equal to the discount rate, the present value of the stream of payments is necessarily increased by $100,000,000.

Paragraph (b) of section 14 of the Transmission Act, as amended by this Act, provides that the Administrator will determine the new principal amounts and obtain the approval of the Secretary of the Treasury for such determinations. The Administrator will calculate the new principal amount of each old capital investment in accord with section 14 on the basis of (i) the outstanding principal amount, the interest rate and the repayment date of the related old capital investment, (ii) the discount rate provided by the Secretary of the treasury, and (iii) for purposes of calculating the pro rata share of $100 million in each new principal amount under section 14(a)(2) of the Transmission Act, as amended by this Act, the total principal amount of all old capital investments. The Administrator will provide this data to the Secretary of the Treasury and obtain approval by the Secretary that the Administrator's calculation of each new principal amount and the Administrator's assignment of the interest rate to the new principal amounts is consistent with the provisions of this Act.

The approval by the Secretary of the Treasury will be completed as soon as practicable after the data is provided by the Administrator. It is expected that the Secretary of the Treasury will identify possible errors in the Administrator's calculations and raise and resolve these issues in consultation with the Administrator. Due to the ministerial nature of these one-time determinations and approvals under this section, it is expected that the confirmation by the Secretary will not require substantial time.

Interest rate for new principal amounts

The Transmission Act is amended to add a new section 15, which provides that the unpaid balance of the new principal amount of each old capital investment shall bear interest at the Treasury rate for fiscal year 1996 determined by the Secretary of the Treasury under section 3(g) of the Transmission Act, as amended by this Act. The unpaid balance of each new principal amount shall bear interest at that rate until the earlier of the date the principal is repaid or the end of the repayment period for the investment.

Repayment dates

The Transmission Act is amended by adding a new section 16, which in conjunction with the term "repayment date" as that term is defined in section 3(f) of the Transmission Act, as amended by this Act, provides that the end of the repayment period for each new principal amount for an old capital investment shall be no earlier than the repayment date used in making the present value calculations in section 14 of the Transmission Act, as amended by this Act. Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. Section 16 of the Transmission Act, as amended by this Act, confirms that the Administrator retains this obligation notwithstanding the enactment of this Act.

Prepayment limitations

The Transmission Act is amended by adding a new section 17, which places a cap on the Administrator's authority to prepay the new principal amounts of old capital investments. During the period October 1, 1995, through September 30, 2000, the Administrator may pay the new principal amounts of old capital investments before their respective repayment dates provided that the total of the prepayments during the period does not exceed $100,000,000.

Interest rates for new capital investments during construction

The Transmission Act is amended by adding a new section 18, which establishes in statute a key element of the repayment practices relating to capital investments the facilities of which are placed in service after September 30, 1995. The new section 18 provides the interest rates for determining the interest during construction of these facilities. For each fiscal year of construction, the Secretary of the Treasury determines a short-term interest rate upon which that fiscal year's interest during construction is based. The short-term interest rate for a given fiscal year applies to the sum of (a) the cumulative construction expenditures made from the start of construction through the end of the subject fiscal year, and (b) interest during construction that has accrued prior to the end of the subject fiscal year. The short-term rate for the subject fiscal year is set by the Secretary of the Treasury and is the one-year agency borrowing rate as determined by the Secretary of the Treasury for use during the first month of the fiscal year taking into consideration the average of current market yields on outstanding marketable obligations of the United States with approximate periods to maturity of one year. These ideas are included in the definition of the term "one-year rate."

This method of calculating interest during construction equates to common construction financing practice. In this practice construction is funded by rolling, short-term debt which, upon completion of construction, is finally rolled over into long-term debt that spans the expected useful life of the facility constructed. Accordingly, new section 18 of the Transmission Act provides that amounts for interest during construction shall be included in the principal amount of a new capital investment. Thus, the Administrator has no obligation with respect to the payment of this interest until construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

Interest rates for new capital investments

The Transmission Act, is amended by adding a new section 19, which establishes in statute an important component of BPA's repayment practice, that is, the methodology for determining the interest rates for capital investments the related facilities of which are placed in service after September 30, 1995. Heretofore, administrative policies and practice established the interest rates applicable to capital investments as a long-term Treasury interest rate in effect at the time construction commenced on the related facilities. By contrast, new section 19 provides that the interest rate assigned to capital investments made in a project, facility, or separable unit of feature of a project or facility, provided it is placed in service after September 30, 1995, is a rate that more accurately reflects the repayment period for the capital investment. The interest rate applicable to these capital investments is a rate determined by the Secretary of the Treasury taking into consideration the average of yields of certain marketable securities of the United States during the month in which the related project, facility, or separable unit or feature is placed in service. The marketable securities to be used by the Secretary of the Treasury in the interest rate determination are securities whose remaining maturities are comparable to the repayment period for the capital investment. BPA will obtain the applicable interest rate from a table of interest rates provided by the Secretary of the Treasury. The interest rates in this table shall be for various maturities and shall be determined by the Secretary of the Treasury by taking into consideration the average of the yields on marketable securities of the United States that have maturities comparable to the various maturities. Each of these investments would bear interest at the rate so assigned until the earlier of the date it is repaid or the end of its repayment period.

Credits to the Administrator's payments to the U.S. Treasury

The Transmission Act is amended to add a new section 20, which provides that the Administrator shall receive credits to annual cash transfers that would otherwise be made by the Administrator to the U.S. Treasury.

The credits are tied to annual payments to be made by the Administrator under a settlement of certain claims against the United States by the Confederated Tribes of the Colville Reservation, which claims relate to the construction and operation of Grand Coulee Dam. The credits, together with a lump-sum payments by the United States to the Tribes, represent an equitable allocation of the costs of the settlement between BPA ratepayers and federal taxpayers. The credits provided under this section shall be applied against interest payments or others payments to be made by the Administrator to the U.S. Treasury. The payments to the U.S. Treasury available for crediting include, without limitation, interest payments associated with capital investment, are reset under this Act; interest on bonds issued by BPA to the U.S. Treasury, and interest payments in connection with FCRPS investments that are placed in service after September 30, 1995.

New section 20 of the Transmission Act also provides that it will apply "notwithstanding any other law." This clause assumes that new section 20 will supplant a similar provision in proposed Federal legislation validating the settlement agreement, should that legislation be enacted before this Act. The proposed short title for the settlement agreement legislation is the "Colville Tribes Grand Coulee Dam Settlement Act."

Contract provisions

The Transmission Act, is amended to add a new section 21, which is intended to capture in contract the purpose of this legislation to permanently resolve issues relating to the repayment obligations of BPA's customers associated with an old capital investment. With regard to such investments, paragraph (1) of new section 21 requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any return of the capital investments other than the interest payments or principal repayments authorized by this Act. Paragraph (1) of new section 21 also provides assurance to rate payers that outstanding principal and interest associated with each old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered. This provision assures that payments of principal and interest will in fact satisfy principal and interest payable on these capital investments.

Whereas paragraph (1) of new section 21 limits the return to the U.S. Treasury of the Federal investments in the designated projects and facilities, together with interest thereon, paragraph (2) of section new 21 requires the Administrator to offer to include in contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any additional return on those old capital investments. Thus, the Administrator may not impose a charge, rent or other fee for such investments, either while they are being repaid or after they have been repaid. Paragraph (2) of new section 21 also contractually fixes the interest obligation on the new principal obligation at the amount determined pursuant to section 15 of the Transmission Act, as amended by this Act.

Paragraph (3) of new section 21 is intended to assure BPA rate payers that the contract provisions described in paragraphs (1) and (2) of new section 21 are not indirectly circumvented by requiring BPA rate payers to bear through BPA rates the cost of a judgment or settlement for breach of the contract provisions. The subsection also confirms that the judgment fund shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a violation of the contract provisions required by new section 21. Section 1304 of title 31, United States Code, is a continuing, indefinite appropriation to pay judgments rendered against the United States, provided that payment of the judgment is "not otherwise provided for." Paragraph 3 of new section 21 of this Act assures both that the Bonneville fund, described in section 838 of title 16, United States Code, shall not be available to pay a judgment or settlement for breach by the United States of the contract provisions required by new section 21, and that no appropriation, other than the judgment fund, is available to pay such a judgment.

Paragraph (4)(A) of new section 21 establishes that the contract protections required by new section 21 do not extend to Bonneville's recovering a tax that is generally applicable to electric utilities, whether the recovery by Bonneville is made through its rates or by other means.

Paragraph (4)(B) of new section 21 makes clear that the contract terms described above are in no way intended to alter the Administrator's current rate design discretion or ratemaking authority to recover other new costs or allocate costs and benefits. This Act, including the contract provisions under section 21, does not preclude the Administrator from recovering any other costs such as general overhead, operations and maintenance, fish and wildlife, conservation, risk mitigation, modifications, additions, improvements, and replacements to facilities, and other costs properly allocable to a rate or resource.

Savings provisions

The Transmission System Act is amended by adding a new section 22. Subsection (a) of this section assures that the principal and interest payments by the Administrator as established in this Act shall be paid only from the Administrator's net proceeds. Subsection (b) confirms that, except with respect to the prepayment limitations under section 17 of the Transmission Act, as amended by this Act, the Administrator may repay all or a portion of the principal associated with a capital investment before the end of its repayment period.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2333. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel a certificate of documentation for the vessel *Shamrock V*; to the Committee on Commerce, Science, and Transportation.

"SHAMROCK V" CERTIFICATE OF DOCUMENTATION ACT OF 1994

Mr. KERRY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel SHAMROCK V, (United States official number 900036).

By Mr. BAUCUS (by request):

S. 2334. A bill to improve safety at rail-highway grade crossings and railroad rights-of-way, and for other purposes; to the Committee on Environment and Public Works.

RAIL-HIGHWAY GRADE CROSSING SAFETY ACT OF 1994

• Mr. BAUCUS. Mr. President, today I am introducing, upon request, a bill to improve safety at rail-highway grade crossings and railroad rights-of-way. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2334

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 "Rail-Highway Grade Crossing Safety Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are approximately 170,000 public and 110,000 private at-grade rail-highway crossings in the United States;

(2) during 1993, there were nearly 4,900 accidents at these crossings;

(3) it is necessary to improve safety at our Nation's rail-highway crossings and along rail rights-of-way;

(4) there are insufficient public funds to provide for the installation of warning systems that are automatically activated by approaching trains at all public crossings;

(5) many of the Nation's public rail-highway crossings are unnecessary and should be closed;

(6) rail-highway crossing consolidation will reduce the potential for rail-highway crossing collisions and will allow states to concentrate on improving safety at the remaining crossings;

(7) incentives are needed to encourage state and local governments to increase the consolidation of rail-highway crossings; and

(8) increased funding must be provided to educate motorists in their responsibilities at crossings in order to realize the full benefits from the public investment in rail-highway crossing warning systems.

SEC. 3. RAIL-HIGHWAY GRADE CROSSING CLOSING PROGRAM.

(a) Section 120(c) of title 23, United States Code, is amended by inserting "rail-highway crossing closures," after "vanpooling."

(b) Section 130 of title 23, United States Code, is amended by relettering subsection (h) as (j) and adding new subsections (h) and (i) to read as follows:

"(h) INCENTIVE FUNDS FOR CLOSING CROSSINGS.—

"(1) Subject to paragraph (2) of this subsection, any state after adopting a policy requiring the review of the need for all new public at-grade rail-highway crossings, may, in its discretion, use the funds authorized under this section to provide an incentive

payment to a local jurisdiction upon the permanent closing by the jurisdiction of a public at-grade crossing.

"(2) The incentive payments authorized by paragraph (1) of this subsection may not exceed $7,500, provided that the funds are matched by an equal payment from the railroad owning the tracks on which the crossing is located.

"(3) The local jurisdiction receiving funds under this subsection shall use the Federal funds portion of the incentive payment for transportation safety improvements only.

"(l) PUBLIC BENEFITS AND COSTS ANALYSES.—Within 18 months after the date of this Act, the Secretary shall establish guidelines to enable states to determine the public benefits and costs resulting from any new rail-highway grade crossing."

SEC. 4. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended by striking everything after "Operation lifesaver.—" and inserting in lieu thereof the following: "Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings, and to help prevent trespassing on rail rights-of-way and the resulting injuries and fatalities, provided however, expenditure of any funds in excess of $300,000 shall be contingent upon receipt of matching funds from non-public sources."

SEC. 5. GRADE CROSSING CORRIDOR SAFETY INCENTIVE PROGRAM.

Section 104 of title 23, United States Code is amended by adding a new paragraph (4) to subsection (d) to read as follows:

"(4) GRADE CROSSING CORRIDOR SAFETY INCENTIVE PROGRAM.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $15,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year to carry out a program to provide a financial incentive to States that would review and implement grade crossing safety improvements on a corridor basis in accordance with section 130(k) of title 23, United States Code."

Section 130 of title 23, United States Code is amended by adding subsection (k) to read as follows:

"(k) GRADE CROSSING CORRIDOR SAFETY INCENTIVE PROGRAM.—

"(1) The Secretary shall carry out a program to provide an additional financial incentive to States that would review and implement grade crossing safety improvements on a corridor basis. This financial incentive would be in addition to those funds available in accordance with the preceding subsections.

"(2) Funds authorized to be appropriated to carry out this subsection shall be available for obligation at the discretion of the Secretary. The Secretary shall issue investment criteria for approving projects under this section.

"(3) All provisions of chapter 1 of title 23, United States Code, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this subsection, except as determined by the Secretary to be inconsistent with this subsection. Funds authorized to be appropriated to carry out this section shall remain available until expended."•

By Mr. BROWN:

S. 2335. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require that OMB and CBO estimates for paygo purposes to recognize the increased revenues generated by economic growth resulting from legislation implementing any trade agreement; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

TRADE AGREEMENTS LEGISLATION

• Mr. BROWN. Mr. President, I rise today to introduce a bill that adopts a dynamic budget scoring for trade agreements.

Mr. President, the Senate will soon be voting on legislation to implement the Uruguay round of the General Agreement on Tariffs and Trade [GATT]. In order to approve the Uruguay round GATT, Congress will have to choose between increasing taxes, restraining spending, or waiving the budget rules.

According to a report to be released tomorrow by the Joint Economic Committee, GATT will create over $30 billion in economic growth in the first 5 years after its enactment. This growth would generate sufficient revenues to offset the projected loss on tariff revenue. U.S. Trade Representative Mickey Kantor also has testified before Congress that he expects the GATT to generate tax revenue sufficient to cover the expected $11 billion loss over 5 years. Unfortunately, the budget pay-as-you-go rules prevent the Congressional Budget Office from taking such economic growth into account.

The Clinton administration has recently proposed a series of measures to make up for the loss of revenue. However, the administration's proposals rely heavily on tax increases and not on budget cuts. Some budget cuts proposed by the administration also are included in its welfare reform proposal.

Mr. President, I support the paygo process because it helps keep the deficit from growing even larger. However, it does not make economic sense to only look at revenue reductions and ignore the revenue increases that will occur because of economic growth generated by trade agreements.

The legislation I introduce today adopts a dynamic budget scoring for trade agreements. Dynamic budget scoring allows the OMB and CBO to take into account the increased revenues generated by the trade agreements, so they may be used to offset lost revenues when tariffs are lowered.

Mr. President, let me make it clear that this bill only applies to trade agreements, and the increased revenues generated by GDP growth resulting from the legislation implementing a trade agreement cannot be used as offsets beyond the total of lost revenues. If the offset does not fully cover the lost tariff revenues, we will still need to pay for the difference.

Mr. President, Americans need more open borders, not higher taxes. We must reject any proposal to raise taxes on working Americans to pay for trade agreements that will generate tax revenues. By adopting dynamic budget scoring, we can eliminate the need for tax increases as an option to pay for GATT and other future trade agreements.•

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 340

At the request of Mr. HEFLIN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 549

At the request of Mr. DOMENICI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of one-dollar coins.

S. 784

At the request of Mr. HATCH, the name of the Senator from Iowa [Mr. HARKIN] 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. 1208

At the request of Mr. WOFFORD, the name of the Senator from Idaho [Mr. CRAIG] 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. 1658

At the request of Mr. HATCH, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from Vermont [Mr. JEFFORDS], the Senator from North Carolina [Mr. HELMS], the Senator from

Utah [Mr. BENNETT], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1658, a bill to establish safe harbors from the application of the antitrust laws for certain activities of providers of health care services, and for other purposes.

S. 1793

At the request of Mr. KEMPTHORNE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1793, a bill to provide an exemption from citation by the Secretary of Labor under the Occupational Safety Act to employers of individuals who perform rescues of individuals in imminent danger as a result of a life-threatening accident, and for other purposes.

S. 1887

At the request of Mr. BAUCUS, the names of the Senator from Maine [Mr. MITCHELL], the Senator from New Hampshire [Mr. GREGG], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Oklahoma [Mr. BOREN], the Senator from Missouri [Mr. DANFORTH], and the Senator from Tennessee [Mr. MATHEWS] were added as cosponsors of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1898

At the request of Mr. RIEGLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1898, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes.

S. 1979

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1979, a bill to require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964, and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

S. 2183

At the request of Mrs. HUTCHISON, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2246

At the request of Mr. DORGAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2246, a bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments.

S. 2258

At the request of Mr. DECONCINI, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2258, a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes.

S. 2275

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2275, a bill to amend subtitle IV of title 49, United States Code, relating to interstate commerce.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2298

At the request of Mr. LEAHY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2298, a bill to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

SENATE JOINT RESOLUTION 157

At the request of Mr. SASSER, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maryland [Mr. SARBANES], the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. NUNN], the Senator from California [Mrs. BOXER], the Senator from Idaho [Mr. CRAIG], the Senator from Maine [Mr. COHEN], the Senator from Virginia [Mr. WARNER], the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. DANFORTH], the Senator from Missouri [Mr. BOND], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate 1994 as "The Year of Gospel Music."

SENATE JOINT RESOLUTION 167

At the request of Mr. SIMON, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 167, a joint resolution to designate the week of September 12, 1994, through September 16, 1994, as "National Gang Violence Prevention Week."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 246—RELATIVE TO THE DEATH OF THE HONORABLE HUGH SCOTT, FORMERLY A SENATOR FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 246

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

AMENDMENTS SUBMITTED

IMPROVING AMERICA'S SCHOOLS ACT OF 1993

GORTON (AND OTHERS) AMENDMENT NO. 2418

Mr. GORTON (for himself, Mr. LIEBERMAN, Mr. BURNS, Mr. CRAIG, Mr. BOND, Mr. MURKOWSKI, and Mr. BENNETT) proposed an amendment to the bill (S. 1513) entitled "Improving America's Schools Act of 1993"; as follows:

At the end of title IV, insert the following:

SEC. . LOCAL CONTROL OVER SCHOOL VIOLENCE.

(a) IN GENERAL.—In any school that receives Federal funds, if a student brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of, school policy, or has demonstrated life threatening behavior in the classroom or on school premises, then the student shall be subjected to the disciplinary actions as determined by the local educational agency.

(b) INDIVIDUALS WITH DISABILITIES.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

(1) by striking "During" and inserting "(A) Except as provided in subparagraph (B), during", and

(2) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of school policy, or a child with a disability who has demonstrated life threatening behavior in the classroom or on school premises, then the child may be placed in an interim alternative educational setting for not more than 90 days.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(c) SUNSET PROVISION.—This section, and the amendments made by this section, shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals With Disabilities Education Act.

(d) DEFINITIONS.—For the purposes of this section, the term "life threatening behavior" is defined as "an injury involving a substantial risk of death; loss or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent; or an obvious disfigurement that is likely to be permanent.

SPECTER AMENDMENT NO. 2419

Mr. SPECTER proposed an amendment to the bill S. 1513, supra; as follows:

On page 538, on line 2, strike "; and" and insert the following: ", including contracts with private management companies;"

On page 538, on line 5, before the period add the following: "; and

"(IX) contracting out the management of troubled schools to private management firms"

On page 780, line 9, strike "and"

On page 780, after line 11, before the "." insert the following: "; and

"(I) establish partnerships with private educational providers whose comprehensive technology systems address the need of children in poverty."

On page 1000, line 10, strike the "and", and insert the following:

"(R) demonstrations that are designed to test the effectiveness of private management of public educational programs, with at least one demonstration carried out in each of the ten Department of Education regions, and with funds used to support planning, start-up costs and evaluation; and"

On page 1000, line 11, strike "(R)" and insert: "(S)".

On page 1165, before Part G, insert the following new section:

"SEC. . PRIVATELY MANAGED SCHOOLS.

"Nothing in this Act shall be construed to deny States or local educational agencies the opportunity to use Federal funds to contract with private management firms."

SPECTER (AND PELL) AMENDMENT NO. 2420

Mr. SPECTER (for himself and Mr. PELL) proposed an amendment to the bill S. 1513, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

(a) FINDINGS.—The Congress finds the following:

(1) Over 150,000 youth offenders age 20 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) DEFINITION.—The term "youth offender" means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) GRANT PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants to the States to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) APPLICATION.—To be eligible for a grant under this section, a State agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that they include measures of—

(A) program completion;

(B) student academic and vocational skill attainment;

(C) success in job placement and retention; and

(D) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

(e) PROGRAM REQUIREMENTS.—Each State agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 21 years of age or younger.

(g) LENGTH OF PARTICIPATION.—A program receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a high school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) EDUCATION DELIVERY SYSTEMS.—Correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this program.

(i) ALLOCATION OF FUNDS.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of eligible students in such State bears to the total number of eligible students in all States.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $18,000,000 for fiscal year 1995; and

(2) such sums as may be necessary for fiscal year 1996 and each fiscal year thereafter.

SPECTER AMENDMENT NO. 2421

Mr. SPECTER proposed an amendment to the bill S. 1513, supra; as follows:

On page 1,000, before line 13, insert the following:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students, emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development.

MOSELEY-BRAUN (AND KENNEDY) AMENDMENT NO. 2422

Ms. MOSELEY-BRAUN (for herself and Mr. KENNEDY) proposed an amendment to the bill S. 1513, supra; as follows:

On page 1357, after line 25, insert the following:

SEC. ___. HIGHER EDUCATION ACT OF 1965.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) AMENDMENT.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.—

"(1) DATA REQUIRED.—Each institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually submit a report to the Secretary that contains the following information:

"(A) For each men's team, women's team, and any team that includes both male and female athletes, the following data:

"(i) The total number of participants and their gender.

"(ii) The total athletic scholarship expenditures.

"(iii) A figure that represents the total athletic scholarship expenditures divided by the total number of participants.

"(iv) The total number of contests for the team.

"(v) The per capita operating expenses for the team.

"(vi) The per capita recruiting expenses for the team.

"(vii) The per capita personnel expenses for the team.

"(viii) Whether the head coach is male or female and whether the head coach is full time or part time.

"(ix) The number of assistant coaches that are male and the number of assistant coaches that are female and whether each particular coach is full time or part time.

"(x) The number of graduate assistant coaches that are male and the number of graduate assistant coaches that are female.

"(xi) The number of volunteer assistant coaches that are male and the number of volunteer assistant coaches that are female.

"(xii) The ratio of participants to coaches.

"(xiii) The average annual institutional compensation of the head coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the head coaches of women's sports teams, across all offered sports.

"(xiv) The average annual institutional compensation of each of the assistant coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the assistant coaches of women's sports teams, across all offered sports.

"(B) A statement of the following data:

"(i) The ratio of male participants to female participants in the entire athletic program.

"(ii) The ratio of male athletic scholarship expenses to female athletic scholarship expenses in the entire athletic program.

"(2) DISCLOSURE TO PROSPECTIVE STUDENTS.—An institution of higher education described in paragraph (1) that offers admission to a potential student shall provide to such student, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1), and all students offered admission to such institution shall be informed of their right to request such information.

"(3) DISCLOSURE TO THE PUBLIC.—An institution of higher education described in paragraph (1) shall make available to the public, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1).

"(4) SECRETARY'S DUTY TO PUBLISH A REPORT OF THE DATA.—On or before July 1, 1995, and each July 1 thereafter, the Secretary, using the reports submitted under this subsection, shall compile, publish, and submit to the appropriate committees of the Congress, a report that includes the information contained in such reports identified by (A) the individual institutions, and (B) by the athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(5) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means all nonscholarship expenditures.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect on July 1, 1994.

SIMON (AND OTHERS) AMENDMENT NO. 2423

Mr. SIMON (for himself, Mr. PELL, Mr. BYRD, Mr. CHAFEE, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, and Mr. KOHL) proposed an amendment to the bill S. 1513, supra; as follows:

On page 1205, between lines 4 and 5, insert the following:

"PART D—LONGER SCHOOL YEAR

"SEC. 13401. SHORT TITLE.

"This part may be cited as the 'Longer School Year Incentive Act of 1994'.

"SEC. 13402. FINDINGS.

"The Congress finds as follows:

"(1) A competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and training received by students in competitor countries.

"(2) Despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy.

"(3) For most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year.

"(4) In the final four years of schooling, students in schools in the United States spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so spent in Germany, the 3,280 hours so spent in France, and the 3,170 hours so spent in Japan.

"(5) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television.

"(6) More than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem.

"(7) Over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what

such students had learned during the previous school year.

"(8) Funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts.

"(9) Experiments with extended and multitrack school years have been associated with both increased learning and more efficient use of school facilities.

"SEC. 13403. PURPOSE.

"It is the purpose of this part to allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"SEC. 13404. PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to States or local educational agencies to enable such States or agencies to support public school improvement efforts that include the expansion of time devoted to core academic subjects and the extension of the school year to not less than 210 days.

"SEC. 13405. APPLICATION.

"Any State or local educational agency desiring assistance under this part shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

"SEC. 13406. FUND ALLOCATION.

"(a) FUNDING.—Of the funds appropriated pursuant to the authority of section 13501 for each fiscal year, the Secretary may reserve not more than 50 percent of such funds for such year to carry out this part.

"(b) AVAILABILITY.—Funds made available under subsection (a) for any fiscal year shall remain available until expended.

On page 1193, line 21, insert "and not used to carry out part D for such year" after "year".

On page 1194, line 2, insert "(other than part D)" after "title".

On page 1195, line 17, insert "(other than part D)" after "title".

On page 1195, line 25, insert "(other than part D)" after "title".

On page 1198, line 4, insert "(other than part D)" after "title".

On page 1198, line 7, insert "(other than part D)" after "title".

On page 1198, line 13, insert "(other than part D)" after "title".

On page 1198, line 20, insert "(other than part D)" after "title".

On page 1198, line 24, insert "(other than part D)" after "title".

On page 1199, line 3, insert "(other than part D)" after "title".

On page 1199, line 16, insert "(other than part D)" after "title".

On page 1199, line 18, insert "(other than part D)" after "title".

On page 1199, line 23, insert "(other than part D)" after "title".

On page 1200, line 1, insert "(other than part D)" after "title".

On page 1200, line 15, insert "(other than part D)" after "title".

On page 1200, line 24, insert "(other than part D)" after "title".

On page 1201, line 5, insert "(other than part D)" after "title".

On page 1202, line 20, insert "(other than part D)" after "title".

On page 1202, line 22, insert "(other than part D)" after "title".

On page 1203, line 6, insert "(other than part D)" after "title".

On page 1203, line 18, insert "(other than part D)" after "title".

On page 1204, line 2, insert "(other than part D)" after "title".

On page 1204, line 4, insert "(other than part D)" after "title".

On page 1204, line 10, insert "(other than part D)" after "title".

On page 1204, line 18, insert "(other than part D)" after "title".

On page 1204, line 22, insert "(other than part D)" after "title".

On page 1205, line 5, strike "**D**" and insert "**E**".

On page 1205, line 6, strike "**13401**" and insert "**13501**".

SIMON (AND OTHERS) AMENDMENT NO. 2424

Mr. SIMON (for himself, Mr. HATCH, Mr. KENNEDY, Mr. PELL, Mr. HARKIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. BINGAMAN, Mr. LEAHY, Mr. METZENBAUM, Mrs. BOXER, and Mrs. MURRAY) proposed an amendment to the bill S. 1513, supra; as follows:

On page 995, line 10, strike "$2,000,000" and insert "$5 million."

JEFFORDS AMENDMENT NO. 2425

Mr. JEFFORDS proposed an amendment to the bill S. 1513, supra; as follows:

At the end of title IV, insert the following:

SEC. . LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—In paragraph (3) of section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)(3)) is amended—

(A) by striking 'During' and inserting '(A) Except as provided in subparagraph (B), during'; and

(B) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting for not more than 90 days, consistent with State law.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.

(b) CONSTRUCTION.—Nothing in title XVII of the Elementary and Secondary Education Act of 1965 (relating to Gun-Free Schools) shall be construed to supersede the Individuals with Disabilities Education Act or to prevent a local education agency that has expelled a student from such student's regular school setting from providing educational services to such student in an alternative setting, as provided by State law, policy, or otherwise determined by such local educational agency.

BYRD (AND DODD) AMENDMENT NO. 2426

Mr. BYRD (for himself and Mr. DODD) proposed an amendment to the bill S. 1513, supra; as follows:

On page 874, line 9, strike "The Secretary" and insert "(1) BIENNIAL EVALUATION.—The Secretary", and indent appropriately.

On page 874, line 14, insert after "subpart" the following: "and of other recent and new initiatives to combat violence in schools".

On page 874, between lines 16 and 17, insert the following:

"(2) DATA COLLECTION.—

"(A) COLLECTION.—The Secretary shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States-pursuant to subsection (b)(2)(B).

"(B) REPORT.—Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

BYRD AMENDMENT NO. 2427

Mr. BYRD proposed an amendment to the bill S. 1513, supra; as follows:

On page 1165, between lines 21 and 22, insert the following:

"SEC. 10607. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) DEFINITIONS.—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

BUMPERS (AND OTHERS) AMENDMENT NO. 2428

Mr. BUMPERS (for himself, Mr. COCHRAN, Mr. KEMPTHORNE, Mr. PRYOR, Mr. WALLOP, Mr. SHELBY, Mr. CRAIG, Mr. GRAMM, Mr. LOTT, Mr. BINGAMAN, Mr. BURNS, Mr. THURMOND, and Mrs. HUTCHISON) proposed an amendment to the bill S. 1513, supra; as follows:

On page 553, line 10, strike "(i)".

On page 553, line 15, beginning with "effort factor" strike all through the period on page 553, line 17, and insert "relative income per child factor described in subparagraph (B).".

On page 554, beginning with line 4, strike all through page 556, line 15.

On page 556, line 23, strike "product of the effort" and insert "income per school-age child".

On page 556, beginning with line 24, strike "under" and all that follows through "year" on page 557, line 2.

On page 557, between lines 9 and 10, insert the following:

"(C)(i) Except as provided in subparagraph (D), the relative income per child factor shall be determined in accordance with the following formula:

$$R = 1.0 - 0.4\left(\frac{c}{n}\right)$$

"(ii) For the purpose of the formula described in clause (i), the term 'c' shall be a fraction, the numerator of which is the 3-year average of total personal income as reported by the Bureau of Economic Analysis for a county, and the denominator of which is the amount determined under the second sentence of subparagraph (A) for the county multiplied by the number of children aged 5 through 17 in the county.

"(iii) For the purpose of the formula described in clause (i), the term 'n' shall be a fraction, the numerator of which is the sum of the 3-year averages of total personal income as reported by the Bureau of Economic Analysis for all counties in all States, and the denominator of which is the sum of the products of the amount determined under the second sentence of subparagraph (A) for each county in each State multiplied by the number of children aged 5 through 17 in such county.

"(iv) For the purpose of the formula described in clause (i), the term 'R' shall be not more than 0.8 and not less than 0.2.

"(D) The relative income per child factor for the Commonwealth of Puerto Rico shall be 0.6.

"(E) The Secretary shall use the most recent data available to the Secretary to calculate relative income per child factors under this paragraph.

HATCH (AND BENNETT) AMENDMENT NO. 2429

Mr. HATCH (for himself and Mr. BENNETT) proposed an amendment to the bill S. 1513, supra; as follows:

Beginning on page 554 line 21, strike all through line 15 on page 556 and insert in lieu thereof the following:

(iii)(I) Except as provided in subclause (II) the equalization factor for a local educational agency shall be determined in accordance with the succeeding sentence. The equalization factor determined under this sentence shall be calculated as follows: First, calculate the difference (expressed as a positive amount) between the average per pupil expenditure in the State served by the local educational agency and the average per pupil expenditure in each local educational agency in the State and multiply such difference by the total student enrollment for such agency, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Second, add the products under the preceding sentence for each local educational agency in such State and divide such sum by the total student enrollment of such State, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Third, divide the quotient under the preceding sentence by the average per pupil expenditure in such State. The equalization factor shall be equal to 1 minus the amount determined in the previous sentence.

(II) The equalization factor for a local educational agency serving a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceeding the date of enactment of the Improving America's Schools Act of 1994) shall have a maximum coefficient of variation of .10.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that the Subcommittee on Public Lands, National Parks and Forests will consider an additional measure at its hearing scheduled for August 4, 1994, beginning at 9:30 a.m.

The additional measure is S. 2249, a bill to amend the Alaska Native Claims Settlement Act, and for other purposes.

Bacause of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Kira Finkler of the Subcommittee staff at 202-224-7933.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee markup of the Small Business Administration Reauthorization and Amendments Act of 1994. The markup will be held on Tuesday, August 2, 1994, at 10 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patricia Forbes, deputy staff director of the Small Business Committee at 224-5175.

SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION

Mr. LEAHY. Mr. President, the Committee on Agriculture, Nutrition and Forestry Subcommittee on Domestic and Foreign Marketing and Product Promotion will hold a hearing on proposed changes to the National Dairy Promotion and Research Board in S. 1557 and S. 1564. The hearing will also consider the beef industrywide long range plan of the Cattlemen's Beef Promotion and Research Board. The hearing will be held on Friday, August 5, 1994 at 10 a.m. in SR-332. Senator DAVID BOREN will preside.

For further information contact Brian Ellis at 224-4721 or Jeannine Kenney at 224-5323.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9 a.m. on Thursday, July 28, 1994, in executive session, to discuss the proposed package offer to be made to the House on the DOD authorization bill.

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

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, July 28, 1994, at 10 a.m., to continue considering its recommendations for legislation to implement the Uruguay round of multilateral trade negotiations.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, July 28, at 9:30 a.m., for a hearing on civil agency financial audits.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, July 28, 1994.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 28, 1994 at 2:00 p.m. to hold a hearing on Department of Justice oversight.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Davis-Bacon reform, during the session of the Senate on July 28, 1994, at 10:30 am.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "Sickle Cell Disease Research: An Update," during the session of the Senate on July 28, 1994, at 2:30 pm.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on July 28, 1994, off the floor after the first vote, for an executive session to consider the nominations of Gilbert F. Casellas, Paul M. Igasaki, and Paul S. Miller, to be members of the Equal Employment Opportunity Commission, and Kenneth M. Jarin, to be a member of the National Council on the Arts.

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

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY, AND GENERAL LEGISLATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation be authorized to meet during the session of the Senate on Thursday, July 28, 1994 at 2:30 p.m. to hold a hearing on pesticide legislation pending before the committee—S. 985, S. 1478, and S. 2050.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., July 28, 1994, to receive testimony on S. 2121, a bill to promote entrepreneurial management of the National Park Service, and for other purposes.

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

ADDITIONAL STATEMENTS

GERNIKA AND BOISE, SISTER CITIES

• Mr. KEMPTHORNE. Mr. President, this weekend, the mayor of Gernika, Spain, will lead the first official Basque delegation to visit Idaho's capital city since the establishment of a sister city relationship between Gernika and Boise. Last October, Boise Mayor Brent Coles sent a delegation, headed by Secretary of State Pete Cenarrusa, to the Basque country with an offer to host a delegation visit to Idaho in honor of this sister city relationship.

On December 19, 1992, just prior to joining the United States Senate, I had the honor as mayor of Boise to join with the Honorable Eduardo Vallejo de Olejua, mayor of Gernika, in proclaiming our sister city relationship and sanctifying the natural bond which exists between our two cities.

Boise boasts a rich Basque heritage, including the largest population of Basques outside of Spain; 90 percent of the Basque families living in Boise, which is home to the largest population of Basques outside of Spain, came from the area surrounding the city of Gernika.

The city of Gernika is the sacred city of Basque democracy and has, for centuries, stood as a beacon to all freedom loving peoples of the world. Likewise, Boise has always stood for individualism, democracy, and freedom.

Over the years, there have been numerous exchanges and frequent trips between Gernika and Boise based upon our shared populations and close family ties. In Boise, we enjoy the richness of the Basque culture and the joy of their spirit as evidenced by the Oinkari Dancers, the Basque Museum and Cultural Center, Jaialdi, Onati Restaurant and the Bar Gernika. Boise is known as the 8th Province of the Basque Country.

Gernika, the city of the Tree of Gernika, and Boise, the City of Trees, share a common culture and a common love of democracy and freedom.

Mr. President, as this historic meeting occurs in Boise this weekend, I'm sure my colleagues in the U.S. Senate would wish to join me in recognizing this significant visit by the mayor of Gernika and his accompanying delegation. At the same time, I'd also like to acknowledge the longstanding tradition of good will between these two communities that we are seeing strengthened by this sister city relationship.•

PROJECT FIRST

• Mr. SIMON. Mr. President, I have long been concerned about intolerance in our society. The diversity of our culture is one of our greatest strengths, but unfortunately we have found that with diversity often comes intolerance. But that does not need to be the case. In Illinois, one high school is proving that tolerance can be taught.

University High School at Illinois State University, has been conducting an experiment designed to teach high school students to work with each other and to make their diversity a source of strength instead of conflict. Project FIRST [Freshmen Initiative Restructuring Schools Together] uses cooperative learning, integrated classrooms and team teaching techniques to teach students to work with people of different backgrounds toward a common goal. It also uses literature to introduce students to the topic of tolerance, and invites students to relate what they read to their own lives. According to a recent study of students and teachers, the results of this experiment have been good. Freshman attendance has been up, and student participants report that the project brings them closer together and allows them to know more about their similarities and differences.

Project FIRST is an example of the kinds of innovative educational programs that we should be encouraging across the country. It not only motivates students in their studies but also introduces the issue of tolerance into the classroom, where important progress can be made.•

A TRIBUTE TO SETON HALL UNIVERSITY SCHOOL OF LAW

• Mr. LAUTENBERG. Mr. President, I rise today to call the Senate's attention to several recent events at New Jersey's Seton Hall University school of law. After just four decades of operation, the school has clearly become one of the rising stars among this Nation's law schools.

The road to success has not, however, been easy. Just a few years ago, Seton Hall University was seriously considering moving the school from its location in downtown Newark. After serious discussion and debate, the university decided that its future was tied to the city's and the decision was made to build a new, state-of-the-art law center facility in Newark.

That was the right decision. In a recent study of 18,000 law students at 165 accredited law schools conducted by the National Jurist, an independent monthly magazine, and the Princeton Review, Seton Hall University school of law ranked second in overall student satisfaction.

Seton Hall also ranked second in terms of student satisfaction with the law center facilities themselves, and third in student satisfaction with the law library, computerized equipment, and other research facilities.

These rankings far exceed those attained by some of the most established and prestigious law schools in the county.

As Dean Ronald Riccio said of the results of the survey, "I have always felt that the best judge of the quality of any law school is the students. They know what a good program is."

As important as student satisfaction is, we all recognize that it is not the only measure of a school's success. Another is the quality of the work produced by those students. In that regard, according to a recent survey conducted by the University of Miami, the Seton Hall Law Review ranked, along with the law reviews published by Yale and the University of Virginia, as the fifth most cited law journal in the country in terms of opinions written by judges from the 13 Federal circuit courts of appeal.

Another indication of the school's success is the fact that, in 1995, the Oliver Wendell Holmes Lecture—a prestigious event which law schools throughout the country compete to host—will take place at Seton Hall.

Finally, in another first for Seton Hall, the school's Black Law Students Association's moot court team defeated the team from Georgetown Law Center to win the Frederick Douglass National Moot Court Competition.

Mr. President, we in New Jersey have long been extremely proud of the accomplishments of this school, its students and its alumni. It is very gratifying to see that Seton Hall University School of Law is now attaining the kind of national recognition it deserves.•

WORLD WITHOUT POWER

• Mr. SIMON. Mr. President, Anthony Lewis had a column in the New York Times recently commenting on something I have talked about briefly on the floor of the Senate from time to time, that I have never seen another journalist write about.

We have a reluctance to face up to the problems of risk-taking in the Armed Forces as we try to provide a more stable and secure world. It is an easy thing on which to duck politically.

The reality is, you do not volunteer for the Chicago Police Department without recognizing that you are taking a risk. And if there is a fatality, as there occasionally is, no one says that since someone on the Chicago police force has been shot in dealing with a gang problem in one section of the city, we should take the police out of that section of the city. We recognize the essential role, as well as the dangerous role, that people on the Chicago police force assume.

Those who volunteer for the Armed Forces of the United States play a somewhat similar role on the international scene.

Anthony Lewis says: "The United States is the one remaining superpower. If it cannot use force to prevent disasters, then the world is truly condemned to chaos."

I could not agree with him more.

I missed reading the article that he refers to by Edward Luttwak, but I plan to read it.

In the meantime, my colleagues should read the Anthony Lewis column if they have not.

Mr. President, I ask to insert the column into the RECORD at this point.

The column follows:

WORLD WITHOUT POWER

(By Anthony Lewis)

Rwanda is many things: a human catastrophe, a testament to the danger of ethnic hatred, a devastating symbol of man's inhumanity to man. But beyond all that it is a sign of the New World Disorder: a world in which no great power takes responsibility for preventing a descent into chaos.

When an organized group of militant Hutus began slaughtering Rwanda's Tutsi minority in April, no outside power was prepared to intervene. Pleas by the Secretary General of the United Nations, Boutros Boutros-Ghali, got no response.

In the end the human tragedy was so great that the United States Government has felt compelled to mount an enormous relief effort. It will cost many times what earlier intervention might have, not to mention the cost in Rwanda lives.

There were reasons for the Clinton Administration's disinclination to intervene in April or May. Rwanda is remote from American military bases and outside traditional areas of American interest. Separating the parties in so savage a civil conflict would have been difficult.

But there was plainly another element in the American decision to stay out. That was the now ingrained reluctance to use the armed forces of the United States in any situation where they may suffer casualties.

Edward N. Luttwak, a conservative analyst at the Center for Strategic and International Studies in Washington, discusses the new military shyness in the current issue of Foreign Affairs. His article, brief and pungent, is essential reading for both liberals and conservatives.

In Somalia, Mr. Luttwak notes, the death of 18 professional soldiers—who presumably went into the military knowing that they might have to risk their lives—forced a total change in U.S. policy. In Haiti, a handful of thugs on the docks frightened off an American vessel; the impression of U.S. weakness bedevils the Haitian problem to this day.

What we are seeing, Mr. Luttwak argues, is a "refusal to tolerate combat casualties." And the phenomenon is not confined to the United States or other democracies where television images may drive public opinion. The old, totalitarian Soviet Union invaded Afghanistan but then acted with extraordinary timidity—for fear of public reaction against casualties.

The two recent cases where significant powers risked sizable casualties were the Falklands war and the Persian Gulf war. In the first, Margaret Thatcher's leadership took Britain into a romanticized echo of empire. In the gulf there were real interests, and President Bush effectively mobilized opinion behind the war.

But the gulf war story suggests that we are now willing to risk casualties only for a large and dramatized cause. And that, Mr. Luttwak says, "rules out the most efficient use of force—early and on a small scale to prevent escalation." He might have been writing presciently, about Rwanda.

What is the reason for the new sensitivity about possible casualties? Mr. Luttwak's theory is that it reflects the smaller size of families in the developed world. In earlier centuries people had many children, some of whom were expected to die young anyway, so death in battle was more acceptable.

That may be a psychological explanation. But there is a more immediate political one in this country: Vietnam. We fought a war that more and more Americans came to regard as a mistake, costing thousands of lives even after we decided to get out.

Since Vietnam the Pentagon has been hypersensitive about public opinion. Under Gen. Colin Powell as Chairman of the Joint Chiefs, it adopted a doctrine that allows the use of American forces in only extremely narrow circumstances. Military leaders have become the biggest resisters in the use of force.

Those of us who came to oppose the Vietnam war naturally applaud the cautiousness of military leaders. But like any doctrine, this one can be overdone. Right now, for example, Zairean officers are demanding payments to let relief planes for Rwanda refugees land. The United States should use its muscle without hesitation to stop such a practice by the corrupt forces of President Mobutu Sese Seko.

The United States is the one remaining superpower. If it cannot use force to prevent disasters, then the world is truly condemned to chaos. And Americans, Edward Luttwak writes, will have to learn how to be blind—"to passively ignore avoidable tragedies and horrific atrocities."•

IN RECOGNITION OF THE RETIREMENT OF MICHAEL I. HANDLEY

• Mr. RIEGLE. Mr. President, I rise today to recognize the outstanding career of Michael I. Handley, who is now retiring after four decades of service to the Communications Workers of America.

Born in Alcoa, TN, on March 19, 1925, Mr. Handley volunteered for the Navy during World War II. After the war, he worked for several years with the Southern Bell telephone company.

Michael Handley began his union career in the early 1950's. By 1958, he had become president of the Knoxville, TN, Communications Workers of America [CWA] Local 3805.

Mr. Handley has been my constituent, off and on, over the past 30 years. He first came to Michigan in 1967 as a District 4 representative for the CWA, a position he held for 5 years. Then in 1972, Mr. Handley moved to Georgia to serve as south Georgia director of the CWA. Two years later, he became assistant vice-president for CWA's District 3, and he remained there for 4 more years. Finally, in 1978, Mr. Handley and his family returned to the Michigan-Ohio area, working for CWA District 4, 2 years later he was appointed director of the Michigan CWA, and in 1982 he was named assistant vice-president for District 4, which includes Ohio, Indiana, Illinois, Wisconsin, and Michigan.

In addition to his work for the Communications Workers of America, Michael Handley has served in numerous community service positions, and has dedicated his time and efforts toward making his community better. He is presently a board member of the Greater Detroit Area Hospital, the United Way of Michigan, and the Michigan State AFL–CIO Executive Board, and is an active member of the Detroit United Fund. In addition to all that, he is also a commissioner on the Michigan Air Pollution Control Board.

I know that I speak for many when I say that Mr. Handley, together with his wife Amy, has been a reliable and consistent force for progressive change in the American work force, and that his tireless efforts on behalf of working men and women will not be forgotten. On behalf of the people of Michigan, I wish Mr. Handley a long and prosperous retirement.•

BUDGET DEFICITS AND THE SOCIAL SECURITY ADMINISTRATION

• Mr. SIMON. Mr. President, Robert Myers recently published an article in the Valley News Dispatch that I recommend to each and every one of my colleagues.

Many of us know Robert Myers as a renowned expert on the Social Security Administration. He served as chief actuary of the Administration from 1947 to 1970, and as Deputy Commissioner in 1981 and 1982. From 1982 to 1983, he served as the Executive Director of the National Commission on Social Security Reform. He has been referred to in

this body as a "person of legendary integrity and authority."

Robert Myers' article discusses the future of the Social Security System. He concludes that "the most serious threat to Social Security is the Federal Government's fiscal irresponsibility." Here are his words:

If we continue to run deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the Social Security trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness * * *.

Mr. Myers prescription is straightforward: Enact the Balanced Budget Amendment. "Passing the balanced budget amendment," he states, "would protect current employees from paying more today and getting less tomorrow, when they'll need it most." These are wise words—words we ignore at our peril.

Mr. President, I ask that the entire text of Mr. Myers' article be printed in the RECORD.

The article follows:

[From the Valley News Dispatch]

BUDGET DEFICITS COULD THREATEN BENEFITS' VALUE

(By Robert Myers)

Franklin Delano Roosevelt's Social Security program is one of the great social policy successes of this century. Fifty-eight years after the program was voted into law, the Social Security trust funds not only are self-sustaining; they also have significant excesses of income over expenditures. As a result, the program's trust funds will continue to help millions of elderly, disabled and survivor beneficiaries for generations, so long as the rest of the federal government acts with fiscal prudence.

Unfortunately, that's a big "if."

The federal government's ambitions are virtually always more expansive than its bank balance. With the government running stubborn deficits year after year, fiscal hawks have begun eying Social Security's balance sheets—with an accumulated excess of $378 billion at the end of 1993—as a deep pocket into which the government could dip to make up its current horrendous budget deficits and national debt.

For a number of reasons, that would be a terrible mistake. It is also why I favor the balanced budget amendment. Such an amendment would prevent the federal government from spending more than it earns, and it would reduce the temptation to plunder Social Security to make up for shortfalls in other government programs.

Many people claim that if the balanced budget amendment were to be adopted and if the federal government could not meet its obligations, Social Security recipients would pay the difference through reduced benefits. This, indeed, could occur. However, on grounds of integrity, logic and fair play, I strongly doubt that Congress would take such an alarming step.

Cutting Social Security expenditures alone would not accomplish the goal of reducing the national debt; it would merely shift the burden from the general public to the Social Security trust funds, which are safely invested in interest-bearing government bonds. Also, cutting expenditures while continuing to tax Americans for benefits they would no longer receive, would be unfair.

If Social Security benefits are reduced, then Social Security taxes should be reduced as well. And if someone in Congress did propose reducing benefits—with or without a tax reduction—the political outcry would likely be deafening. Social Security currently guarantees the nation's 26 million retired workers, who otherwise would have to fend for themselves, an income of about $675 a month for life, plus cost of living adjustments in the future. That doesn't count the monthly benefit checks for spouses and children of retirees; for workers who are disabled; and for the surviving spouses and children of workers who have died.

All told, some 43 million Americans rely on Social Security for some part of their income. They comprise a constituency that no member of Congress could easily ignore.

The most serious threat of Social Security is the federal government's fiscal irresponsibility. If we continue to run deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the Social Security trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would sharply diminish the real value of the trust funds and, even more important, the real value of the benefits for million of beneficiaries.

Passing a balanced budget amendment would protect current employees from paying more today and getting less tomorrow, when they'll need it most.●

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE DEATH OF THE HONORABLE HUGH SCOTT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 246, a resolution relating to the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania, introduced today by the majority leader, the Republican leader, and others; that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

So the resolution (S. Res. 246) was agreed to, as follows:

S. RES. 246

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m., Friday, July 29; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator GRAMM of Texas recognized to speak for up to 10 minutes; that at 9 a.m., the Senate proceed into executive session to consider the nomination of Judge Breyer, as provided for under the provisions of a previous unanimous consent agreement.

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

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as provided for under S. Res. 246, as a mark of further respect for the late Honorable Hugh Scott.

There being no objection, the Senate, at 10:18 p.m., recessed until Friday, July 29, 1994, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1994:

THE JUDICIARY

DIANA E. MURPHY, OF MINNESOTA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE JOHN R. GIBSON, RETIRED.

SHIRA A. SCHEINDLIN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE LOUIS J. FREEH, RESIGNED.

DOMINIC J. SQUATRITO, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT; VICE, A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. DAVID M. MADDOX, 150-32-5193

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. RICHARD F. TIMMONS, 231-56-0272

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. WILLIAM W. CROUCH, 530-26-4224

EXTENSIONS OF REMARKS

HEALTH CARE AND THE TRIAL ON SEPTEMBER 12

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HANSEN. Mr. Speaker, I rise today to express my concern over the administration and Democratic leadership's attempt to force a health care bill through Congress before the outcome of a very important trial on September 12. The trial I am referring to, involves First Lady Hillary Rodham Clinton, Ira Magaziner and other top health care aides, who flagrantly used Federal dollars to conduct secret meetings of the Clinton health care task force and then refused to supply factual information to the court as to who attended, what was discussed and how much it cost the taxpayers.

On Tuesday, after reviewing thousands of documents and hearing oral arguments, U.S. District Judge Royce C. Lamberth ordered the administration to face civil charges in his court. I think it is irresponsible of this body to move on legislation before the outcome of the trial is known.

In Federal court, on July 26, the White House abandoned their 18-month effort to hide its members of the health care task force and virtually admitted that it was made up of representatives of proreform interest groups. White House lawyers said in court that the task force was an anonymous horde that had no influence on Clinton's health care plan. If these working groups were anonymous and loosely invited to attend, then why the secrecy? And if they didn't influence the basic provisions of the Health Security Act, then, the big question is: Who did?

President Clinton's plan is the foundation of the bills being considered by the House today. When the list of about a thousand participants in the White House working groups was finally made available, the managed care industry and nonprofit organizations were strongly represented in high profile roles. Today, the influence of these people is still very apparent. Let me give you a few examples:

Mark Smith is executive vice president of the Henry J. Kaiser Family Foundation and chaired a subpanel for the Clintons on HIV and AIDS. What's interesting is the Foundation has spent at least $10 million campaigning for drastic reform and continues to fund various health care polls in favor of managed care. Kaiser is one of the largest health maintenance organizations in the country and, coincidentally, Mr. Smith is now being considered by the administration as the next AIDS czar.

The Robert Wood Johnson Foundation was represented on numerous subpanels within the health care task force working group. This Foundation has funded a number of health care town meetings led by Mrs. Clinton and also paid NBC $2 million to air a recent 2-hour special about health reform. The special was noticeably orchestrated and strongly favored massive health reform like the President's plan.

Aetna's Richard Connell, Benjamin Curtis, Ken O'Donnell and Jim Pickering were all included in the deliberations, as were representatives from Telesis, which was formerly owned by Ira Magaziner. The list goes on.

Just like Whitewater, the White House has conveniently censored, back dated or tampered with many documents which would enlighten the public as to who the members of the so-called working group were, what was actually discussed and how it was paid for. In fact, pages 15 through 26 of a memo explaining the organization of the White House task force were left out of documents the White House supplied to the court.

Eventually, the pages were handed over, however, thousands of others have yet to be seen. Judge Lamberth has instructed the White House to supply the documents by August 3 in preparation for the trial—doesn't this sound familiar?

This administration has continually obstructed justice by side-stepping the law and releasing information when they believe it is in the best interest of their case, or promotes their own agenda. What about the people's agenda?

Judge Lamberth asked a very perceptive question at the end of the oral arguments this week. The Washington Times quotes him as saying,

> In light of where we are in health care reform, what's the great secrecy of all these recommendations? Why are we going through all of this?

I concur with the Judge and would like to ask the same question. Why is this such a big secret? What is the administration trying to hide?

Kent Masterson Brown, the plaintiffs attorney, answered that nonprofit organizations, managed care industry and others who stand to advance their social agendas, gain power, or profit from health reform, had secretly helped craft the President Clinton's health plan which is still alive under other names on the Hill.

If Federal law was violated, the public deserves to know. The result of a trial involving Mrs. Clinton and White house staff is important to Americans and the security of their future.

This Congress is on the verge of taking drastic measures in health care reform which are based on a plan presented by this administration. The public needs to know exactly who cooked up this plan and how it will affect a vital component of each of our personal and financial lives.

The foundation of current health care proposals is this bill, the Health Security Act. This proposes drastic changes to the way we deliver and pay for health care in this country and places mandates on every single person within U.S. borders.

This is serious stuff and before we move forward on major health care reform, we should stop and learn about its roots. I firmly believe the fruits of this administration's efforts to dramatically reform health care should not be borne without understanding its origin. The trial will expose the bill's true heritage.

I call upon my colleagues in the House and the Senate to halt deliberations on this issue. No votes should be taken until all of the information surrounding the case against Mrs. Clinton has come forward under oath in Federal court. We have a responsibility to the public and I urge my colleagues to use good judgement and exercise integrity by representing the folks who sent you back here, they deserve to know the truth.

INNER-CITY POUGHKEEPSIE HIGH SCHOOL SENDS ENTIRE GRADUATING CLASS TO COLLEGE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, I've heard one of the most amazing and encouraging stories recently, and I'd like to share it with you.

The 22d Congressional District borders on the city of Poughkeepsie. Poughkeepsie High School is a typical inner-city school, with all the disadvantages that entails, including poverty and a poor environment for learning. Yet, all 160 graduates this year are headed for college.

But the story was told best by Dan Davidson, an editorial writer for the Albany Times-Union, to whom I yield by placing the column in today's RECORD. I hope all Members will enjoy this inspiring story.

WHY SOME PUBLIC SCHOOLS MAY SUCCEED IN EDUCATING

It is pretty much established doctrine that it is not the public schools that are responsible for their failures. Rather, the blame for high dropout rates, growing illiteracy and falling academic achievement is "society's" fault. It results from the breakup of the family, if not the weakening of neighborhood and community ties, with perhaps an admixture of national malaise.

Such is the consensus. All of which, it seems to me, has pretty much been given the lie by this year's graduating class of Poughkeepsie High School. The senior class there, all 160 of them, are headed to college.

These are not the children of privilege. The majority at inner-city Poughkeepsie High are minority—and poor. Few come from families that can boast a college graduate. Many of these kids have suffered from racism, or its vestiges. The home life of others is absent

a trace of encouragement, when it is not worse.

Yet, all have applied for admission to a college—and all have been accepted.

This is in large part the work of one man. He is Paul Jankiewicz, a most special kind of guidance counselor who has made it his mission to give these students "a sense of hope" and let them know of "the opportunities that are there for them."

Given many of these students' backgrounds, the limited education of their parents, and the narrow circle of their acquaintances, if these students don't learn about themselves and the wider world in school, they will likely not learn much about it at all. How could it be otherwise?

All kids, says Dr. Jankiewicz, can learn. But for many learning must be preceded by their hearing a "can-do" message instead of that "can't-do" message most of them have been getting from every quarter.

"I won't accept anything less," is the message Dr. Jankiewicz drums into his charges beginning in the ninth grade. They are told they are going to college and that they have no choice in the matter. By the time they have reached their senior year, almost all of them believe it.

Mr. Jankiewicz repeatedly asks the students what college they're going to. He chases them around the building, corrals them, and inquires about their college application, whether it has been sent in. If a student proves elusive, this guidance counselor will look for him (or her) on the street or visit him at his home.

When students are finally accepted by a college, Mr. Jankiewicz sees to it that the news gets the attention it deserves. Announcements are made on the public address system; notices are posted on the bulletin board. In that way, he explained last week, the students on their way to college are encouraged while the younger students have examples to follow—and know what will be expected of them.

Mr. Jankiewicz has a "secret," but it is neither faddish nor the product of any teacher's college. It is his own version of "tough love."

He is, evidently, tough enough. Those who offer excuses for their derelictions are subject to ridicule. ("That's not a good enough excuse. Take a better one out of my excuse jar.") He will tell those who make too little effort that they are SAPs (spoiled American princes—or princesses) and bums (or bummettes).

One student complained to his parents about being called a bum. Dr. Jankiewicz gave no ground. That student, he believed, had to be challenged to do better.

And all of them need someone to believe in them. All of them need love. They most especially need that. He has told other teachers that if they do not love themselves and do not love their students, they should not be teaching.

What is remarkable about Mr. Jankiewicz's approach is that there is so little new—or faddish—in it. Indeed, there is much that is old-fashioned, especially his insistance that educators go back "to teaching the old virtues and vices."

Whatever the merit of that proposal (I suspect it is considerable) the example of Poughkeepsie High, by itself, demonstrates that virtually no kid who comes from a troubled or broken family is beyond hope, beyond learning. All these lives may lack are teachers like Mr. Jankiewicz who can point (and push) them in the right direction.

Most of the efforts to reform public schooling over the past two decades were very likely misdirected. The students may not need new teaching methods, stylish curricula or state-certificate-bearing teachers. They may simply need dedicated teachers—teachers who care enough about their students to look them up at their homes.

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. BOEHLERT. Mr. Speaker, quickly and easily, Congress can act to protect children victimized by current tax laws.

I am introducing legislation today, modifying the Tax Code for children who earn income from personal injury awards.

Under current law, these children pay taxes on this income at the marginal rate of their parents. The Tax Reform Act of 1986, which sought to discourage incentives to shift income-producing assets among family members, overlooked this unique and unfortunate situation.

The parents of Kristen Parisi bravely brought this matter to my attention. Peter and Anita Parisi of Whitesboro, NY, reported that their 9-year-old daughter was left paraplegic as a result of a devastating automobile accident in 1990. By 1992, she was awarded a settlement to help pay for medical and extraordinary living expenses she will incur as she gets older.

Kristen's settlement was constructed to accrue interest to provide for her future living expenses. Yet, Kristen must pay Federal income tax on this interest based on the salaries of her parents.

This is policy that is unfair and incognizant of the very special needs that Kristen and children like her have. The tax policy punishes families who are responsible preparing for the future. These families are trying to keep themselves solvent, while constructing a durable settlement that grows with their children and contributes to expenses associated with their rehabilitation or survival.

Moreover, in this case, the Parisi's are not trying to camouflage assets by pouring them into their children's account. This is an insult to any family of modest means whose child has been permanently injured through no fault of his or her own.

The law must be changed. Even the Internal Revenue Service [IRS] is sympathetic to this situation and is asking for legislative action to remedy it. I am attaching a copy of its letter to me explaining the need for narrowly drafted legislation to help these children.

I understand that our tax committees in Congress are exceedingly busy with the health care challenge in the coming weeks. But before this session ends, we should at least be able to adopt reasonable measures to revise the Tax Code and provide for fundamental fairness for our children in need.

I am also soliciting the support of the Children's Defense Fund, the American Bar Association, and other groups interested in tax reform, children, and disabilities.

DEPARTMENT OF THE TREASURY,
Washington, DC, May 23, 1994.

Hon. SHERWOOD BOEHLERT,
Member of Congress, Utica, NY

DEAR MR. BOEHLERT: This is in further response to your letter to the Internal Revenue Service enclosing correspondence from your constituents, Mr. and Mrs. Peter Parisi, regarding the tax treatment of their daughter's trust fund.

Before the Tax Reform Act of 1986, if income-producing assets were transferred to a minor child, income earned on those assets was taxed to the child at the child's rate. Congress believed those rules provided inappropriate tax incentives to shift income-producing assets among family members. In particular, under prior law parents whose income would be taxed at a high marginal rate were encouraged to transfer income producing property to a child to ensure that the income was taxed at the child's lower marginal rates. In order to reduce the opportunity for tax avoidance through transfers of income producing property to minor children, Congress enacted a provision as part of the 1986 Act to tax the unearned income of a minor child under age 14 at the parent's marginal rates. This also reflects the belief that the family, in particular parents and dependent children, is the appropriate unit for determining tax liability.

We are aware of situations such as your constituents' daughter's where the minor child's unearned income is not attributable to property transferred by family members. We are sympathetic to her situation. Unfortunately, legislation would be required to provide an exception from the general rule for unearned income received by a minor.

We hope that this information is helpful to you in responding to your constituent. Please let us know if we can be of further assistance in this matter.

Sincerely,

MICHAEL B. LEVY,
Assistant Secretary
(Legislative Affairs).

VOTES MISSED ON H.R. 3838, HOUSING AND COMMUNITY DEVELOPMENT AUTHORIZATION

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SYNAR. Mr. Speaker, last week my colleagues voted to support the final passage of H.R. 3838, Housing and Community Development Authorization. This legislation reauthorized for 1995 and 1996, most existing housing programs administered by the Department of Housing and Urban Development and the Farmer's Home Administration [FmHA]. Included were measures that would provide loans to families in need, allow HUD to provide incentives for tenants to get jobs and continue working, and regulatory relief for soundly run local public housing authorities. H.R. 3838 embodies the ideas central to reform efforts: work, responsibility, and flexibility for State programs.

During the last days of debate on H.R. 3838, my attendance was required in Oklahoma and I was unable to vote on an amendment by Congressman JAY KIM of California which would have prohibited illegal immigrants

from receiving benefits under the Federal Emergency Management Agency's emergency food and shelter programs; an amendment by Congresswoman MARGE ROUKEMA of New Jersey which would not apply Congressman KIM's amendment during federally declared disasters; Congressman SERRANO's amendment which required Federal funding to States to enforce Congressman KIM's amendment; and on final passage of H.R. 3838. Had I been present, I would have voted for final passage of H.R. 3838, Congresswoman ROUKEMA's amendment, and Congressman SERRANO's amendment. I would not have voted for Congressman KIM's amendment. The Roukema and Serrano amendments would continue to allow relief to States which in times of emergency must deal with the needs of all families. Without these amendments to Mr. KIM's amendment, the cost shift to States and local charities during times of need, like when floods raged through the Midwest last year, would be unbearable.

The fact that people are immigrating illegally to this country is a big problem. In 1990, Congress created the bipartisan Commission on Immigration Reform. The Commission is to report recommendations to Congress September 30 of this year. The solution to the illegal immigration problem is not to take financial options away from States during times of emergency, but to better enforce our boarders and immigration laws that prevent illegal immigrants from entering and remaining in the country. I look forward to the recommendations from the bipartisan Commission.

PLIGHT OF CITIZENS OF ANGOLA

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. BILBRAY. Mr. Speaker, I rise to call the attention of the House to the plight of the citizens of Angola. We have all seen the horrible pictures of human death and disease coming out of Rwanda. In order to avoid a repeat of this situation in Angola, the United States and the international community must unite behind the country democratically elected Government to help bring an end to 19 years of civil war in Angola.

Angola's President José Eduardo dos Santos, was elected in September 1992 in an election declared free and fair by the United Nations. The opposition National Union for the Total Independence of Angola [UNITA] led by Jonas Savimbi, not satisfied with the election results, renounced the election and, therefore, democracy by resorting to armed attacks.

The U.N. Security Council has strongly condemned the attacks by UNITA, stating that they were a clear violation of Security Council resolutions and international laws. The Security Council has further called upon UNITA to immediately cease its armed attacks and abide by the rules of international humanitarian law.

We in the Congress have recently witnessed the triumph of democracy of South Africa and the sordid tragedy of Rwanda. Angola now faces a choice: to travel down the road to democracy and peace to take the dark, forbidding road of conflict and bloodshed. We must help Angola choose the path to peace and avoid a repeat of the disaster in Rwanda.

The negotiations in Lusaka have reached an unfortunate stalemate despite the commitment and many concessions put forward by President dos Santos. Mr. Speaker, the President of Angola has proven to be a visionary and effective leader for his country. He is the best hope for a lasting peace in a country that has endured 19 years of fighting. It is time for the United States to do whatever it can to ensure that both sides the Lusaka Agreement and that the agreement is properly implemented and enforced.

At this point in the RECORD, I would like to recommend to my colleagues an article written by President dos Santos that appeared in the Christian Science Monitor on June 29, 1994.

[From the Christian Science Monitor, June 29, 1994]

ANGOLA SEEKS PEACE WITH UNITA REBELS

(By Jose Eduardo dos Santos)

Reconciliation, reform, and renewal are the guiding principles behind Angola's efforts to bring peace and a better life to all our people. We know there is a wide gap between making peace and making peace work, and we are trying to bridge that chasm by building a solid structure for Angola's future.

We are negotiating peace with full dedication, but we are not waiting until the talks in Lusaka, Zambia, are completed before embarking on the future. We realize there is only so much we can do in the absence of a peace agreement, no matter what we and our friends would prefer. But even if the unthinkable happens and the negotiations fail, we intend to carry out our program to the greatest extent possible.

The seeds we are planting need the sunshine of peace to flourish and make our young democracy bloom. But even if we must begin in the shade, we are ready.

Our nation has been deeply divided for too long. It cries out for reconciliation. As the democratic revolution of the 1990s swept much of the world, we moved quickly to end our civil war and hold elections. The September 1992 voting was internationally recognized as free and fair. Tragically, the National Union for the Total Independence of Angola (UNITA) rejected the outcome and has been trying ever since to overrule the voters by waging a civil war far bloodier than in Yugoslavia, Armenia, South Africa, Rwanda, and Burundi.

We have tried to be generous at the peace table in the spirit of national healing. Conscious of our responsibility, the Angolan government is striving to achieve understanding in a peaceful manner while protecting people and their homes from rebel violence.

We have been generous in offering UNITA a significant place in government at the national, provincial, and local levels. Our May 27th proposal has been lauded by the United States and most United Nations Security Council members, as well as impartial observers at the Lusaka talks, and they have urged UNITA to "follow suit."

We are prepared to welcome UNITA into the government and provide housing and jobs for war veterans, refugees, and displaced persons from all sides. We are committed to the reintegration of rebel forces into Angolan society because we believe that helping former soldiers is essential to removing the seeds of war.

To make reconciliation succeed, we have embarked on a reform program to improve the quality of life—economically, socially, and politically—for all Angolans. We are accelerating the transition to a free-market economy, privatizing most state businesses, bringing down inflation, tightening monetary supplies, correcting pricing mechanisms, cutting deficits through vigorous budget control, and slashing state bureaucracy. We are creating a legal, economic, and political climate attractive to foreign investment.

Special attention is being paid to renewal, repair, and reconstruction of our agricultural, housing, transportation, energy, and water systems, as well as to professional training. This will be done in all corners of our country, particularly those under rebel control, so that shortages of these vital elements do not become pretexts to sabotage the peace agreement.

It is a source of great national pride that President Clinton acknowledged the historic achievement of our elections and recognized our government by establishing full diplomatic relations on May 19, 1993.

Our commitment to democracy is genuine and permanent, not a propaganda declaration rendered transparent by a refusal to accept the decision of the voters.

We have embarked on a new relationship with the U.S. Angola is America's second-largest foreign trade partner in sub-Saharan Africa. The Angolan government has approved a Memorandum of Agreement with the Overseas Private Investment Corporation that will open the doors for direct American investment. The U.S. has been generoU.S. in providing humanitarian relief, but that has been only a fraction of what it spent in the last decade to arm our enemies. Now that we are friends, we look forward to expanding our alliance as partners in building peace.

We are prepared to take risks for peace, and we look to our stronger friends to help us minimize those risks.

Many Angolans, weary of holding out the olive branch only to have it shot off, question whether we should be so forthcoming because it may be perceived by our enemies as a sign of weakness, encouraging them to take future grievances and demands to the battlefield. But we are steadfastly committed to a negotiated settlement and are prepared to make significant compromises because we want more than a piece of paper; we want a real working peace.

We cannot afford to make mistakes because they could prove fatal for our country and our burgeoning democracy. With the friendship and support of the U.S., I am confident we can build the national consensus to permit us to go the extra mile along the perilous path we have charted.

REFORMING WELFARE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 27, 1994, into the CONGRESSIONAL RECORD.

REFORMING WELFARE

Most of the people I talk to think the welfare system requires radical change. They

say that welfare costs too much, saps the spirit of recipients, and discourages work and marriage. In many ways the current system is at odds with the core American values of work, family, and responsibility. It does not reward work; too often it discourages work. It does not strengthen families; it penalizes two-parent families. It does not instill personal responsibility; it lets many absent parents off the hook. It does not promote self-sufficiency; it often encourages dependence.

THE CURRENT SYSTEM

Welfare is made up of several need-based programs: Aid to Families with Dependent Children (AFDC), the Earned Income Tax Credit (EITC), Medicaid, and food and housing benefits. AFDC provides cash assistance to needy families in which one parent is either absent, disabled, deceased, or unemployed. Those receiving AFDC are eligible for Medicaid benefits, which cover doctor and hospital costs for the poor and long-term disabled. Many also receive food stamps and housing subsidies. EITC offers a tax credit for the working poor employed in the private sector.

Five million households, including 9.6 million children, currently receive welfare benefits, a 31% increase since 1989. The recent surge is largely due to the recession, the scarcity of good-paying jobs for the unskilled, and the rise in households headed by single mothers. AFDC recipients are typically mothers with little education or work experience and with small children at home. The average welfare family has two children. In 1991, 38% of the recipients were white; about the same percentage was black and approximately 17% Hispanic. Over a lifetime more than one third of all recipients receive benefits for less than two years, about one quarter for eight years or more.

States administer AFDC and set eligibility standards and maximum benefit levels. The federal government pays at least 50% of a state's AFDC benefits and administrative costs. In fiscal year 1993, combined state and federal AFDC benefits totalled $22.6 billion, with families receiving on average $377 per month $263 in Indiana. In 1993, AFDC costs represented 1.1% of federal spending and 3.4% of state spending.

RECENT REFORMS

In recent years a flurry of reforms have been tried, all of them intended to make welfare a bridge to self reliance. These include federal work and training programs such as the Work Incentive (WIN) program, expansion of the EITC, and the comprehensive 1988 Family Support Act. This law required states to set up an education, training and jobs program (called JOBs—Job Opportunities and Basic Skills) for recipients, to provide transitional Medicaid and child care benefits for those who begin working, and to garnish wages of absentee parents for child support payments. The JOBS program is targeted on those most likely to become long-term AFDC recipients.

Due to shrinking budgets, states have been unable to take full advantage of federal matching funds available for the JOBS program. Still, some initial evaluations are encouraging. In studies of some California and Florida counties, earnings gains among those in the JOBS program exceeded gains by those not in the program by 7% to 53%. Welfare benefits among those enrolled in JOBS also declined, and exits from AFDC increased.

CURRENT EFFORTS

But more needs to be done. In considering additional reforms, one theme to take into account is that society's obligation to help those in need is balanced by the recipient's obligation to society. Another is to make work pay, in order to cut welfare costs and promote self-sufficiency. A third theme is to strengthen the family. I am critical of welfare regulations which sometimes divide families by limiting benefits when the father lives in the house. I also believe child support enforcement must be further tightened. Other themes are to pay more attention to education and to allow states greater flexibility over certain aspects of welfare policy.

To achieve such reforms, some advocate strengthening the JOBS program already in place. Others encourage new penalties and rewards, including time limits on AFDC benefits for those physically able to work, denial of additional benefits for additional children, subsidized jobs for those unable to find work, and further expansion of the EITC. Many such reforms are being tried at the state level, including Indiana.

The Clinton Administration's new welfare reform proposal focuses on making work pay. The core of the proposal is a mandatory education-and-training program for able-bodies beneficiaries born after 1971. Participants would be encouraged to look for jobs and would be given job search assistance, and benefits would be cut off after two years. Those unable to find a job would be offered community service or subsidized private-sector jobs. The President's plan also calls for a campaign against teenage pregnancy, improvements in child support enforcement, loss of benefits for parents who refuse to participate in job-training programs, increased child care for the working poor and other incentives for recipients to work.

EXPLANATION OF H.R. 4825

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. MURPHY. Mr. Speaker, I rise today to explain H.R. 4825 which I introduced on July 25. This reform legislation will establish fairer appellate procedures for handling Federal employee claims for compensation for work-related injuries.

Throughout my 18 years in Congress I have been diligent in my quest to make the Department of Labor's Office of Workers Compensation Programs more responsive to the needs of injured Federal workers. As chairman of the Subcommittee on Labor Standards, Occupational Health and Safety which has oversight of Federal workers compensation program, I have observed that the OWCP has structural and procedural problems and is in need of meaningful reform.

The OWCP is very competent at the task of resolving a high volume of relatively routine cases expeditiously and with a high degree of professionalism. Unfortunately, once the case proceeds beyond the routine, the needs of the injured are placed in jeopardy.

One of the most frustrating aspects of the FECA program to the vocal cadre of dissatisfied claimants is the lack of real administrative due process. The way the current system is administered, there is not even the appearance of impartiality in the appeals procedure. If an individual doesn't like the OWCP determination on a claim, the disappointed claimant must request a review by another OWCP employee who works for the same boss. Unless the first case officer is acting contrary to law or his superior's instructions, why would we expect a different result or an independent attitude from someone else reporting to the same director.

The purpose of this legislation is to conform the FECA appeals procedure as near as possible to the three-tiered system which has worked so well in the Black Lung and Longshore and Harbor Workers Compensation Programs. In these two programs. intermediate administrative appeals are conducted by an administrative law judge under the procedural safeguards of the Administrative Procedure Act. While we have received complaints that the eligibility criteria for these two programs are too stringent, we never receive the allegations of conspiracy and malfeasance that regulatory plague the Federal Employees Compensation Program.

Last year, House Education and Labor Committee Chairman William D. Ford and I asked the Comptroller General of the United States to have the General Accounting Office investigate the U.S. Department of Labor's administration of the Federal Employees Compensation Act. Although the report was inconclusive as to the impropriety of decisions by the FECA program or the Employees Compensation Appeals Board, the mere possibility of collusion caused me to prepare this reform legislation.

The House Majority Leader, in the waning days of the first session, introduced reform legislation calling for a more effective, efficient and responsive Government. A portion of this legislation provided for a deterrence of fraud and abuse in the FECA Program. The Government Reform and Savings Act of 1993 mandates fines and imprisonment of any individual convicted of fraud in the application or receipt of benefits. Now today, I offer for the consideration of the Congress this bill that will further reform FECA to allow for an administrative law judge to conduct appellate hearings of OWCP decisions.

I call upon my colleagues on both sides of the aisle to join me as cosponsors of this important workers compensation reform legislation.

BUSINESSMAN-ELECTED OFFICIAL JOHN A. MURPHY IS MOURNED

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, one of the finest public servants I have ever known passed away after a long illness.

John A. Murphy, 89, was long active in local political life, having served as a councilman and supervisor in the town of Hoosick and as Rensselaer County legislator.

But like every other community leader I have had the pleasure to know, John Murphy was much more than a local politician. He was the manager of local supermarkets for many years and also operated a grocery store in Hoosick Falls.

Mr. Murphy was an active communicant of Immaculate Conception Church and was an active member of the Knights of Columbus. For many years he was a strong booster of St. Mary's Academy in Hoosick Falls, from which he graduated in 1921. He also belonged to the Elks Lodge and Derby Club in Hoosick Falls.

If he was best known for the elected offices he held, it was because he was universally respected and an inspiration to me when I began my own public life.

Mr. Speaker, I ask this House to join me in expressing condolences to his wife, Loretta, and to the rest of the family for their great loss. John A. Murphy was a great American, he was a great friend, and he will be sorely missed by all who knew and loved him.

HONORING TWO CONSTITUENTS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ENGEL. Mr. Speaker, I would like to take this opportunity to recognize the contributions of Howard B. Neufeld and Joan Nina Birn, two of my constituents who are to be married on August 7, 1994.

Mr. Neufeld is the administrator of the Judith Lynn Home for Adults, one of the finest adult care facilities in New York. He has also served the community as president of Young Israel of Co-op City, president to the Co-op City Jewish Community Council, treasurer of the Bronx Jewish Community Council, and a board member of the Bronx Jewish Relations Council. In all his endeavors, Mr. Neufeld has worked to foster understanding and cooperation among people in the community.

Joan N. Birn works as a data processing analyst at the Teachers Insurance and Annuity Association—College Retirement Equities. Fund. She has also served the community ably as a member of the Remona Chapter of Amit Women and a board member of the Beth Jacob Beth Miriam School.

As they go forward through life together, I know Howard Neufeld and Joan N. Birn will continue to use their talents to serve the community and enrich their own relationship. I wish them the best of luck and much happiness in their marriage.

LEGISLATION RESOLVING BONNEVILLE POWER ADMINISTRATION'S FEDERAL DEBT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. DEFAZIO. Mr. Speaker, today I am joined by 10 of my Northwest colleagues in introducing legislation designed to resolve the longstanding battle over the Bonneville Power Administration's debt to the Federal Treasury. This bill is fair to the U.S. Treasury and fair to Northwest electric ratepayers.

Northwest electric ratepayers have been under attack from three successive administrations, starting with President Reagan's attempt to sell the Bonneville Power Administration to private investors, and going straight through to Vice President AL GORE's Government reinvention proposal, which would have raised BPA's rates unacceptably. Speaker FOLEY and Senator HATFIELD deserve a lot of credit for protecting the Northwest from those attacks. Now is time to settle the matter once and for all.

Very simply this bill will refinance the present value of Bonneville's appropriated Treasury debt at prevailing interest rates. In addition, we in the Northwest are agreeing to pay the Treasury $100 million as a refinancing fee. It is a steep price, we believe, but will provide us a guarantee against future attacks on our debt repayment terms.

I am pleased to say that the administration agrees with this approach and has agreed, by and large, with the terms of this bill. We still have some details to work out, but the largest share of the work is behind us.

One significant provision in this bill allows BPA to include a provision in its power sales contracts with its utility customers that will enable Northwest utility customers and their ratepayers to make claims against the U.S. Treasury in the event any future Congress or administration seeks to alter the terms of this debt refinancing agreement. We believe this is a necessary protection for our ratepayers against specious claims of Federal subsidies.

Allegations of so-called Federal subsidies for Pacific Northwest electric ratepayers have created a substantial degree of uncertainty for the Bonneville Power Administration and the region's economy. This bill will settle that issue for the foreseeable future and represents an important element in our efforts to keep the region's economy strong and growing.

GABE PRESSMAN: A JOURNALIST FOR ALL SEASONS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. RANGEL. Mr. Speaker, I'd like to bring to your attention and to the attention of my colleagues here in the House, the story of one of the finest journalists ever to cover a story, walk a beat, and who helped pioneer broadcast journalism to what we know today. That TV newsman is none other than Gabe Pressman.

Gabe Pressman is a true go-getter—that's his style. He helped to invent local broadcast journalism and was the first broadcaster in New York to take to the streets to cover stories. Pressman is one who still tries to make a good story out of complicated and controversial community issues.

His journalism career really began in 1949, where after a 3-year stint in the Navy, followed by journalism school and freelancing in Europe as well as working in newsrooms around New York and New Jersey, Pressman began working in the city hall bureau of the New York World Telegram. In 1954, he began working for WRCA radio and WRCA–TV, which would later become WNBC and WNBC TV. As it happened, this would be Gabe's transition to television and this is where he would remain.

If one were to describe Gabe Pressman, it would be said that he believes in hard news coverage—that news reporters should be known not only for their completeness, but for their credibility—that news reporters should genuinely care abut the city in which they cover and know it well and that no obstacle is ever too great in getting a news story. This is the Gabe Pressman that everyone knew—this is the Gabe Pressman that we know today.

TEXAS A&M UNIVERSITY DEVELOPS AND BROADENS RELATIONSHIPS WITH MEXICO

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. LAUGHLIN. Mr. Speaker, I call the attention of the House to the efforts of Texas A&M University to develop and broaden relationships with Mexico. Texas A&M has been a leader in strengthening ties with universities, agencies, and the private sector in Mexico. Particular emphasis in these activities have been in the areas of telecommunications, information technology, environment, the applied sciences, and engineering. As a result of these initiatives, Texas A&M University has from time to time recognized qualified and talented individuals in Mexico who have played important roles in these efforts. Such a person is Ing. Jose Alberto Celestinos.

Ing. Jose Alberto Celestinos Isaacs is recognized for his contribution to the development of the petroleum and chemical industry in Mexico, and for his vision and leadership in stimulating important new initiatives between Mexico and the United States in conjunction with the North American Free-Trade Agreement. Ing. Celestinos has held many positions of increasing responsibility, culminating in his current role in which he directs all activities relating to refining production for Pemex, Petroleos de Mexicanos.

Ing. Celestinos, a chemical engineer who is a native of Tampico in the State of Tamaulipas, received his academic training from the National Autonomous University of Mexico and the National School of Chemical Sciences. He has spent most of his professional career since 1955 with Pemex, but for 5 years, from 1977 to 1982, guided the refining and chemical petroleum directorate of the Instituto Mexicano del Petroleo [IMP]. IMP is recognized internationally for the strength of its research and development activities in petroleum related fields. Ing. Celestinos has served in important academic roles as well and holds the positions of professor of physics at the Nautical School of Tampico and professor of electrochemistry at the Iberoamericana University in Mexico City. He has published internationally in the fields of expertise relating to improving the efficiency of petroleum refining processes to yield reduced emissions and better energy utilization and environmental protection. He has organized several global

conferences addressing these topics. Ing. Celestinos is active in numerous professional organizations in the fields of chemistry, petroleum engineering, and chemical engineering. Ing. Celestinos has received recognition from many organizations for his contributions to improving chemical processes, limiting hydrocarbon emissions and emphasizing ecological awareness.

Furthermore, Ing. Celestinos is also recognized here for his emerging leadership for building strong and meaningful ties between Mexico and the United States, especially in the critical fields of information technology and telecommunications relating to the energy sector. Through his vision, the critical flow of information in these important fields promises to grow and flourish to the clear benefit of both of our countries. Ing. Celestinos has our gratitude and recognition for these crucial efforts.

IN MEMORIAM: PATRICK J. HILLINGS, FORMER MEMBER OF CONGRESS

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. McCANDLESS. Mr. Speaker, one of my most distinguished constituents, former Member of Congress Patrick J. Hillings, finally succumbed to cancer, after a long and valiant battle, and passed away on July 20.

Pat served in this body for 8 years in the 1950's, having been elected to the district vacated by the late President Richard Nixon when he was elected to the U.S. Senate. They worked closely as a House-Senate team on behalf of southern California. Pat's subsequent lifelong relationship with the late President brought much joy to both their lives.

Pat's post-Congress professional life as an attorney also brought joy to the many immigrant families who were guided through the labyrinthian legal system of naturalization; he clearly enjoyed bringing families together, and he did an excellent job of it for many years, working closely with his dear wife Celia, who worked with him side by side as his paralegal assistant.

A native Californian, Pat Hillings loved his family, his country, helping people, and traveling across this great land. He was a unique individual, and he left indelible impressions on all whose paths he crossed. Our deep sympathies are extended to his wife and his children during this difficult time.

SALUTE TO ELI LILLY AND CO.

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. BURTON of Indiana. Mr. Speaker, I wish to commend Eli Lilly and Co., the well-known pharmaceutical manufacturers from my district in Indianapolis, IN, for their unprecedented response to the terrible tragedy unfolding in Rwanda. Eli Lilly is donating enough antibiotic medication to care for over 1 million refugees suffering in Goma, Zaire. A huge donation of gastrointestinal disease-fighting medicine is also being donated.

Eli Lilly and Co. deserve our gratitude and a hearty salute for their good citizenship and humanitarian concern. I commend this news release on the matter to the attention of my colleagues.

LILLY RUSHES ANTIBIOTIC AID TO MORE THAN ONE MILLION RWANDAN REFUGEES

Eli Lilly and Company late yesterday began shipment of enough antibiotic product to provide relief to more than one million Rwandan refugees. This aid represents the largest product donation in Lilly's history and is believed to be the largest one-time pharmaceutical product donation ever.

"This effort is yet another example of Lilly's commitment to giving, especially in times of human tragedy. We are responding to the dire needs of the Rwandan refugees and are assisting with our strength in the area of infectious disease," said Randall L. Tobias, chairman and chief executive officer.

Distribution of the product will be coordinated through relief organizations, including MAP International and the American Red Cross. This donation will provide individual courses of antibiotic therapy for nearly 1.3 million Rwandan refugees.

The United States Food and Drug Administration (FDA) facilitated and supported Lilly in its initiative to donate the new twice-daily dosage form of Ceclor®, the world's largest selling oral antibiotic. This sustained released formulation of Ceclor, which, when approved by the FDA, will be called Ceclor CD, is currently available in several international markets.

Under the special circumstances of the Rwandan relief effort, the FDA granted Lilly permission for export of the product which is pending approval.

In anticipation of FDA approval of Ceclor CD, Lilly had increased its production of this formulation. Regulatory approval has been delayed to the point that existing inventory will be too close to the expiration date for marketing purposes, and the product will not be able to be sold in the U.S.

Lilly determined that the best immediate use of the available drug is for the Rwandan relief effort. The delayed approval situation afforded Lilly the unique ability to provide aid on an unusually large scale for the biggest refugee disaster in modern history.

In addition to the donation of the antibiotic, Lilly has donated approximately $2 million worth of Axid®, a medicine used to treat ulcer and gastrointestinal diseases.

Lilly is a global research-based pharmaceutical corporation headquartered in Indianapolis, Indiana, that is working with its customers worldwide to help ensure that diseases are prevented, managed, and cured with maximum benefit and minimum cost to patients and society.

STAATSBURG, NY, FIRE DEPARTMENT CELEBRATES 100TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, those of you have been to my office know that the walls of the reception area are lined with fire helmets.

It's my small way of paying respect to volunteer firefighters, having been one myself for 20 years in my hometown, and therefore knowing what a great job they do. Today, I'd like to single out one of those volunteer fire companies, the Staatsburg Fire Department, which is celebrating its 100th year of service this Saturday, August 6.

Mr. Speaker, in rural districts like the New York 22d, the only available fire protection comes from volunteer companies, which are made up of people from every income level and walk of life. What they all have in common is civic pride and a high level of dedication. In New York State, for example, volunteer firemen save countless lives and billions of dollars worth of property. Volunteers attend frequent training classes to upgrade their skills, and the result shows in their quick responses to fire alarms and their professionalism in extinguishing fires.

Nothing is more all-American, as far as I'm concerned, than volunteer firefighting. It's exactly this desire to treat one's neighbors like family and to come to their aid in times of danger that sets Americans apart.

The Staatsburg Fire Department has been typical in that regard for one century now. They will celebrate that century with exhibits, demonstrations, sports and some great food, and I'm looking forward to joining them.

Mr. Speaker, I ask you and all Members to join me in a salute to the Staatsburg Fire Department for its 100 years of outstanding fire protection.

HONORING CHARLES TOKER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ENGEL. Mr. Speaker, It is with great pleasure that I recognize today the contributions made by Charles Toker to the communities I represent as he celebrates his 60th birthday this month.

As a native of the Bronx, Mr. Toker has dedicated much of his life to assisting the development of the borough. For nearly 30 years, he worked for Chemical Bank, except for a brief period in the 1970's when he worked for the Beaumont School for Special Children. He was a founding member of an athletic club and has often entertained others through his musical skills.

Mr. Toker is also a dedicated father, grandfather and neighbor, and everyone who has been touched by his positive personality are grateful for his friendship. On behalf of all the people who have come to appreciate and respect Charles Toker, I wish him continued success and good health.

TRIBUTE TO JOHN J. DRISCOLL

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. GEJDENSON. Mr. Speaker, the State of Connecticut has lost one its most popular and

charismatic labor leaders. John J. Driscoll died on Thursday, July 21, at the age of 82. John's decades of dedication to our State's working families earned him the title of "Mr. Labor."

In 1935, Mr. Driscoll became the first secretary-treasurer of the Connecticut Congress of Industrial Organizations. He later went on to serve as president of the Connecticut AFL–CIO, a position he held for nearly a quarter-century before his retirement in 1985.

After leaving that post, Mr. Driscoll taught at the University of Connecticut. He also remained committed to Connecticut citizens, working tirelessly to help those who lost their jobs due to plant closings.

Mr. Driscoll was made a Knight of St. Gregory by Pope Paul VI for his work with the Diocesan Labor Institute, and was awarded Italy's Star of Solidarity for his efforts in flood relief. He is survived by his wife Margaret, a son, and grandson.

The loss of John Driscoll will be felt deeply throughout Connecticut. His determination and compassion are an example for us all.

LEINER HEALTH PRODUCTS

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. TUCKER. Mr. Speaker, I would like to take a moment to recognize the U.S. Pharmacopeial Convention, Inc. [USP] and Leiner Health Products. The congressionally mandated USP has spent 2 years developing voluntary standards for vitamins and minerals to give consumers the ability to identify products that have been produced to exacting standards. Leiner Health Products has become the first and to date, the only company to produce products to meet these pharmaceutical-level standards.

The USP is a nongovernmental, voluntary organization that has been setting standards to ensure the integrity and uniform quality of drug products since 1820. Recognizing the growing importance of nutrition and supplements to the Nation's health, USP began 2 years ago to develop the first quality standards ever established for vitamins.

USP is to be commended for this move to protect the consumer and Leiner Health Products should receive particular recognition for becoming the first company to bring these standards to the marketplace. There have been debates in this chamber about labeling requirements for nutritional supplements, but there can be no argument about the need for consumers to be assured that the products in the package are manufactured to the highest standards of purity, potency, disintegration, and dissolution. The USP standards mean that consumers can be sure that the formulation is precise and that product performance and quality will be at the levels usually reserved for pharmaceutical products.

This did not come without a commitment. Leiner recently invested $40 million in upgrading its facilities in Garden Grove, CA, and is opening a new facility in Carson, CA which will eventually provide some 700 new jobs. Leiner Health Products plans to invest another $10 million in its quality control laboratories to meet the new standards.

GENERAL WAX: "I'D LIKE TO HAVE ABOUT 200 C–17S RIGHT NOW"

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HORN. Mr. Speaker, several weeks ago, as the House prepared to debate on an amendment to restore the line for the C–17 military transport plane in the fiscal year 1995 defense authorization bill from four to six planes, I spoke on the House floor about the important capability that the C–17 will provide for our forces well into the next century.

In my statement, I quoted virtually every senior civilian and military leader as they emphasized the need for the C–17, both to meet the requirements of our military personnel as they project force throughout the world and to fulfill critical humanitarian missions. A chart, which the Air Force had developed, starkly showed just how much more could be done with the C–17 than could be achieved by other alternatives. And senior military officers cited examples of the additional capability the C–17 could have provided in Somalia or Bosnia.

The unique capabilities of the C–17 which make it so valuable, particularly in less developed parts of the world, include its ability to land on shorter, austere airfields and the ability to get the critical cargo off the plane and to those in need. And the C–17 does all of this far more quickly than do other transport aircraft.

The tragic situation today in Rwanda provides another example of the difference the C–17 could make in an emergency. In the July 25, 1994, USA Today, Brig. Gen. Charles Wax, commander of the worldwide control center for U.S. transport and tanker planes, made it clear that he anxiously awaits the C–17 and the critical capability it provides.

USA Today reporter Steve Komarow, in the article, "U.S. Gears Up for Major Relief Effort," writes:

> Wax says Goma [Zaire] is an example of where the not-yet-ready C–17 transport would be useful. "One C–17 would represent about 3½ to 4 C–141 loads," he says. "I'd like to have about 200 of them right now."

The action by the House and Senate in approving the President's request for six C–17's in fiscal year 1995 is an important step toward providing the size C–17 fleet our military commanders say they need to meet their military and humanitarian missions. I hope that House and Senate conferees now working to resolve differences in the two versions of the defense bill will provide necessary funding and settlement language so that our troops in the field will have the airplane they say they need—the C–17—to meet their needs both now and well into the future.

General Wax would like 200 C–17's, and he would like them as soon as possible. He is not alone. The C–17 is a top priority for the Air Force and the Department of Defense. As General Wax's statement about the Rwandan refugees so clearly reflects, it should be a top priority for all of us as we seek ways to assist those who would benefit from the capability it provides.

SALUTING THE 75TH ANNIVERSARY OF THE KANSAS CITY CALL

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. WHEAT. Mr. Speaker, on July 22, the Kansas City Call, a minority-owned newspaper in Missouri's Fifth District, celebrated its 75th anniversary. Known for its commitment to social justice and racial equality, the Call has been a mainstay in Kansas City's black community for four generations and has gained national recognition for maintaining the highest standards of journalistic integrity.

The editor and publisher of the Call, Miss Lucile Bluford, is a national figure in her own right, known for her commitment to civil rights and her voracious pursuit of the truth. Miss Bluford began her career in journalism more than half a century ago. In the 1920's, when she was beginning to decide on a career, Miss Bluford opted to pursue her dream of writing for a newspaper, even though opportunities for black women at that time were few and far between.

A champion of equal rights for all people, Miss Bluford continues to use the Call as a voice for social change. As she stated in her editorial printed in the Call's 75th anniversary edition, "Our job over the years has been not to print news about the happenings in the community, but to advocate and to campaign for justice, first-class citizenship, democracy and fairness."

And, Mr. Speaker, Miss Bluford is joined by Donna Stewart, who must also be commended for the energy, commitment, and intelligence she has displayed as managing editor of the Call.

Over the span of 75 years, the Call has covered the issues at the heart of the community. From its anti-lynching campaigns of the 1920's, to its successful fight against racist policies at the University of Missouri in the 1930's, to its present-day battle against black-on-black crime, the Call has kept readers abreast of each of these pressing social issues week in and week out. It will surely continue to be a voice for social justice for many years to come.

After 75 years of not missing an issue, the Call's commitment to serving the community continues undaunted. For as is noted in its diamond anniversary edition, the Call will continue to speak "for the right of every citizen, regardless of color, to have decent housing, employment, good schools, and equal opportunities."

I am proud to convey my best wishes and warmest congratulations to the Call on its 75th anniversary. As the Call looks forward to its next 75 years, I am confident that it will continue to build on its established record of seeking truth and social justice, and serving as a shining light and moral compass for our community.

IN TRIBUTE TO CHARLES R. MATHEWS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mrs. ROUKEMA. Mr. Speaker, our communities and our country have always relied on the contributions of individuals who rise above and beyond the call of duty to make a difference in the lives of others. I pause today to join the town of Newton, NJ, in paying tribute to one such hero, Charles R. Mathews. On July 1, Charlie Mathews retired after serving as an elected municipal official in the town of Newton for over 40 years.

Since 1952, Charlie Mathews has dedicated his energies and efforts to improving the quality of life in the town of Newton. He began his service as town clerk, registrar of vital statistics, and court clerk. During his first years in office, Charlie clearly demonstrated his desire to serve the public good. In 1956, when the residents of Newton adopted a new, council-manager form of government, Charlie Mathews was instrumental in helping the town to adjust to the growing pains associated with changing the form of government. At the same time, he also assumed the duties of finance director. Charlie served Newton in these offices for a total of 8 years before he resigned to enter private business.

In 1962, Charlie Mathews decided to return to public service in the capacity of elected office. That year, Charlie won his first 4-year term on the town council. The following year he accepted his first term as mayor. In the 30 years since, Charlie Mathews was reelected to 4-year council terms a total of eight times and also served as mayor eight times.

Whether in elected office or appointed position, Charlie has worked tirelessly to improve the quality of life for his friends and neighbors in Newton. He oversaw the development and improvement of housing and transportation services for the town's senior citizens. He was instrumental in the planning and construction of new recreational facilities, a municipal building and fire house. He encouraged the expansion of the region's education facilities including the relocation of the Sussex County Community College in the town of Newton. Charlie's dedication and abilities have been recognized throughout the State of New Jersey and in 1984 he was inducted as the president of the NJ State Leagues of Municipalities.

Mr. Speaker, the people of Newton, NJ, owe a debt of gratitude to Charlie Mathews for his hard work and friendship. On Friday, July 29, they will gather to recognize and salute his 40 years of service. I ask my colleagues in the House to join with them and me in saying a simple "Thank you and Godspeed" to Charlie Mathews. He has made us all proud.

STISSING MOUNTAIN 11TH GRADERS LEARN FROM WORLD WAR II PARTICIPANTS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, I recently came across more detailed information about an event that intrigued me when I first heard about it last spring.

The students of U.S. History and Government II H Class at Stissing Mountain Junior-Senior High School in Pine Plains, NY held a day-long seminar with veterans of World War II.

Teacher William Brewer wanted to familiarize his students with the causes and effects of America's isolation between the world wars, the threat posed by totalitarian aggression to U.S. security, the personal impact of the war on various participants, the domestic adjustments made during and after the war, and the post-war efforts to maintain the peace.

During the seminar, the students met with veterans of United States forces and of the German Wehrmacht who moved to this country, and to several survivors of Holocaust. These individuals shared their experiences and memories with the students, who were fascinated with the first-hand accounts they heard.

This is the third year Mr. Brewer has organized these seminars for 11th graders. The students collect essays of their impressions in albums and present them to the school library, providing future students with a valuable study resource.

Mr. Speaker, this outstanding project makes history come alive in a way that teaches students the sacrifices and heroism the World War II generation displayed to preserve our freedoms.

Mr. Speaker, I ask all Members to join me in praise of Mr. Brewer and his students for their participation in this worthy school project.

RAILGRADE CROSSING SAFETY ENHANCEMENT ACT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. VISCLOSKY. Mr. Speaker, today, I am introducing legislation—with all of my House colleagues from Indiana as original cosponsors—that is critical to the safety of people in the Hoosier State, as well as across the country. This bill, the Railgrade Crossing Safety Enhancement Act of 1994, is identical to legislation, S. 2286, which was introduced in the Senate by my colleague from Indiana, Senator LUGAR.

The Railgrade Crossing Safety Enhancement Act of 1994 would give States that do not have seatbelt and helmet laws on the books the flexibility to use Federal surface transportation funds diverted to nonconstruction safety education programs for the installation of warning devices at rail crossings.

Under section 153 of the Intermodal Surface Transportation Efficiency Act of 1991, States that do not have laws enforcing seatbelts for motorists and helmets for motorcycle riders must devote 1.5 percent of their Federal surface transportation funds to nonconstruction safety education programs beginning in fiscal year 1995. This percentage increases to 3 percent in fiscal year 1996 and in future fiscal years. This provision limits States' ability to apply these funds for other legitimate safety enhancing projects.

While I support safety education programs, I believe that public safety would be further enhanced by providing States the flexibility to use these diverted funds for one specific, additional purpose: the installation of protective warning devices at rail crossings.

I have a great deal of personal interest in this issue because, several years ago, my mother was involved in a serious rail crossing accident. This year alone, several hundred people across the country will be killed and thousands more injured as a result of vehicle-train collisions. While rail crossing accidents declined last year, the number of fatalities from these accidents increased in 1993 by 8.1 percent.

This problem is particularly acute in Indiana, which ranked third in the country in crossing accidents in 1993, and fourth in people killed. These statistics are especially dire for the communities I represent in northwest Indiana because of the concentration of railroads traversing the area. In 1992, 33 people were killed at crossings in Indiana, one-third of which were in the northwest region of the State. Between 1986 and 1992, 68 people died at railroad crossings in our area. Given these statistics, it is difficult to deny the serious safety hazard posed by unsafe rail crossings.

This legislation is not designed to undermine the safety regulations contained in ISTEA. Railgrade crossing improvements differ from other highway safety projects because they provide a visible and quantifiable return on investment. The sole purpose of safety improvements at grade crossings is to reduce accidents and save lives.

States with a high number of rail crossings and crossing accidents would benefit from the additional flexibility this bill provides. In 1993, 40 percent of grade crossing accidents in the United States—and 31 percent of fatalities—occurred in States that did not meet the Federal safety belt and helmet law requirement in ISTEA.

With this legislation, Governors could request that all or a portion of the diverted surface transportation funds be used to install protective devices at hazardous rail crossings as part of a comprehensive, statewide rail safety improvement and rail safety education initiative.

The purpose of section 153 of ISTEA is to improve safety on our Nation's highways. Because the only conceivable purpose of rail crossing safety equipment is safety, I believe this measure conforms to the original spirit and intent of section 153.

This critical legislation was developed with the full cooperation and support of the Indiana Department of Transportation and the Northwest Indiana Planning Commission. I would

like to thank all of my Indiana colleagues for joining in this effort to give greater flexibility to States' safety initiatives. In closing, Mr. Speaker, I would ask you and the rest of my House colleagues to cosponsor this important bill and work together to see that this crucial provision is signed into law.

INTRODUCTION OF THE NATIONAL AQUACULTURE DEVELOPMENT ACT 1994 AND THE MARINE AQUACULTURE ENHANCEMENT ACT OF 1994

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. STUDDS. Mr. Speaker, fish stories are generally about the one that got away. Fortunately, this one is not. It is about fish farms, or aquaculture, an industry that has developed despite the indifference of the Federal Government and an industry that, with a little encouragement, has the potential for tremendous growth.

In Massachusetts, aquaculture has expanded to such a degree over the past decade that shellfish farms have become commonplace on Cape Cod, the islands, and the south shore. With the decline in many traditional commercial stocks and the depletion of haddock and cod, fishermen, who have been leery of aquaculture, are beginning to realize what the Massachusetts aquaculture pioneers already knew: for many, it can be a way to earn a living and support their families while continuing to supply fresh seafood to the American public.

While the success of the industry has been laudable, there are obstacles to even greater growth. Today I am introducing two bills intended to remove these obstacles and promote the development of the aquaculture industry in the United States.

The National Aquaculture Development Act of 1994 is a comprehensive response to problem areas identified by the industry. These include the need to clarify Federal agency responsibilities and authorities for aquaculture; streamline and coordinate regulations and permits; provide greater access to programs available to more traditional farmers; and offer better education and information.

In addition, the bill reauthorizes the National Aquaculture Act of 1980 for an additional 3 years and authorizes appropriations for the three agencies with primary responsibility for aquaculture—Agriculture, Interior, and Commerce—to carry out their responsibilities under the act.

The second bill, the Marine Aquaculture Enhancement Act of 1994, is directed at specific problems faced by the salt water segment of the industry. A 1992 study by the National Academy of Sciences concluded that mariculturists face a host of problems unique to the environment in which they operate—our oceans and bays. These include conflicts with other users, the potential for environmental impacts on the marine environment, and the establishment of economically feasible operations.

Many of these conflicts result from a lack of resources at the State level to plan for and develop regulatory frameworks to guide aquaculture development in the coastal zone. In addition, no Federal regulatory framework exists to govern aquaculture in Federal waters. My bill addresses these issues by providing incentives for States to develop programs in the coastal zone and establishing a framework for issuing permits in Federal waters that will minimize conflict with other users while ensuring that the marine environment is adequately protected.

The bill also establishes a marine aquaculture research and extension program within Sea Grant to provide grants that will encourage the development of new technology that can make operations more economically productive and minimize environmental impacts.

Enactment of the National Aquaculture Development Act and the Marine Aquaculture Enhancement Act will remove many barriers to the growth of a thriving national aquaculture industry, an industry, that, if encouraged, can provide many Americans with good jobs and good food. I urge Members to support and cosponsor these initiatives.

CONTROLLING COSTS ARE THE KEY TO TRUE HEALTH REFORM

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ANDREWS of Texas. Mr. Speaker, as the deadline for health care reform quickly approaches, it seems that Congress is deadlocked on how best to remedy the ailing health system. In a recent article by the Progressive Policy Institute, David Kendall writes that the core reason for this impasse is due to the displacement of the true goal of reform: controlling costs. I commend the following article to my colleagues:

BREAKING THE HEALTH REFORM DEADLOCK—THE COMPETITIVE PATH TO UNIVERSAL COVERAGE

(By David B. Kendall)

The great health care reform debate of 1994 is dissolving into chaos. No less than five Congressional committees are working on different proposals, none of which seems capable of attracting a critical mass of political support. The balkanization of the debate has mystified the public and made it harder to fashion a coherent reform that stands on its own internal logic.

Yet the case for fundamental reform remains compelling: America's health care system is highly inflationary and denies too many people access to affordable care. The Progressive Policy Institute (PPI) believes that President Clinton is right in pressing Congress to enact systemic reform this year.

The Administration, however, has contributed to the impasse by allowing the debate to bog down in the controversy over employer mandates as the means to universal coverage. While universal coverage is a central goal, the first and overriding imperative is to attack the problem at its root: exploding costs. The rapid escalation of health care costs is driving middle-class insecurity about shrinking benefits, the increase in the ranks of the uninsured, the budget deficit, and lagging corporate investment as health care claims a growing share of business resources.

In "Mandate for Change," PPI defined the central challenge of health care reform:

Far more fundamental is the choice of how to restrain our health system's runaway costs. Many of the political right . . . suggest "the market," without fundamental reform, can cure the health care system's ills. Some on the left suggest that "the market" does not apply to health care, and so the government must step in to set limits on health care prices, and perhaps to become the sole health insurer as well.

This is a false choice. The proper role of government, on health care and elsewhere, is neither to let broken markets run amok, nor to replace the market with bureaucratic mechanisms that set prices and allocate resources. Rather, government's primary role should be to improve the market's ground rules in order to decentralize decision making, spur innovation, reward efficiency, and respect personal choice.[1]

The real danger today is that Congress will concentrate on immediately delivering the most tangible benefits—guaranteed health care coverage and perhaps new additional entitlements as well—while deferring the hard work of restructuring health care markets to constrain runaway costs.

To get health care reform back on track, President Clinton needs to define the common ground on which a broad, bipartisan consensus can be forged. In PPI's view, managed competition is the most plausible common denominator in the health care debate, the least intrusive and most effective means to the end of affordable coverage for all. The essential architecture of the competitive approach can be found in the Preisdent's bill and in its two nearest relations: the Cooper-Breaux and Chafee-Thomas bills.[2] The market-based approach is the most likely to constrain medical inflation without government micromanaging of the health care economy and, for that reason, to win broad public backing.

The report examines the three managed competition bills that occupy the vital center of the health reform debate. It also draws on the pioneering work of the Jackson Hole Group, led by Paul Ellwood and Alain Enthoven, especially new refinements outlined in "Managed Competition II."[3] PPI proposes four steps for resolving the key differences among the bills—for illuminating the competitive path to universal health care.

Those steps are:

1. Restrain costs through choice and competition, not government price controls. In health care reform, government's chief responsibility is to fix broken markets, not to set prices and allocate resources. Yet the Administration proposes a shotgun wedding of market incentives and bureaucratic command and control that would undermine the very competition it tries to create. In contrast, true market-based reform decentralizes responsibility for controlling costs to millions of consumers and providers. This is the logic of managed competition, which relies on these key elements: insurance reform to prevent risk-skimming; a standard benefits package; health plan report cards; a cap on tax subsidies for employer-paid health insurance; elimination of the proposed ceilings on employers' health care costs; and the exclusion of inefficient providers by health plans.

[1] Footnotes at end of article.

2. Establish competitive health purchasing groups to organize markets, not regulate them. Market-based reform requires a new institutional framework: purchasing groups that pool the buyer power of small businesses and individuals. The Administration's health alliances have been correctly criticized as new regulatory agencies; the better alternative is to create member-governed purchasing cooperatives that offer a menu of competing plans and report on quality so that consumers can make informed decisions. A network of competing purchasing groups would prevent regulatory encroachment on markets and solve the three key problems facing small businesses: risk-skimming by insurance companies, the lack of health plan choices for small business employees, and high administrative costs.

3. Finance reform on a pay-as-you-go basis, not with unfunded entitlements. A decentralized, market-based approach to health care reform would not create a vast new government entitlement. The history of such entitlements shows clearly that their costs are difficult if not impossible to control: For example, only seven years after they were created, the Medicare and Medicaid programs cost four times more than government projections. Untrammeled entitlement spending is driving the federal budget deficit. Nonetheless, the Administration's bill would create a legal entitlement to comprehensive health benefits and add new entitlements for prescription drugs, long-term care, and health benefits for early retirees. Rather than create entitlements that are likely to be underfunded, we should finance health care reform on a pay-as-you-go basis. We should establish a balanced health security budget that continuously reconciles public spending for health care with revenues designated to pay for reform.

4. Achieve universal coverage step-by-step. From the standpoints of both equity and efficiency, universal coverage is integral to managed competition. But health care reform must end with universal coverage, not begin there. The reason is simple: If we expand demand by adding 39 million new consumers before restructuring markets to make them more efficient, prices will rise dramatically. Yet the Administration courts this danger by insisting on an immediate employer mandate. The following timetable illustrates how a step-by-step approach might work.

1995–1999: Phase in subsidies for needy families gradually as reforms restructure health care markets for greater efficiency. Using a balanced health security budget, savings from the tax cap, and reforms in Medicare and Medicaid would pay for subsidies for low-income households.[4] The priority should be full coverage for those in poverty. Next, those above the poverty line should receive subsidies on a sliding scale; that is, the higher the income, the smaller the subsidy. Subsidies should extend to income levels as high as 240 percent of poverty to allow for a gradual decrease. (Too rapid a decrease might discourage people from working harder to increase their earnings.) When fully phased in these subsidies will extend assistance to about 26 million people or two-thirds of the uninsured. The dramatic result of market reforms and subsidies is that 97 percent of all health care spending would be covered through insurance.[5]

2000: Fully fund subsidies and put in effect an individual mandate. If revenues are not sufficient to ensure full subsidies by the year 2000. Congress would have to act under expedited procedures to make up the shortfall. Once subsidies to needy families are fully funded, we can in good conscience require everyone to obtain coverage. An individual mandate would add more young and healthy individuals to the insurance pool, thereby lowering everyone's premiums and reducing cost shifting. Those who cannot show proof of coverage (either on their tax forms or when they show up for treatment) would face a stiff sanction of one year's premium plus a 20 percent penalty.

2003: Take additional steps, including an employer mandate if necessary, to achieve comprehensive coverage. Even after market reforms, full subsidies for low-income families, and an individual mandate, some people may still be uninsured. That is because the individual mandate may prove difficult to enforce and may lead some unscrupulous employers to drop coverage for their workers. If by 2003 there is still a significant cost-shifting problem because too many Americans remain uninsured. Congress should take additional steps to capture these remaining free riders. Such steps may include stepped up penalties for free riders, further expansion of subsidies or an employer mandate. The trigger for Congressional action might be the failure to achieve coverage as extensive as Hawaii's (92 percent for the non-elderly). A target of 100 percent coverage is neither realistic nor wise. Instead, we should define universal coverage as reaching that point at which the marginal cost of expanding coverage exceeds the economic benefit of doing so.

The step-by-step approach is preferable to an immediate mandate because it disaggregates America's 39 million uninsured into two groups: Those who cannot get coverage either because they are poor or because insurance companies will not cover them, and free riders who can afford coverage but don't buy it. It is more cost-effective to deal with these groups separately than with a blanket mandate. However, an individual mandate will be necessary to prevent free riders from taking advantage of the system, and the employer mandate should be held in reserve in case the other measures fall short.

Managed competition is not the only school of thought about how to fix America's ailing health care system: There is substantial support among Congressional liberals for a Canadian-style single-payer system. Rather than importing foreign models, however, the challenge facing the United States is to leapfrog the health systems of other advanced countries and create a distinctively American system that combines the best of U.S. medicine and capitalism. Market-based reform would preserve America's status as the world leader in medical technology, leave to decentralized markets rather than public bureaucracies decisions over resource allocation, and give individuals the power and responsibility to control health care costs through their own choices.

President Clinton is right: Americans want fundamental health care reform. What they do not want is a government takeover of the health care system. The President's challenge therefore is to use government's power in a more creative and sophisticated way. Instead of expanding government bureaucracy and regulation—the old Democrat approach—President Clinton should embrace the New Democrat logic that informs many of his other initiatives: using government's power to improve the ground rules for market competition.

The New Democrat approach also avoids the ideological polarization that has so often frustrated the country's attempts to confront its problems. It holds promise of building a broad coalition in the vital center of American politics. History shows that America's great social reforms have been enacted by wide, bipartisan majorities. Congress passed Social Security by a 10-to-1 margin in 1935 and Medicare by a 3-to-1 margin in 1965. It is time for the President to bring together leaders from both parties to forge a broad, bipartisan agreement for health care reform.

FOOTNOTES

[1] Jeremy D. Rosner, "A Progressive Plan for Affordable, Universal Health Care," in "Mandate for Change," Will Marshall and Martin Schram, eds., p. 108.

[2] Representative Jim Cooper (D–Tenn.) and Senator John Breaux (D–La.) are sponsors of the Managed Competition Act, H.R. 3222/S. 1579. Senator John Chafee (R–R.I.) and Representative Bill Thomas (R–Calif.) are sponsors of the Health Equity and Reform Today Act, H.R. 3704/S. 1770. Senator George Mitchell (D–Maine) and Representative Richard Gephardt (D–Mo.) are sponsors of the Administration's bill, the Health Security Act, H.R. 3600/S. 1757.

[3] Managed Competition II," the Jackson Hole Group, March 18, 1994. See also Paul Ellwood, Alain Enthoven, and Lynn Etheridge. "The Jackson Hole Initiatives for a Twenty-First Century Health Care System," Health Economics," Volume 1, 1992.

[4] The following examples illustrate how the financing might work: According to CBO, the revene from the tax cap in the Cooper-Breaux bill would range from $5 billion to $15 billion in 1999, depending on the size of the standard benefits package. The Medicare savings in 1999 would be $13 billion in the Cooper-Breaux bill and $28 billion in the Administration's bill. On average, then, these sources would raise $30 billion. The cost of the Cooper-Breaux subsidies (to 200 percent of poverty) would range from $11 billion to $34 billion over projected Medicaid spending in 1999, again, depending on the size of the benefits. On average, these subsidies would cost $23 billion, which would leave revenue available for subsidies up to 240 percent of poverty..

[5] Expanding Insurance Coverage Without a Mandate," Lewin-VHI, May 18, 1994.

UNITED STATES-INDIA RELATIONS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. PALLONE. Mr. Speaker, last month, the internationally known publication India Abroad printed an article written by our colleague from New Jersey, [Mr. MENENDEZ], in its Congressional Viewpoints section. Mr. MENENDEZ' article offers a concise and balanced overview of the potential for a new and exciting era in relations between the world's two largest democracies, the United States and India. As Representative MENENDEZ' article points out, the recent visit to Washington by Prime Minister P.V. Narasimha Rao gave added momentum to the general warming trend in our bilateral relations. His article also makes the important point of urging American policymakers—including some Members of this body—to work in a more constructive manner in resolving the differences between our two nations.

As founding members of the congressional caucus on India and Indian-Americans, the gentleman from New Jersey and I are working to promote confidence-building measures that will elevate the Indo-United States partnership on economic, political, and security matters to a higher level. With the end of the cold war and the adoption of sweeping economic reforms by India, there is every reason for India

to be one of our top foreign policy priorities. We are also committed to better representing the needs and interests of our Indian-American constituents, and encouraging their increased participation in the political arena.

I hereby submit our colleague's words for the RECORD.

RAO'S VISIT SIGNALS NEW ERA

(By Representative Robert Menendez)

The recent visit to the United States by India Prime Minister P.V. Narasimha Rao will, hopefully, mark the beginning of a new era in U.S.-Indian relations.

Unfortunately, relations prior to the Prime Minister's visit have not been entirely satisfactory. Comments and actions by leaders in both nations have had the effect of straining ties between the world's most populous democracy and the world's oldest democracy.

Rao's trip was the first visit of an Indian Prime Minister to the United States in seven years. I was very impressed with how well he dealt with all of the contentious issues during his meetings in Washington. His meetings with President Clinton and Vice President Gore went well and helped to emphasize the positive aspects in the bilateral relationships.

The Prime Minister took the correct approach when he stressed that we must set Cold War frictions aside and build a new relationship based on a wide range of economic, cultural and diplomatic interests.

In particular, Prime Minister Rao took important steps to expand trade between our two countries. He stressed that India is a natural trading partner for the United States and emphasized his desire to see continued growth in our economic relations. Prime Minister Rao was given the rare honor of addressing a joint session of the United States Congress so that members from both the Senate and House of Representatives were able to interact with him. As a member of the "India Caucus" in the House, I was particularly pleased by the warm reception accorded to him by the Congress.

The Prime Minister's address was most appropriate and set the tone for even better relations in the future. As I listened to his words and reflected upon the improving relations with India that are likely to follow, I was reminded that it was not that long ago that a number of my colleagues, led by Representative Dan Burton (Republican of California), had sought to cut aid to India.

Many of the supporters of the Burton amendment boycotted Rao's speech. I felt that it was inappropriate for these members of Congress to refuse to come to listen to Rao's speech. Even if they disagree with specific policies by the Indian government, they should have shown the courtesy due to a world leader of Rao's stature by attending this session. In addition, they missed a singular opportunity to hear, first hand, how the relationship will develop and grow.

I had opposed the Burton amendment in the past and will do so if it is offered again in the future. My opposition is based upon my belief that this approach would establish an entirely wrong precedent for U.S. relations with India. The aid in question was intended to pay for such programs as health care, childhood immunization against malaria and cholera, and for AIDS education. In addition to selecting the wrong target for cuts, I felt cutting aid to India is a misguided attempt to isolate India at a critical time in its political, economic, and cultural development.

I certainly respect Burton's concern for human rights issues throughout the world. However, I felt that this approach to addressing these problems was not appropriate. Drastically cutting U.S. assistance to India unless it repeals five of its own domestic security laws will not help the cause of human rights in India. In fact, I am convinced that passing this amendment would only have strengthened the hands of those extremist and fundamentalist groups within India bent on tearing that secular democracy apart.

When the Burton amendment was under consideration by the House, I argued that by punishing and isolating India this amendment will hinder India's efforts to arrive at solutions to the difficult and complex problems in Kashmir and Punjab. These two Indian states face civil insurgencies involving terrorist acts that represent a fundamental challenge to India's national sovereignty.

Additionally, India has the world's sixth largest economy. Only a strong democratic India will be able to secure the recent reforms it has undertaken to open its economy, making it one of the world's most promising markets for U.S. products. Burton's amendments have only narrowly been defeated. He is likely to reintroduce similar measures in the future. Continued vigilance and political activism by the Indian-American community and other friends of India will be required to ensure that these types of amendments are never enacted.

Not all of the actions by the United States government of interest to the Indian-American community involve foreign policy or trade concerns.

For example, I was a strong supporter of the Hate Crimes Sentencing Enhancement Act. This act was modeled on a similar New Jersey law which I helped to draft after a spate of violent acts against Indian Americans in 1987.

The act will increase federal sentencing guidelines, adding an average one-third more prison time for felons convicted of targeting their victims on the basis of race, religion, nationality, gender or sexual orientation. While we can't stop prejudice with a law, we can send a clear message from society that bias crimes are particularly heinous and will be punished accordingly.

I am proud to be a founding member of the recently established India Caucus, a network of House and Senate Members who support strong ties with the Indian-American community and between our nations. I am pleased that participation by Indian Americans at all levels of government is now at an all-time high. It is gratifying that three Indian Americans are now serious candidates in Congressional races and that other Indian Americans are becoming more politically active throughout the country. In the past few years the Indian-American community has certainly become more involved in the American political process. However, the community must continue to become even more active.

As a strong supporter of good relations with India, I was distressed at the relatively sparse attention given to Prime Minister Rao's visit. Certainly the Indian press covered every moment of the trip, but the general media should have done a better job of informing the American people about this most significant diplomatic visit.

In sum, the American government takes many actions that directly affect relations with India and the lives of Indian Americans. Within the next few months, the Congress will consider such issues of direct concern to Indian Americans. The only way to affect how these decisions are reached is to become involved. I applaud the efforts of Indian Abroad to support this approach and encourage each member of the Indian-American community to expand his or her potential influence by becoming personally engaged in the political process.

(Representative Robert Menendez sits on the subcommittees for International Operations and Western Hemisphere Affairs of the House Foreign Affairs Committee.)

AMERICAN LEADERSHIP IN THE NEW SECURITY ENVIRONMENT

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HOKE. Mr. Speaker, on Wednesday I had the privilege of hearing Dick Cheney, the former Secretary of Defense and House Republican conference chairman, deliver some remarks concerning the role of American leadership in the new security environment, and I was very impressed by his insight and vision. What follows are excerpts from this speech.

I commend the speech to my colleagues as both a highly perceptive critique of the current administration's foreign policy and an incisive prescription for American leadership in the 21st century.

AMERICAN LEADERSHIP IN THE NEW SECURITY ENVIRONMENT

(By Dick Cheney)

On January 20, 1993, Bill Clinton was given an opportunity any of his predecessors would have envied. He became the first American President to take office as Commander-in-Chief of the world's only superpower.

Under Ronald Reagan and George Bush, we had rebuilt America's defenses. We had won the Cold War. We had rolled back Saddam Hussein's aggression in the Persian Gulf. We had banished the disillusionment of the Vietnam era and restored public respect for the military. We had demonstrated that with sound civilian leadership the magnificent men and women of our armed forces can defeat any adversary. Our military's morale was high and its resources mighty, even with the force reductions after the end of the Cold War.

As the Presidency passed into Mr. Clinton's hands, America had the tools and the credibility to quell crises and capitalize on opportunities. And world peace and freedom depended on it: Nothing was more vital to hopes for peaceful transformation to democracy and free markets in Russia and Eastern Europe than the credibility of American leadership. No efforts to shield the civilized world from the spread of ballistic missiles and nuclear, chemical and biological arms could succeed without American preparedness and American leadership. No deterrent was more effective against powerful tyrannies like North Korea than the clarity and constancy of American leadership.

But in just 18 months, Bill Clinton has squandered the legacy he inherited—and the world has become a more dangerous place. North Korea's communist dictatorship threatens the free world's interests with nuclear proliferation, conventional war in Asia, or both. The development of enduring democratic and market institutions in the former Soviet Union and eastern Europe is in peril. Our strategic relationships with Japan, China, and western Europe have begun to fray. American troops were not adequately

supported in Somalia. And now the President appears ready to send American soldiers into Haiti to install an unstable leftist regime.

The United States faces a full-blown crisis of national security leadership. Bill Clinton has given us one of the last competent administrations in the field of national security and foreign policy that we have had in this century.

The fact is, when Bill Clinton charged into the White House in 1993, he had thought a lot about expanding the domestic powers and costs of government—but when it came to international diplomacy and security, he didn't have a clue.

As I see it, national security leadership has four requirements: vision, strategy, constancy of purpose, and good stewardship of our military forces. Bill Clinton's Administration fails on all four counts.

First comes vision. A leader ought to have moral imagination about the way things ought to be. But national security leadership is not simply a pastime for dreamers. We also have to see realities and possibilities as they are. America has a responsibility to take a practical leadership role in building and expanding zones of peace among the world's democracies, but while doing this, we need to perceive in sharp focus our own priorities and interests—and to advance them proudly. And we must remember two essential points: That peace and freedom in the world depend upon American leadership, and that American leadership depends upon maintaining the world's finest fighting force.

Bill Clinton entered office with gaping holes in his understanding of international economic, political, and military dynamics. More fundamentally, he exhibits no coherent sense of America's purpose and role in the world. Those on his national security team who are not novices are returnees from the Carter Administration. As though the 1980s had never happened, these appointees still nurse groundless notions that anti-Western radicals are our kind of people—just a bit more passionate in political style. They still think that when totalitarians decide to sit down at a negotiating table, they are people just like us. When the President and his national security aides communicate with foreign governments and publics, they project neither the values of the American people nor our common sense. Again and again, Bill Clinton has let domestic political interests drive his foreign policy without any conception of what is in the long-term interests of the United States.

Bill Clinton's second major flaw in international leadership is a lack of strategy. On taking office he let loose a scattershot of initiatives with no apparent regard for context or consequences. His initial policies were about as thoughtful and detailed as bumper sticker slogans.

With Japan, he made trade the be-all and end-all issue. The Clinton team's overheated rhetoric needlessly raised tensions and hurt our political and security relationship with Japan at a sensitive time of change in that country's political history. This, while producing little on the trade front—the one thing Clinton seemed to care about.

In eastern Europe and the former Soviet Union, candidate Clinton charged America was not doing enough to aid the transition to democracy and free markets. The presidents of Poland, the Czech Republic, and Hungary—the most valiant and successful nations in the transformation from Communism—asked President Clinton to support their bid for early integration into NATO. But Clinton rebuffed them, allowing Moscow to veto this effort to secure their independence.

Meanwhile, the Clinton administration has been inconsistent in its support for economic reformers in Russia itself and throughout the former Soviet empire. Par for the course, Bill Clinton made wildly exaggerated promises of direct financial aid. Then his Deputy Secretary of State, Strobe Talbott, abruptly pulled the rug out from under the known champions of free market transformation in Moscow when he said that Russia needed "less shock and more therapy." Moreover, it is not lost on the men and women laboring to dismantle socialism in their own countries that Bill Clinton's top domestic priority is to collectivize one-seventh of the United States economy—our health care markets.

The third essential quality of leadership in statecraft is constancy of purpose. No one has ever found this to be one of Bill Clinton's strong suits. The President is continually changing his mind regarding important foreign relationships or ongoing foreign crises—and he never fails to keep everyone the world over, friend and foe, informed of his latest vacillation.

The longest-running and most confused set of policy flip-flops has been with regard to Haiti. There is simply no other way to describe the Clinton record on Haiti than as an abject national embarrassment.

Last year President Clinton burned into our consciousness the lingering image of a United States Navy warship, the Harlan County, being chased out of Port-au-Prince harbor by a bunch of demonstrators. It's an unhappy metaphor for much of the Clinton record worldwide: Under Bill Clinton's helm, expect the American ship of state to turn tail at the first sign of trouble.

But worse than last year's fiasco in Port-au-Prince harbor would be an ill-advised use of force. President Clinton will be making a calamitous mistake if he carries out his threats to launch United States forces into Haiti.

While invading the island should not be a difficult exercise for American forces, what would we do with the country once we captured it? The last time American forces invaded Haiti, they ended up having to stay for 19 years.

I take the strongest exception to the Clinton administration's declaration that Haiti is "of vital interest to the United States." Haiti represents no significant threat to our interests nor is it an asset to U.S. policy. Haiti is not a base for international terrorism, nor is it a significant transit point for drugs destined for the United States. This impoverished country has never consolidated the basic institutions for the kind of civil society needed to build democracy—an independent judiciary guaranteeing the rule of law, a press free from government bullying, a free enterprise system untrammelled by government influence and control. Replacing the military regime with the leftist Aristide will not suddenly bring those institutions into being. Risking U.S. soldiers' lives and spilling Haitian blood to enthrone Aristide offers precious little chance of yielding gains for true democracy and human rights in Haiti. Jean-Bertrand Aristide is intolerant of opposition and has spoken approvingly of the use of violence against democratic opponents. He is not—I repeat, not—the Thomas Jefferson of Haiti.

Both Clinton's vacillations around the globe and his apparent determination to take ill-advised military action in Haiti send dangerous signals to outlaw regimes which genuinely threaten our interests.

The most perilous immediate threat, of course, is from North Korea. President Clinton has used bold words to assert that under no circumstances will North Korea be allowed to acquire nuclear weapons. But North Korea's dictators go right along pursuing their nuclear program.

After having observed for a year and a half so much self-defeating American behavior—so many fiascos and flip-flops, so much bluster followed by inaction, so many misplaced priorities—why should North Korea take Bill Clinton's warnings seriously? And can we really accept Jimmy Carter's assurance that "the crisis is over"?

The administration already has squandered vital time and credibility in dealing with the North Korean threat. If the President is to prevent a catastrophe in Korea, he needs to stop the wishful thinking and begin exercising some leadership.

The President should issue a clear, unmistakable warning to the North Korean leadership that any attack upon South Korea will be an attack upon the United States, and will be met with overwhelming military force, resulting in the destruction of North Korea and its government. They must not be allowed to assume that a war on the Korean peninsula will be fought on their terms.

President Clinton should enhance the defenses of South Korea and improve the capability of both South Korean forces and our own forces stationed there. He must get some effective diplomatic work done with China—to assure its cooperation with our effort to isolate North Korea. He must move Japan to cut off the vital hard currency it now allows to flow to North Korea. He must lead the international community to impose airtight sanctions.

A President's most important commodity as Commander-in-Chief is his credibility. Bold talk that is never followed up by bold action leads our adversaries to conclude we do not have to be taken seriously. The cost of reclaiming that credibility once it is lost is likely to be paid in terms of American lives. In these dangerous times, a President must always say what he means and mean what he says.

Let me address the fourth and final defect in Bill Clinton's world leadership: his failure in good stewardship of our vital national security resources—in particular his failure to support an adequate peacetime military capability for the United States. Some people say the problem of the Clinton national security policy is a mismatch between strategy and resources. I don't agree with that. The Clinton strategy and its resources are closely matched. The President has an inadequate strategy—and he has paired it with inadequate resources.

Remember, we already had carried out major reductions in U.S. defense spending before President Clinton took office. Since then, to indulge their appetites for a bigger welfare state, Bill Clinton and the Democratic Congress have made new, far deeper defense cuts. For a five year period, they are cutting an additional $150 billion more from defense than the significant cuts planned by President Bush. At the same time the Administration is trying to fund activities out of the defense budget that do nothing to improve our military capability, such as "defense conversion" and "U.N. peacekeeping."

The result is a serious erosion in the quality and capability of our military forces. Our field commanders report our troops are not getting needed training hours for lack of funds. Jet engines for the Air Combat Command are going unrepaired for lack of spare

parts. There are increasingly serious shortfalls in readiness and sustainability. Test scores for our recruits are falling. For the first time in a decade, the Marine Corps has failed in two successive months to meet its recruitment quota.

Particularly unpardonable is Clinton's failure to ask for adequate funds for active military cost-of-living pay adjustments. He has sought to curb military pay even as growing numbers of military families are having to turn to food stamps to make ends meet. Maintaining adequate pay and a good quality of life for the troops has to be our Number One defense priority.

We are seeing shades of the shameful days of Jimmy Carter's "hollow military." In 1980 American voters sent a powerful rebuke to the liberal Democratic Congress and the administration responsible for that era of military weakness. But we do not have to wait until 1996 to take corrective action against the Clinton failures in military leadership.

Republicans in Congress this year offered the American people a clear choice—a straightforward plan for making military strength a budget priority. Republicans in the House of Representatives offered a budget alternative that would have spared our military forces the recklessness of the Clinton cuts. The Republican budget resolution provided an adequate cost-of-living adjustment for our servicemen and women's pay. Republicans would have kept adequate funding for training and maintenance. The Republican proposal called for moving forward with a vital program gutted by President Clinton and the congressional Democrats—the program for defenses against ballistic missiles.

The Clinton Democrats are blinded by an ideological animus against President Reagan's visionary Strategic Defense Initiative. Clear perception and leadership demand that we build a ballistic missile defense system as soon as possible. Ballistic missile technology is not hard to acquire: Being one of the world's poorest, most isolated and technologically backward countries did not stop North Korea from becoming a ballistic missile power. Even now, American forces and friends abroad are within range of potentially hostile forces armed with ballistic missiles. The last thing we need is to wake up one morning to an intelligence surprise—to find that a radical regime has acquired a long-range ballistic missile, capable of striking New York or California. I urge the President to move to give our country theater missile defenses without further delay—and then to proceed with national missile defenses.

The President must not let outdated diplomatic instruments get in the way of defenses to protect the people of the United States from missile attack. In particular, it would be a grave mistake to transform the old ABM Treaty into a multilateral affair. Most important, America must pursue in its own national interest the attainment of defenses against ballistic missiles. We must not let anything—including the ABM Treaty—stand in the way.

What resources we will have for the defense budget and who will make those decisions is a matter of greatest timeliness. Americans who want to keep our military from becoming perilously weak do not have to wait until 1996 to make changes. Voters can replace anti-defense Democrats with pro-defense Republicans in Senate and House elections this November. Republican victories this fall protect our defenses from Bill Clinton's worst instincts before he can do much more damage. Republican majorities in the Congress could even provide some adult supervision on national security for the Clinton White House staff.

Let me say just one other thing about this White House and its treatment of our military men and women. Whenever one gets one's hopes up that the Clinton White House has broken with its practice of demeaning American military personnel, we hear word of another new insult. Earlier this year, it was the spectacle of a uniformed Marine saluting a golf bag when Bill Clinton's director of White House administration misused military helicopters for a trip to the country club. Then last month we heard of uniformed military officers being asked to serve hors d'oeuvres at a White House reception. For a man who campaigned on putting people first, I wish Bill Clinton would find a way to put our troops first for a change.

When Republican leadership returns to the White House, I am confident we will have a Commander-in-chief who understands his responsibility to maintain the morale and combat effectiveness of our military forces, including when to commit them to combat. He will know he must never do so unless he is prepared to do whatever is required to achieve victory.

It is my great honor to be with you today to talk about how we can go about once again giving our country unrivalled strength and standing in the world—strength and standing that will help shape a freer and more peaceful future.

The key is leadership! The men and women of our armed forces deserve it. The nation deserves it. And I deeply appreciate your commitment to bringing it about.

TRIBUTE TO BILL SCHWARTZ

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. CRANE. Mr. Speaker, I would like to pay tribute to a very special friend of the fraternity system, William P. Schwartz. On August 13, he will be honored for 40 years of service with Sigma Alpha Mu fraternity [SAM]. Bill may be considered the dean of the interfraternity system worldwide.

Bill has been on the executive staff of Sigma Alpha Mu since 1955, which is the longest tenure for an executive in the interfraternity world. He served in various positions with SAM until he became its executive director in 1962, the post he currently holds. Since 1973, he also has served as editor of the Octagonian—the international publication of SAM.

Bill has long served other fraternal organizations as well. He is a past president of the Fraternity Executives Association, Cofounder of the Association of Fraternity Advisors, and has held various positions with the National Interfraternity Conference.

For his work with college youth, Bill has been honored by Tau Kappa Epsilon, Lambda Chi Alpha, Phi Kappa Theta, and Theta Chi. From his own Sigma Alpha Mu, he has received the Distinguished Service Award. He also has been awarded the Gold Medal, the highest honor of the National Interfraternity Conference.

Bill was born in Oklahoma City, OK in 1928. After high school, he enlisted in the army and served with the occupation forces in Japan after World War II. Upon his return to the United States, he entered the University of Oklahoma, graduating in 1952. Since then, Bill has always found time for involvement in a host of civic and religious activities, usually centered around the youth of his community.

Once again, I would like to honor and thank Bill Schwartz for his lifetime of work and dedication for Sigma Alpha Mu fraternity, the interfraternity system and the youth of this country.

RECOGNITION OF NATIONAL PARENTS' DAY

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ROSE. Mr. Speaker, I would like to take this opportunity to declare my support for National Parents' Day and the development of national programs to help stabilize the American family.

Our colleagues, Congressman DAN BURTON and Congressman FLOYD FLAKE, introduced House Resolution 236, which the House unanimously adopted on March 11, 1994. This resolution declared today, July 28, 1994, as National Parents' Day in America. This resolution represents the overwhelming consensus that America's families are the foundation on which this Nation was built. Commemorating a National Parents' Day will send a strong message to the American people that responsible parenting is the cheapest and most effective solution to eliminating many present day social ills.

With all the problems facing our communities today, it is no surprise that American families are constantly struggling to stay together. Children are dealing with overwhelming problems such as crime, drug and alcohol abuse, violence, divorce, homelessness, and poverty. The statistics show that these social problems are taking a toll on our children when you look at the dropout rates, teen pregnancy, teen suicide, and the growing number of children on death row. These are just a few of the dilemmas that parents today must face. These problems place tremendous pressures on parents who are trying to juggle dual roles with a full-time job and a full-time family. I hope that many Americans, especially children, will take the time to pay tribute to all parents: biological, adoptive, foster parents, and grandparents that are raising a second generation. These parents are committed to strengthening and sustaining their roles as part of the solution to ending this crisis.

National Parents' Day is an opportunity to recognize and award those parents who have dedicated their time and energy to helping and encouraging strong parenting. This day will honor outstanding parents in our communities all across America, making them visible role models. It also acknowledges and thanks those organizations, community leaders, and people in the media who through their programs and features exemplify the ideals of House Resolution 236.

Earlier today, many television celebrities were honored on the steps of the Capitol for

their acting roles as responsible parents in TV programs. Stars like Bill Cosby and Phylicia Rashad of "The Cosby Show," Florence Henderson of "The Brady Bunch," and Harriet Nelson of "Ozzie and Harriet." Unfortunately, all of these shows are no longer in production although they can be seen in syndication.

The point is this. Our children are influenced by their environment and the things they see every day, including television. It is imperative that more family-oriented programming be added to the nightly lineup so that positive role models are reinforced on the tube.

History has demonstrated that the traditional American family is the cornerstone of our society. But as the times change, so must our definition of family. Who is to say that a single parent is not as good a parent as one that has a partner? Or that a parent that adopts a child does not love that child as much as the natural birth parent? If we are to survive as a nation, we must emphasize moral character and responsibility through family values. Sacrificial love is a key element in the development of these values. An example of this sacrificial love is demonstrated by a family in my congressional district that I helped adopt a child.

Alan and Cathy Cooper adopted an 8-month-old Albanian child in March 1992. Unfortunately, because of the political turmoil in that country, it took several years for the adoption to be finalized. However, through their persistence and sacrificial love for this child, the Coopers were able to become parents and bring their boy home earlier this year. They proved that they would go to the ends of the Earth to see that this child was protected and loved. It is this kind of selfless act, unconditional love, that needs to be restored in many of our families.

Through programs like Big Brother/Big Sister, Project We Care and the National Institute for Responsible Fatherhood and Family Development we are on our way to making the American family a stable and secure environment for future generations. We, as Members of Congress, have an obligation to ensure that our social structure remains strong through these and other programs that encourage family development. Government and private sector business policies should reflect the changing structures of American families so that the children are not penalized. But well-intentioned Government programs are not the only solution. Parents are the answer.

Recognizing a National Parents' Day will remind every individual of the crucial role parents play in shaping the lives of our children. Mr. Speaker, please join me and my colleagues in recognizing July 28, 1994, as National Parents' Day.

IN MEMORY OF ROBERT E. BEST, PUBLISHER AND HUMANITARIAN

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to the late Robert E. Best, a renowned publisher and community leader from Sullivan, IL. Robert Best left us last fall, but his community spirit and contributions to the journalism field will not be forgotten. After Mr. Best's death, his newspaper, News Progress, published a fitting tribute to Mr. Best and his work as a publisher and humanitarian. It would be my honor to enter into the CONGRESSIONAL RECORD this tribute that captured the essence and life of Robert E. Best.

[From the Best Newspapers in Illinois, Inc., Nov. 24, 1993]

DEATH OF NEWS-PROGRESS PUBLISHER LEAVES VOID

(By Lisa Muirheid)

The death Sunday night of Robert E. Best, publisher of the News-Progress, leaves a void in the community he served and the profession he loved, friends and colleagues said this week.

Mr. Best, 62, died at St. Mary's Hospital in Decatur after suffering a heart attack about 9:30 p.m. Sunday at his home in Sullivan.

In his 32-year career as an Illinois publisher, he earned many honors. He served terms as president of both the Illinois Press Association and the Southern Illinois Editorial Association. In 1987, he was inducted into the Southern Illinois University Journalism Hall of Fame as a "master editor."

Born to Ellis J. and Nellie C. Murphy Best on July 25, 1931, in Jefferson City, Mo., Robert E. was the oldest of three children.

He earned a bachelor's degree in agriculture from the University of Missouri at Columbia and did graduate work there in journalism. He attended the university on a Navy ROTC scholarship and served three years in the Navy, largely aboard the USS Telfair, a troop transport ship that made tours of Southeast Asia. He left the service as a Naval lieutenant, junior grade.

He married Marion Denny on Dec. 28, 1954, in Evanston, Ill. The two have worked side by side as publisher and editor of a newspaper in Sullivan since they purchased the Moultrie County News in October of 1961.

Marion Best survives along with their two children, Kathleen L. Best, a reporter in the St. Louis Post-Dispatch Washington Bureau, and Robert R. Best, chief pressman and photographer at the News-Progress.

The newspaper will stay in the family. All three members plan to be involved in the transition phase. Marion Best will serve as publisher, R.R. will continue as chief pressman and head photographer and Kathy will help out on the editorial desk during the month of December.

Mr. Best is also survived by a sister, Ann Mattli, of Poplar Bluff, Mo., and brother, Edward Best, of Martinez, Cal.

After 12 years of running the Moultrie County News, which was one of two competing weeklies in Sullivan for 91 years, the Bests purchased the Bethany Echo and the Findlay Enterprise in 1973. In December 1978, fellow publisher Byron Brandenburger sold them the Sullivan Progress, the weekly newspaper they had competed with for advertising and news for 17 years. Two years later they purchased the subscription list of the Lovington Reporter, the only other weekly in the county. In June 1981, all the papers but Findlay were incorporated into the weekly News-Progress.

One year after purchasing the Moultrie County News in 1961, the Bests attended their first Illinois Press Association convention to pick up the first of more than 100 awards the paper has won over the past 32 years. In 1984, the News-Progress was the first semi-weekly to win the Illinois Press Association's Kramer Trophy for editorial excellence.

Mr. Best wrote more than 1,200 columns and 2,400 editorials during those years. He has served as co-chairman of the IPA Legislative Committee after his tenure as president.

"Bob was acutely sensitive to the Illinois citizen's 'right to know' and he was at the forefront in protecting that right," said Joe Firstl, who served as a co-chair on the committee with Bob. "He was a dedicated newspaper man in every sense of the word. He always put himself out for the newspaper publisher and anyone who wanted to know how to get the what, where, when, why and how."

Firstl remembered many weekend days spent on the telephone with his partner.

"We would spend hours trying to figure out what a legislator had in his mind when a bill was introduced and how we could collectively combat the sometimes evil forces which act against the Illinois citizens and publishers. We would go over every bill word-for-word. I will miss that man very, very much.

Mr. Best was also an active member of the National Newspaper Association. He served as the Illinois state chairman and on many other committees, including membership and long range planning.

"I learned so much from him and he was so willing to share all of his knowledge," said longtime friend and former employee Sharon White. "Shortly after I began working at the paper someone asked me if Bob was difficult to work for because he always seemed so gruff. I had to tell her he was the biggest pussycat I had every known."

A neighbor and confidant for many years, Bill Stubblefield said when he thinks of Mr. Best, he remembers how his neighbor enjoyed "a whole bunch of things."

"He always kind of made me mad because he knew a little bit about everything. Usually when we get into discussions—as we called them—he was right," Stubblefield said, adding he would never have admitted that to Mr. Best's face.

"He enjoyed working, his computers, his family, his stupid cats and gardening. He just seemed to enjoy everything—and he was good at a lot of them. He loved to raise dumb things in the garden then find recipes to cook them in. It never ceased to amaze me the interests he had. There was a really broad scope," Stubblefield said.

"Discussing" was one of the activities Bob Best enjoyed most.

"I knew Bob for over 20 years. We didn't always agree on everything, but we respected each other's opinion. Bob had a way of asking questions about issues that needed resolutions. He started people thinking and soon they were solving the problems," said Sullivan city councilman and businessman Ron White.

"We have been through some miles together, Bob and I, and I am truly sorry we will not have the chance to journey together into the future," White said.

Mr. Best's friendship with the Whites began before their work on Little Theatre projects. Mr. Best was a founding member of the Friends of the Little Theatre on the Square after the theatre's dark season in 1980. According to Sharon White, he literally created the organization.

"One day after Guy Little Jr. announced he was leaving Sullivan and it seemed the Little Theatre on the Square would close, a congressmen called Bob from Washington and asked what the community was doing to keep this unique asset from being lost," she explained. "Not wanting the potentially valuable opportunity to slip away, he quickly

ad libbed. I was standing near his desk when he said, 'Yes, there is a grassroots volunteer community organization that could use your help. They call themselves the Friends of the Little Theatre . . . and I believe Sharon White is the president'."

White said her jaw dropped and Mr. Best smiled a mischievous smile. She quickly found out he was willing to help dig her out of the hole he had put her in.

"Bob and Marion—and their checkbook—were always there with their support and encouragement. He believed so much in this community. I don't think anyone even knows how much he did. He's going to leave a big hole in this community," Sharon White said.

Guy Little, whose Little Theatre on the Square was the deciding factor that led Bob and Marion Best to Sullivan in 1961, said the loss of his friend is just another reason why it is important to not take anything for granted.

"I worked with him so closely when I was managing the theatre. He was always helpful, supportive and patient. It was a terrible, terrible shock," Little said. "We need to treasure and appreciate every moment we have."

While it was generally well deserved, one thing Mr. Best was not fond of was flattery and too much praise.

In 1991, he accepted the Distinguished Service Award from the Illinois Press Assn. He did so after a four-page biography was read to a packed banquet room.

His first response before accepting the award was: "And I know how to edit and somebody should have let me do that."

"Bob was a man who didn't like publicity for the many projects that he helped succeed," said Ron White. "He was a wise and intelligent man who could see solutions behind problems and encouraged his friends and acquaintances on how to come up with solutions for themselves."

White also commended Mr. Best for support of both Sullivan businesses and Sullivan school activities.

"He was proud that he had a part in helping the high school students revive the student newspaper and win many awards in only their first year of publication," White said.

Bob Best was a man with a great deal of knowledge to share. Sometimes he did it quietly and at other times, with the thunder of a bolt of lightening. He knew a lot and he shared a lot. The only thing he didn't teach those that knew him was enough, friends said.

Sharon White said a great deal in one short sentence.

"I wasn't done with Bob Best yet."

Neither were we.