HOUSE OF REPRESENTATIVES—*Tuesday, September 13, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
September 13, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

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

MORNING BUSINESS

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the order of the House of Friday, February 11, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WELDON] for 5 minutes.

CALLING FOR DEBATE ON INVASION OF HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, I rise to continue to express my grave concerns with the path that our President is taking us in regard to an invasion of the small country of Haiti. In USA Today, on August 31, General Shalikashvili was asked to respond to the current situation in Haiti, and I quote him in saying, "We need to understand that, despite the fact that the Haitians don't have a very credible military force, the possibility of casualties is certainly there. We should not be surprised at all by it. It's very important that this Nation understand that."

Mr. Speaker, I am not going to predict massive body bags coming back from Haiti like the liberals did before we went into Desert Storm. I do, as a member of the Committee on Armed Services, have full confidence in our troops and leadership, and I will support them wherever they are sent, but, Mr. Speaker, what is happening here is absolutely outrageous, to invade a country that poses no real or imagined threat to U.S. security, to supposedly restore democracy to a country that has never had a legitimate democracy, to restore a leader to power who has told us publicly not to invade. This President is poised to send 10,000 to 20,000 of our American young men and women into a war zone, but, if we look beyond that, in an article in the New York Times yesterday, September 11, quoting the administration on what they expect will occur, Clinton administration officials are saying they are worried about an invasion of Haiti which could set off a wave of assassinations and reprisals, and they are scrambling to create a police force that would maintain law and order after any military action.

Now, Mr. Speaker, this is the same thing that got us into trouble in Somalia. We went in for a noble purpose, but we stayed too long. We got involved in nation building. Mr. Speaker, the administration now is clearly saying that is what we are going to do here. We are not just going to go in and restore Aristide to power. We are going to nation build. We are going to have our military set up a police department, and our military is going to serve as that police force, at least for an interim period of time, perhaps as much as 9 months, perhaps as much as several years. Top generals in our country are saying, according to the New York Times article, that they want to stop performing police functions as soon as possible and have American soldiers and military police do only specialized tasks like protecting airports and seaports and conducting counterinsurgency missions, but the administration, which foresees a permanent force of about 3,000, has concluded that it is impossible to replace most of the Haitian military and police and is falling back in a model that was used in Panama.

Mr. Speaker, the American people need to have a full public debate on where we are in regard to Haiti. We need to debate what our long-term goals are. We need to debate whether or not we even should be sending our troops to restore Aristide. We need to debate Aristide and his leadership itself or we are going to find ourselves in a prolonged effort, and then trying to get out in a very difficult manner to bring our troops back home. Mr. Speaker, the administration official said the American-dominated phase of the operation could end within 7 months, but we should plan on being there perhaps for as long as several years.

Mr. Speaker, I cannot believe that we are going to take this action without any debate or discussion in this institution. And make no mistake, Mr. Speaker; if we were to take a vote right now in this body, the results would be overwhelming, and they would not be in support of the President's announced policy.

Mr. Speaker, I insert for the RECORD the entire article from the New York Times of September 11, 1994, entitled "Looking Beyond an Invasion, U.S. Plans Haiti Police Force."

[From the New York Times, Sept. 11, 1994]

LOOKING BEYOND AN INVASION, U.S. PLANS HAITI POLICE FORCE

(By Eric Schmitt with Michael R. Gordon)

WASHINGTON, September 10.—Clinton Administration officials say they are worried that an invasion of Haiti could set off a wave of assassinations and reprisals, and are scrambling to create a police force that would maintain law and order after any military action.

Senior Administration officials said the maintenance of civil order after an invasion was the current focus of preparations and a major concern.

With a likely date for an invasion fast approaching, President Clinton and Vice President Al Gore have telephoned a dozen world leaders in the last two days mainly to recruit international monitors to supervise an interim Haitian police force, an Administration official said today.

Although this is a crucial element of the Administration's plan, American officials said other nations had so far pledged only about 200 of the 500 monitors needed, and those commitments, one State Department official said, "are carved in jello."

The Clinton Administration has also differed with the Rev. Jean-Bertrand Aristide, the exiled President whom the invasion would restore to power, over an American plan to retrain and rehabilitate much of Haiti's security forces.

Gen. John M. Shalikashvili, Chairman of the Joint Chiefs of Staff, met this week with Father Aristide in an effort to smooth over a dispute about how many members of the police should be drawn from the present Haitian security forces, whose loyalty to Father Aristide is in question.

What's more, American intelligence experts fear that the most violent wave of attacks by the Haitian military against pro-Aristide groups, as well as possible reprisals by anti-Aristide groups, would take place in the opening hours and days of the invasion, well before any Haitian police force could be trained and installed.

That would leave the American military with the job it wants least: maintaining order in a chaotic, strife-ridden nation in

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which rival groups would be trying to settle old scores.

In planning for the invasion, the American military is not skimping on force. The United States plans to send about 20,000 troops to restore Father Aristide, including Army troops, marines and Air Force AC–130 gunships and A–10 attack planes.

But top commanders said overcoming Haiti's overmatched military would be the easy part. The hard part will be keeping the peace in a volatile setting where, according to classified intelligence reports, ousted Haitian military leaders are likely to kill supporters of Father Aristide to alter the balance of power within Haiti and insure that they do not play a role in a transitional government.

"THE ISSUE IS DISORDER"

The Clinton Administration recognizes that the American troops will initially have primary responsibility for "restoring basic civil order," a senior official said. But top generals want to stop performing police functions as soon as possible and have American soldiers and military police do only specialized tasks, like protecting airports and seaports and conducting counterinsurgency missions.

"The issue has never been the invasion," an official said. "The issue is disorder right after the invasion. This could make what happened in Panama look like chicken feed." He was referring to the looting and chaos that followed the United States invasion of Panama in December 1989.

Since the military ousted Father Aristide in September 1991, more than 3,000 Haitians have been killed, human rights groups say. Still, American experts argue that for all of the human rights abuses in Haiti, the Haitian military rulers have refrained from allowing more widespread killings in recent months for fear of triggering an American invasion and that the worst may be yet to come.

One reason the Pentagon is planning such a large invasion force of 20,000, a senior Administration official said today, is to shock the Haitian into submission and to control the entire country.

"The key is not just to invade the country—it is to sit on the country," a Government official said.

"HIT LISTS" REPORTED

The Clinton Administration has already received intelligence reports indicating that some local Haitian security forces have "hit lists" of local leaders they think would side with Father Aristide and of others they fear might lead mobs against them, Administration officials said.

American intelligence has also reported that the Haitian security forces might light fires in Cité Soleil, a major slum in Port-au-Prince, and other strongholds of support for Father Aristide. According to one intelligence report, the security forces plan to blame American troops for the fires.

A top official said the White House and Pentagon were seriously concerned about the possibility of widespread disorder and killing.

"It could go both ways," a Government official said. "You could have Government types going out and trying to kill Malval and supporters of Aristide and Aristide supporters seeking retribution." He was referring to Robert Malval, the powerless caretaker Prime Minister appointed by Father Aristide.

Officials declined to discuss their plans to protect supporters of Father Aristide, but acknowledged that establishing order would initially be an American responsibility.

No one can be sure of the scale of the violence, but experts say that the extent of the killings will depend on the ability of the United States and other forces to move quickly to prevent assassinations, engage in effective crowd control and build an effective security structure.

Recognizing the potential for disorder, Administration officials say that building a credible police force is a top priority. Building the force, however, is easier said than done.

One major concern is the makeup of the force. American officials said that Father Aristide was distrustful of rehabilitating much of the existing security forces, and has initially said that no more than 1,500 of the police force should be drawn from the existing Haitian security forces.

PANAMA AS A MODEL

But the Administration, which foresees a permanent force of about 3,000, has concluded that it is impossible to replace most of the Haitian military and police and is falling back on the model used in Panama of rehabilitating existing security forces.

In the meeting with General Shalikashvili, a senior Administration official said, Father Aristide softened his demand but he would still be directly involved in approving which Haitians serve in the police force.

One worry is that the Haitian security forces may flee, making it hard to recruit a force in Haiti. Another is finding and training Haitians outside the country. The Administration may recruit Haitian citizens in the United States and Canada and in refugee camps at Guantánamo Bay, Cuba, to serve with the interim police and work as interpreters and guides for American troops. Among the 1.6 million members of the United States military, only 124 speak Creole, the language most Haitians speak.

Another major problem is recruiting the international monitors who would help supervise the police, much as the United States did with the new police force in Panama after the invasion there.

"A major challenge is getting international police and monitors," said a senior Defense Department official. "We'd like to keep the U.S. military out of the policing business as much as possible."

In the last two days, Mr. Clinton has telephoned nine foreign leaders and Mr. Gore three to round up support for monitors.

"If you're a warm body and have police connections, we'll chase you," one American diplomat said.

CANADA OFFERS 100

Canada has offered 100 monitors and trainers, but only if they are deployed under the United Nations banner and not an American-led invasion force. American, Canadian and United Nations officials are to meet in New York in the next several days to work out a compromise. President Clinton called Prime Minister Yitzhak Rabin of Israel on Thursday to request police monitors.

A senior official said he hoped that the interim Haitian police force would begin to operate in "a week or more," an estimate that some Government officials say is overly optimistic.

Even as the United States helps establish an interim force, it plans to begin training a permanent civilian force. But training Haitian expatriates through a tiny Justice Department program could take four to six months. And the program of the Royal Canadian Mounted Police to train as many as 100 Haitians at its academy in Saskatchewan will take three months.

While the new Haitian police are trying to maintain order, the American-dominated force in Haiti would serve as backup "if there was rioting or looting that was more than the Haitian police force could handle," a senior Administration official said. "We'd be like the National Guard in Los Angeles that would be called upon. The idea is the large force would also be a deterrence to that kind of thing.

A senior official said that American forces would try to capture Haitian military leaders, but would not conduct a manhunt as they did in Panama and Somalia if the leaders escaped.

Administration officials said the American-dominated phase of the operation should end within seven months, with many of the key invasion forces withdrawn within weeks. After that, a 6,000-member United Nations peacekeeping force would take over. It would include about 3,000 American troops and would stay in Haiti until Father Aristide's presidential term expires in February 1996.

WHY THE AMERICAN PEOPLE ARE ANGRY WITH THE WAY CONGRESS WORKS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Maine [Mr. ANDREWS] is recognized during morning business for 5 minutes.

Mr. ANDREWS of Maine. Mr. Speaker, the U.S. Congress just doesn't get it.

Last night, this institution voted to spend hundreds of millions of tax dollars in unauthorized spending for 259 projects that failed to be approved by the authorizing committee of jurisdiction.

Many of these projects were rejected by the authorizing committee after careful consideration. Some were not considered at all. All of them were passed last night, on this floor, after being tacked on, at the last minute, by a conference committee.

No authorization; no approval by the authorized committee or jurisdiction, but hundreds of millions of tax dollars were spent anyway on the floor of this house.

This is wrong. And it is precisely why the people of this country are so frustrated and so angry with the way this institution works.

The House, in its version of the bill, when it went to conference committee, had no dollars in these special projects—these pork barrel projects. The Senate came into the conference committee with 135 million dollars' worth of these types of projects. The compromise between zero on the one hand and a $135 million on the other hand, was $290 million.

This is wrong. And it is why the American people are so frustrated with this institution.

And last night, as this was all going on, it became very clear to me how and why this is all happening. I heard the lobbying. And it went this way: You have to vote for this, because there is something in it for you.

And so it goes. Vote for this pork barrel bill of unauthorized spending, and even though it may be wrong, and even though it violates the very rules of this institution, there's something in it for you. So keep quiet. Go along and you'll get along.

Well, in fact, Mr. Speaker, there was spending in last night's bill that would have helped my district and my State. And I support the projects that were in the bill for my district and my State. I believe that they make sense. And because I believe that they are strong projects, I believe that they would pass a fair and open test of review and scrutiny by the appropriate committee of jurisdiction.

In short, I believe that these projects could stand on their own two feet and walk through the front door in full public view, instead of being slipped through the back door of a pork barrel process that violates common sense and fairness.

And so, I voted against last night's bill even though there was money in it for my district and my State. My vote, Mr. Speaker and Members of the House, will not be bought by the promise of some pork barrel spending in my district so that hundreds of millions of dollars of pork barrel spending can be wasted around this country.

I will not keep quiet. I wont go along to get along, when it comes to this kind of practice.

Passing this bill was wrong. It is why the American people are calling for change in Washington. And I believe that the people of this country are going to keep calling for change until this kind of politics as usual comes to a halt.

Mr. Speaker and Members of this body, the people of this country deserve better. It's about time that they got it.

□ 1140

FLAWED HAITIAN POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, here we stand again today with the threat of the use of an American military might on a nearby friendly neighboring country with no apparent justification for that. More signs, more indication, more heating up, more intensity. Why are we invading Haiti? Why are we even talking about this?

I read in the paper today that those who are opposed to our invasion of Haiti using our military force, sending our troops into that country, taking on the Haitian Army and the military, we are oppositionists, we are obstructionists, because we do not agree with the Clinton administration's policy that the only course left in Haiti is to go in there and shoot the place up and throw the military junta out and enforce democracy at the barrel of a gun. I do not think that is going to work, and I do not think most Americans think it is going to work.

I would point out those media folks who suggest that this is a Republican tactic had better look around a little bit, because there are good Americans of all types who are opposed to the invasion of Haiti, and there are many Members on both sides of the aisle, of both bodies, who are very much opposed to using military might to invade Haiti.

I maintain that there is no public support of a significant amount for such an invasion. There certainly is no justification that makes any sense that I have heard. And, even more puzzling, is why have not we had debate in this democratic institution, when we are talking about building democracy in Haiti, and yet we are bypassing one of the protective balances that we have in our own democracy; that is, deliberation in the House of Representatives, to weigh and balance such important matters when we are risking the lives of men and women in uniform in our country.

The White House is out there trying to sell, sell, sell their Haiti policy to our allies, to the American people, to themselves, and, frankly, nobody is buying it.

National Security Adviser Tony Lake has stepped up efforts to rationalize an invasion. First it was, well, it is a nearby country. Then it is, well, they have some drug traffic going in that country. Then it is, well, they may be destabilizing the region by the example they are setting down there. It goes on and on.

This morning we read it is American credibility. We said we were going to do something, so, by gosh, we have to do it. Get out the aircraft carriers, get out the Marines, get out the Air Force, get out our full might of the American Army to establish our credibility.

I wonder if Mr. Lake has weighed the credibility issue against the foolishness issue that is going to appear or the loss we are going to suffer among our other friends and allies in the Western Hemisphere who are going to wonder whether, if they do not do something exactly like we like, we are going to loose the same force on them and establish our form of democracy in their country at the barrel of a gun.

We have also heard justification for this that it is to stop refugee flights and curb gross abuses of human rights. Well, I am telling you, when you start down this road, it is a slippery slope. We have many friendly neighbors, many good people we work with, trading partners, people we know and love, get along with well, who do not happen to be Americans, but happen to be here nearby and have refugee problems and happen to be involved in some drug traffic and have human rights problems going on in their country, as there are in our own country. Countries like Mexico and Canada. In Canada, they have a separatist movement going on up there. Are we going to unleash our military because we do not exactly like the way things are going, because this is a bad example for our environment?

I think not. I think this is a very ill-advised policy that the administration has taken up in Haiti. There is talk now the whole hemisphere is behind it and is going to join us in an invasion force. There are some 17 countries that are going to provide some troops. It turns out that it would be less than 100 troops per country if it means out on an average, and, more than that, they are only going to come in in the second round. That is after the risks have been taken and stability restored by U.S. forces, and then these folks would come in and be peacekeepers, rather than members of an invasion. And there is a very big difference.

An ABC poll released yesterday found that 73 percent of Americans polled oppose United States-led military intervention in Haiti. That is about three out of four Americans. Seventy-eight percent of those polled believe that the administration should ask permission from Congress before they make the decision to go into Haiti—over three out of four.

Many of us are not even worried about the permission question. We are just asking for a rational justification, because I know and every Member knows, as sure as we stand here and participate, that we are regrettably going to be put in the position of explaining casualties to our constituents. When there is military might exercised, there are casualties, and it is our job to deal with that. That is part of a Representative's job. And I want to have a better answer when I have to look somebody in the eye and say ma'am, or sir, your son or daughter gave their life for our country for this purpose.

There has got to be a better purpose than politics of the domestic nature, and that seems to be what is driving our Haiti problem. Now we are talking about getting out our aircraft carriers and doing these others things. I think it is a terrible direction to go, and I hope Americans will speak out and say "no" to the invasion of Haiti.

AGAINST A CLINTON MISADVENTURE IN HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Florida [Mr. CANADY] is recognized during morning business for 5 minutes.

Mr. CANADY. Mr. Speaker, during the past several weeks we have unfortunately seen the Clinton administration move to the brink of armed intervention in Haiti. This step would, in my opinion, would be a tragic mistake.

When we send U.S. military forces to invade another nation, we should at the very least have a compelling national security interest in doing so, a plan for extracting our forces after we accomplish the mission, and broad public support for the undertaking.

Mr. Speaker, the planned invasion of Haiti meets none of these requirements.

Should the Clinton administration carry through with the planned invasion, we will be establishing our beachhead on quicksand.

To understand the quagmire we are getting into, we need only begin with the history of United States involvement in Haiti.

In 1915, the United States invaded and occupied Haiti with, among other things, the intent of restoring civil order and stabilizing the nation's financial crisis. This action was deeply and bitterly resented throughout Haitian society. None of the accomplishments achieved or institutions established by the occupation survived after the removal of U.S. troops in 1934.

There is no indication that the intervention in Haitian affairs planned by the Clinton administration would achieve more success or be any less resented by the populace.

It is also of grave concern, Mr. Speaker, that the return to power of Jean-Bertrand Aristide is the linchpin of our whole Haitian policy. Mr. Aristide has proven in the past to be erratic and unstable. He clearly is not the unifying force needed to restore order to Haiti and move the country forward.

Proponents of the administration's pro-Aristide policy constantly point to the fact that Mr. Aristide was elected with more than 65 percent of the vote. The fact that he was deposed after 7 months in office, however, proves that he has bitter differences with powerful forces in Haiti and that he is unable to resolve these differences in a peaceful and nonconfrontational manner.

Additionally, during the time he was in office, Mr. Aristide showed a disturbing tendency to disregard the Haitian Constitution on such important matters as the appointment of judges and questions surrounding human rights. Aristide's disregard for elected Haitian legislators and failure to condemn mob violence created tensions between the branches of government that helped precipitate Aristide's political demise. These tensions have not gone away in the years since the coup and would present yet another obstacle in the path to political and social order.

It is clear that Mr. Aristide's leadership already faces many difficulties, but these difficulties would only be compounded by the proposed invasion. If Aristide returns to power by the barrel of an American gun, his legitimacy in the eyes of the Haitian people would collapse. Anyone who understands Haitian history must admit that Haitians will bitterly resent anyone who is viewed as an American puppet.

This leads me to my next point. The remarks from the adminsitration's Haiti team have so far concentrated on the invasion and the retoration of Mr. Aristide to power. I have seen no evidence of a comprehensive plan for removing our soldiers and sailors out of harm's way. We must not allow ourselves to be embroiled in a protracted occupation quagmire which could result in the ongoing loss of American lives.

The Secretary of State and others in the Clinton administration have been busy wheedling members of the international community into supporting this ill-conceived expedition to Haiti.

Now the administration is proudly trumpeting the supposed broad support in the international community for an invasion.

Of course, we all know that in reality the troops from other countries which have been pledged to the invasion will be standing on the sidelines while the American troops are standing in harm's way. It is the American troops who will bleed and die.

So the key question is not what the members of the international community think about the planned invasion of Haiti. President Clinton should pay more attention to the views of the American people and less attention to government leaders from other nations.

The American people are overwhelmingly opposed to this misadventure. In the most recent public opinion poll, 73 percent of the people say the United States should not lead an invasion of Haiti. And 78 percent of the people should present the issue to Congress for its consideration.

I have talked with many people in the district I represent in central Florida. I can find no base of support for an invasion of Haiti. The people are dead set against this ill-advised course of action. They do not want to sacrifice one American life on the altar of the Clinton administration's bungled policy.

The American people remember Somalia. They remember the Americans who needlessly died there. They know that lives were lost on a mission which had no realistic goal and in pursuit of a policy that can only be described as incoherent.

The American people remember Somalia and they do not wish to repeat that disastrous experience on an even larger scale.

Whatever the reasons may be that have propelled the President toward an invasion of Haiti, he would do well to listen to the American people. He would do well to heed the demands of the American people and abandon his planned invasion of Haiti.

The United States has no business invading Haiti, and the President has no business initiating an invasion of Haiti without prior action by the Congress.

□ 1050

HEALTH CARE FOR RURAL AREAS

The SPEAKER pro tempore (Mr. BACCHUS of Florida). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Colorado [Mr. HEFLEY] is recognized during morning business for 5 minutes.

Mr. HEFLEY. Mr. Speaker, one of the almost forgotten areas of the health care debate is America's rural areas. I see our rural areas as the first test—the canary in the coal mine, if you will—of health care reform's success. I say that for two reasons.

First, rural areas are most vulnerable to Government mandates. Minimum wages, Davis-Bacon requirements, and other Federal laws raise the cost of labor and hurt rural economies.

Bill Clinton's employer mandate will have the same effect. A wage tax on employers, like the one included in the President's bill, will impact areas with low costs and labor intensive jobs—rural areas, in other words—the most. Employers in these areas don't have the resources necessary to cope with another wage tax. In the end, people will lose their jobs.

Second, rural health care problems pose the greatest challenge to health care reform. Rural areas have large populations of uninsured, low-income people. If Bill Clinton is going to live up to his promise of universal coverage, he will have to solve the health concerns of rural areas.

In that respect, I have before me a study conducted by the National Center for Policy Analysis conducted in 1991 which looks at rural health care availability around the world.

One conclusion I draw from this study is that rural health care concerns are universal. The problems facing my constituents in eastern Colorado are similar to those experienced in rural Canada or England—limited access, no specialists, poor equipment, etc.

The other conclusion I draw is that national health care is no solution to rural health care's problems. Consider the following findings:

People living in British Columbia's two largest cities receive 55 percent more specialists' services per capita than rural residents. British Columbia's urban residents are 5½ times more likely to receive services from a thoracic surgeon, 3½ times more likely to see a psychiatrist, and 2½ times

more likely to receive services from a dermatologist, an anesthesiologist, or a plastic surgeon.

After 40 years of national health care, people in rural England still have to travel to urban areas to access CAT scans and other modern medical technology.

In Norway, residents of Oslo are 15 times more likely to see a specialist than people living in the northern part of the country.

In Brazil's free health care system, urban residents see doctors nine times more often than rural residents.

Venezuela promises free health care to everyone, but all of Venezuela's free health care clinics are located in large cities.

In Mexico, where free health care is a constitutional right, 85 percent of the health care resources are consumed by 35 percent of the population, mostly residing in large cities.

In other words, national health care does not solve the problems facing rural areas. Not only do rural areas remain underserved, but the quality of care in general deteriorates in these countries.

Consider that both Canada and England have severely limited the access, of both rural and urban citizens, to such life saving procedures as open heart surgery and brain scans.

For example, a Canadian is one-third as likely to have access to open heart surgery and one-eighth as likely to obtain a brain scan as an American.

In England, which invented the CAT scanner and coinvented renal dialysis, has the fewest number of CAT scanners per person and one of the lowest dialysis rates in Europe.

In Ontario, hospitals shut down their beds and operating rooms to meet severe government-imposed spending cuts last year during the holiday season.

To save money, Canada is continuing the process of delisting certain cancer and other life saving services. Once they are delisted, Canadians must travel to the United States to receive these treatments.

For Canadians and the English, national health care means lower quality and less quantity for everyone. For people in rural areas, they face a double whammy.

Like their American cousins, living in rural areas means they have less access to health care. Unlike their American cousins, living in countries with national health care means the care they do receive is rationed and of lower quality.

Rural areas pose special problems that we need to tackle in order to ensure quality health care for our rural populations. For the reasons I stated above, however, increasing the role of government in our health care system is not the solution.

To the contrary, the record is clear that excessive government involvement in health care exacerbates the problems of rural areas, lowering access to care while reducing quality. To suggest otherwise is to ignore the experiences of Canada, England, and other countries that have experimented with national health care.

INVASION OF HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Missouri [Mr. EMERSON] is recognized during morning business for 5 minutes.

Mr. EMERSON. Mr. Speaker, the gentleman from Florida [Mr. GOSS] said that there is an idea afoot that it is only Republican obstructionism that stands in opposition to the invasion of Haiti. I am ordinarily in agreement with my friend, the gentleman from Florida [Mr. GOSS], but quite frankly, I find it difficult in this Chamber, with the exception of certain special interest caucuses, to find hardly anyone, Republican or Democrat, who stands in support of invading Haiti.

Indeed, I would call to the attention of the House something here I want to share. I find that one of the preeminent Democratic leaders in Missouri, our former U.S. Senator, Thomas Eagleton, has made a most poignant and persuasive statement in an article that appeared last Sunday in the St. Louis Post Dispatch in opposition to invading Haiti.

Under the heading, "Haiti Endangers the U.S. Constitution," Senator Eagleton wrote, I want to read, I want to share this, this is so poignant, his statement, that I want to share it with my colleagues and I will offer a little commentary of my own. But he said it so well, I do not want to digress too much from what Senator Eagleton had to say.

> Secretary of State Warren Christopher all but tells us that the decision to invade Haiti has been made. October might be the best made. October might be the best time politically, when there will be no annoying voices around town to object or question why. We already know the name of the first casualty of the Haiti invasion, the Constitution of the United States. The Constitution very clearly gives to Congress the authority to declare war and the President the duty, once war is declared, to wage it as Commander in Chief.

Let us remember, as I am sharing this commentary with you, that Senator Eagleton was the father of the War Powers Act, which so often is referred to in this body.

□ 1100

He is a person who knows this subject of which he speaks. He goes on to say:

> Congress most recently faced up to this responsibility in the Persian Gulf war. On January 12, 1991, the Senate, by a vote of 52 to 47, and the House of Representatives, by a vote of 250 to 183, authorized President George Bush to use American Armed Forces against Iraq.

Mr. Speaker, I very clearly remember the debate at that time. It was in the form of what we called the Bennett resolution: Did Congress have to authorize the President to do what President Bush was proposing to do in the Persian Gulf?

There were those who disagreed. Obviously 183 people voted against authorizing the President to use force against Iraq, but I was one of those who believed that Congress did have to vote, so I was one of the 250 who voted for the Bennett resolution that said Congress did have to vote to authorize such an involvement.

No question about it, the Persian Gulf war was a lot different than this prospective invasion of Haiti. The vital security and economic interest of the United States was at stake there. No such issue is at stake at all here vis-a-vis Haiti.

Senator Eagleton goes on to say:

> The gulf war was, to be sure, a big deal: We sent 400,000 American troops half a world away. Haiti, at least the invading of it, is a little deal: We will send 10,000 troops into a lightly armed, bankrupt nation in our own back yard. In the gulf war, we got in and got our ground forces out expeditiously. In Haiti, we, in some guise or other, are going to be there a while. In the gulf war, we had the assistance of allies like great Britain, France, Saudi Arabia, Egypt, and Syria. In Haiti we will have the vigorous support of troops from Jamaica, Trinidad, Barbados, and Belize, 265 strong.

He goes on and says a lot of other things, and, Mr. Speaker, I will include the entire Eagleton commentary from the St. Louis Post Dispatch of Sunday, September 11, at the conclusion of my remarks in the RECORD, but, Mr. Speaker, I want to go on to pull out a couple of other things that he said that I want you to hear:

"Alexander Hamilton stated," and this is quoting Senator Eagleton, "that in the scheme of orderly governance, certain things were 'so delicate and momentous' that to entrust them 'to the sole disposal' of the President was unwise. Hamilton spelled it out in the Federalist papers."

He concluded that—

> It was the authoritarian powers of the British king that the Framers did not wish to replicate in establishing the executive branch of the Constitution. War was too important to be left to the whims of one man.

Mr. Speaker, I commend to the President his earnest reconsideration of the prospect of invading Haiti. There is a lot wrong there. I think we should pursue our goals and ambitions through an orderly, diplomatic approach, rather than the use of troops. I seriously and sincerely urge the President to reconsider what I think, we all think, he is about to do.

Mr. Speaker, I include for the RECORD Senator Eagleton's article in the St. Louis Post-Dispatch:

[From the St. Louis Post-Dispatch, Sept. 11, 1994]

HAITI ENDANGERS U.S. CONSTITUTION

(By Thomas Eagleton)

Secretary of State Warren Christopher all but tells us that the decision to invade Haiti has been made. October might be the best time politically—when there will be no annoying voices around town to object or question why.

We already know the name of the first casualty of the Haiti invasion: the Constitution of the United States.

The Constitution very clearly gives to Congress the authority to declare war and to the president the duty, once war is declared, to wage it as commander in chief.

Congress most recently faced up to this responsibility in the Persian Gulf War. On Jan. 12, 1991, the Senate, by a vote of 52 to 47, and the House of Representatives, by a vote of 250 to 183, authorized President George Bush to use American armed forces against Iraq.

The gulf war was, to be sure, a big deal: We sent 400,000 American troops half a world away. Haiti, at least the invading of it, is a little deal: We will send 10,000 troops into a lightly armed, bankrupt nation in our own back yard. In the gulf war, we got in and got our ground forces out expeditiously. In Haiti, we, in some guise or other, are going to be there a while. In the gulf war, we had the assistance of allies like Great Britain, France, Saudi Arabia, Egypt and Syria. In Haiti, we will have the vigorous support of troops from Jamaica, Trinidad, Barbados and Belize—265 strong.

The scale of a war, however, does not affect the constitutional requirement for congressional authorization. (Military action can be initiated by "declaring war" or "authorizing" it by resolution.) To the Founding Fathers, all wars were important. James Madison considered war "among the greatest national calamities." Madison wrote, "In no part of the Constitution is more wisdom to be found than in the clause which confides the question of war or peace to the legislature and not to the executive department." George Mason said that he was "for clogging, rather than facilitating war."

Alexander Hamilton stated that, in the scheme of orderly governance, certain things were "so delicate and momentous" that to entrust them "to the sole disposal" of the president was unwise.

Hamilton spelled it out in the Federalist Papers:

The President is the commander in chief of the army and navy of the United States. In this respect, his authority would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy; while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies; all which by the Constitution under consideration would appertain to the Legislature.

It was the authoritarian powers of the British king that the framers did not wish to replicate in establishing the executive branch of the Constitution. War was too important to be left to the whims of one man.

A U.N. Security Council resolution and a resolution from the Caribbean Community and Common Market dealing with Haiti are not the constitutional equivalent of a vote by Congress authorizing the invasion of Haiti by American military forces. Why do we pursue the approval of multinational organizations and ignore the one entity that the Constitution mandates be consulted? Bear in mind, when Haiti is seized by American forces, it is the U.S. Congress that will have to appropriate the money to keep the impoverished nation afloat. No other nation or organization will give them a dime.

But no one seems to care about the constitutional niceties. No member of Congress wants to force the issue. No one is anxious to have his or her fingerprints on the decision.

If all goes well, if but few lives are lost, if we are in and out in a reasonable period of time, then everyone can claim to have been supportive of the effort. Everyone wins. On the contrary, if the mission, over time, is marred by failure or if we have to fund Haiti as something akin to a vassal province, then everyone can say, "I told you so. It never should have happened. It's all Clinton's fault."

On something as dicey as Haiti, it's better to stand up and be counted—afterward. That may not constitute a profile in courage, but it sure as hell beats voting on a hot potato right before an election.

STATUS REPORT ON EFFORTS TO STRENGTHEN THE REGULATORY FLEXIBILITY ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr. EWING] is recognized during morning business for 5 minutes.

Mr. EWING. Mr. Speaker, I am taking this time to bring my colleagues up to date on our efforts to put some teeth into the Regulatory Flexibility Act.

As my colleagues will recall, the Regulatory Flexibility Act, passed in 1980, requires Federal regulators to find ways to minimize the impact of regulations on small businesses and local governments. However, because judicial review is prohibited, most agencies ignore the RFA. Over 250 bipartisan House Members have cosponsored my legislation to allow judicial review of the RFA.

Last spring, Senator WALLOP passed an amendment to the National Competitiveness Act to allow judicial review of the RFA which is similar to our legislation. In July the House voted 380 to 36 to instruct conferees to accept judicial review of the RFA.

Vice President GORE's National Performance Review has made judicial review of the RFA its No. 1 recommendation for the Small Business Administration. In a report released just a few weeks ago, the NPR said, "Several administrative efforts have been made to improve the level of responsiveness to the RFA, but with little success. The fundamental solution is judicial review * * *" The report also said, "A credible threat of lawsuits would give agencies a strong motive to ensure that the RFA is followed."

Despite this strong endorsement, some bureaucrats in the Clinton administration are ignoring the NPR recommendation and are trying to gut judicial review. The Clinton administration has ignored its own announced policy and has proposed a series of crippling restrictions on the ability of courts to enforce the RFA.

For example, the administration wants to prohibit small businesses from filing an RFA suit against an agency unless they or their representatives had filed comments before the rule was finalized. They also want to prohibit judges from immediately staying a rule which violates the RFA. The Clinton administration has proposed several other restrictions on judicial review which would make the RFA as toothless as it is right now. None of these restrictions are contained in the NPR's recommendation.

The administration proposal has been roundly rejected by the small business groups which comprise the Regulatory Flexibility Act Coalition. It would appear that the Clinton administration is more interested in pleasing a few bureaucrats in the OMB and the Justice Department than in reducing the burden of Federal regulations on small businesses and passing one of the NPR's recommendations.

As conferees on the National Competitiveness Act meet I hope they will reject the Clinton administration's Reg Flex ruse and agree to full judicial review of the RFA, as endorsed by a vote of 380 to 36 in this House and recommended by the National Performance Review.

ON RESTORATION OF JEAN BERTRAND ARISTIDE TO OFFICE IN HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Florida [Mrs. MEEK] is recognized during morning business for 2 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I rise today with great anticipation that the United States of America, along with other members of the international community will finally, after almost 3 years, restore to his rightful office in Haiti Jean Bertrand Aristide.

The election of President Aristide in 1990 brought great hope to the people of Haiti. During his brief 7 months in office, he implemented dramatic reforms of all aspects of the Haitian Government. He balanced the budget, created an honest judiciary, eliminated governmental abuse of citizens, and began literacy campaigns and job creation programs. He was beloved by the people of Haiti.

The violent coup which overthrew the democratic government of Haiti was a great tragedy in our hemisphere. Now, finally, it appears that the Governor's Island Accord will be implemented under United Nations resolutions. Now, finally, President Aristide will be able to return to Haiti to begin to give the people of his country reason for hope.

President Aristide's economic reform program was presented to the international community in Paris just 2 weeks ago. It was unanimously approved by the World Bank, the Inter-American Development Bank, the United States, Canada, France, Japan, the European Community, and other donor nations.

President Aristide is ready to return to Haiti to lead his people to a brighter day. We can only hope that the day dawns soon for those in Haiti who pray to be rescued from the terror in which they now live.

RECESS

The SPEAKER pro tempore (Mr. BACCHUS of Florida). There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 11 o'clock and 10 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Reverend Dr. Randel Everett, First Baptist Church, Pensacola, FL, offered the following prayer:

Dear God, You are majestic. The heavens and the earth declare Your glory. Your splendor is evident in all that You have made. Father, these men and women who stand before You, Father, we pray that You will pour out Your blessings upon them. You know their personal needs as well as the burdens that they share for our Nation and even for our world.

Lord, we know that they are hard-pressed on every side, but help them to not be overwhelmed.

Lord, they are perplexed, but do not let them be crushed.

Father, we pray that You might give them wisdom and courage and a vision for the world that You have created for us to enjoy. You are our God, our rock, our fortress, and we take refuge in You.

In Thy name we pray, Amen.

THE JOURNAL

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

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

Mr. KYL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

Mr. KYL. 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. 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 214, nays 141, not voting 79, as follows:

[Roll No. 420]

YEAS—214

Andrews (ME)	Green	Oberstar
Andrews (TX)	Greenwood	Olver
Applegate	Gutierrez	Ortiz
Bacchus (FL)	Hall (OH)	Orton
Baesler	Hall (TX)	Pallone
Barca	Hamburg	Parker
Barcia	Hamilton	Pastor
Barlow	Harman	Payne (NJ)
Barrett (WI)	Hastings	Payne (VA)
Bateman	Hilliard	Pelosi
Beilenson	Hinchey	Penny
Berman	Hoagland	Peterson (FL)
Bevill	Hochbrueckner	Peterson (MN)
Bishop	Holden	Pickett
Bonior	Houghton	Pickle
Borski	Hughes	Pombo
Boucher	Hutto	Pomeroy
Brewster	Hyde	Price (NC)
Brooks	Inglis	Rahall
Browder	Inslee	Reed
Brown (FL)	Jefferson	Reynolds
Brown (OH)	Johnson (GA)	Richardson
Byrne	Johnson (SD)	Roemer
Callahan	Johnson, E.B.	Rose
Cantwell	Johnston	Rowland
Carr	Kanjorski	Roybal-Allard
Clayton	Kaptur	Rush
Clement	Kasich	Sabo
Clyburn	Kennedy	Sanders
Coleman	Kennelly	Sangmeister
Collins (GA)	Kildee	Santorum
Collins (IL)	Kleczka	Sarpalius
Combest	Klein	Sawyer
Conyers	Klink	Schenk
Costello	LaFalce	Schumer
Coyne	Lambert	Scott
Cramer	Lancaster	Sharp
Danner	Lantos	Shepherd
Darden	LaRocco	Sisisky
de la Garza	Lehman	Skaggs
DeLauro	Levin	Skelton
Dellums	Lewis (GA)	Slaughter
Deutsch	Lipinski	Smith (NJ)
Dicks	Lloyd	Spratt
Dingell	Long	Stark
Dixon	Lowey	Stenholm
Durbin	Mann	Strickland
Edwards (TX)	Manton	Studds
English	Margolies-Mezvinsky	Stupak
Eshoo	Markey	Swift
Evans	Martinez	Tanner
Everett	Matsui	Tauzin
Farr	Mazzoli	Tejeda
Fazio	McCloskey	Thompson
Fields (LA)	McCollum	Thornton
Filner	McDermott	Thurman
Fingerhut	McHale	Torres
Fish	McInnis	Torricelli
Flake	McKinney	Traficant
Foglietta	McNulty	Tucker
Ford (TN)	Meehan	Unsoeld
Frank (MA)	Meek	Valentine
Frost	Menendez	Vento
Furse	Mineta	Visclosky
Gejdenson	Minge	Volkmer
Gephardt	Moakley	Waters
Geren	Montgomery	Watt
Gibbons	Murtha	Waxman
Gilman	Myers	Wise
Glickman	Neal (MA)	Woolsey
Gonzalez	Neal (NC)	Wyden
Gordon		

NAYS—141

Allard	Gunderson	Petri
Archer	Hancock	Porter
Armey	Hansen	Portman
Bachus (AL)	Hastert	Poshard
Baker (CA)	Hefley	Pryce (OH)
Baker (LA)	Herger	Quillen
Ballenger	Hobson	Quinn
Barrett (NE)	Hoekstra	Ramstad
Bartlett	Horn	Ravenel
Barton	Hunter	Regula
Bereuter	Hutchinson	Roberts
Bilirakis	Istook	Rogers
Bliley	Jacobs	Rohrabacher
Blute	Johnson, Sam	Ros-Lehtinen
Boehlert	Kim	Roukema
Bonilla	King	Royce
Brown (CA)	Kingston	Saxton
Bunning	Klug	Schaefer
Burton	Knollenberg	Schiff
Buyer	Kolbe	Schroeder
Calvert	Kreidler	Sensenbrenner
Canady	Kyl	Shaw
Clay	Lazio	Shays
Coble	Leach	Shuster
Cox	Levy	Skeen
Crane	Lewis (CA)	Smith (MI)
Crapo	Lewis (KY)	Smith (TX)
Cunningham	Lightfoot	Snowe
Diaz-Balart	Linder	Solomon
Doolittle	Livingston	Spence
Duncan	Lucas	Stearns
Dunn	Manzullo	Stump
Ehlers	McCandless	Talent
Emerson	McCrery	Taylor (MS)
Ewing	McDade	Taylor (NC)
Fawell	McHugh	Thomas (CA)
Fields (TX)	McKeon	Torkildsen
Fowler	Meyers	Upton
Franks (CT)	Mica	Vucanovich
Franks (NJ)	Michel	Walker
Gallegly	Miller (FL)	Walsh
Gekas	Molinari	Weldon
Gillmor	Moorhead	Wolf
Gingrich	Nussle	Young (AK)
Goodlatte	Oxley	Young (FL)
Goodling	Packard	Zeliff
Goss	Paxon	Zimmer

NOT VOTING—79

Abercrombie	Engel	Nadler
Ackerman	Ford (MI)	Obey
Andrews (NJ)	Gallo	Owens
Becerra	Gilchrest	Rangel
Bentley	Grams	Ridge
Bilbray	Grandy	Rostenkowski
Blackwell	Hayes	Roth
Boehner	Hefner	Serrano
Bryant	Hoke	Slattery
Camp	Hoyer	Smith (IA)
Cardin	Huffington	Smith (OR)
Castle	Inhofe	Stokes
Chapman	Johnson (CT)	Sundquist
Clinger	Kopetski	Swett
Collins (MI)	Laughlin	Synar
Condit	Lewis (FL)	Thomas (WY)
Cooper	Machtley	Towns
Coppersmith	Maloney	Velazquez
Deal	McCurdy	Washington
DeFazio	McMillan	Wheat
DeLay	Mfume	Whitten
Derrick	Miller (CA)	Williams
Dickey	Mink	Wilson
Dooley	Mollohan	Wynn
Dornan	Moran	Yates
Dreier	Morella	
Edwards (CA)	Murphy	

□ 1224

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). Will the gentleman from California [Mr. TORRES] come forward and lead the House in the Pledge of Allegiance.

Mr. TORRES led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4217. An act to reform the Federal crop insurance program, and for other purposes.

INTRODUCTION OF DR. RANDEL EVERETT, GUEST CHAPLAIN

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

Mr. HUTTO. Mr. Speaker, I am pleased to introduce my pastor, Dr. Randel Everett, to the House today as our guest Chaplain.

Dr. Everett, who has been the beloved pastor of First Baptist Church in Pensacola, FL, for about 2 years, was born in El Dorado, AR. He received his bachelor of arts degree from Ouachita Baptist University and master of divinity and doctor of ministry degrees from Southwestern Seminary.

Dr. Everett is married to the former Shelia King of Albertville, AL, and they have two children, Jeremy, 18, and Rachel, 15. Prior to coming to Pensacola, Dr. Everett served as pastor of University Baptist Church in Fort Worth and has held other pastorates in Texas and Arkansas. He also served as Chaplain of the Arkansas House of Representatives during the 4 years in which he pastored the First Baptist Church of Benton, AR.

Dr. Randel Everett, who has long been active in denominational and community activities, has preached in Moscow, Ukraine, and other locations overseas. He is an outstanding religious leader, and we are pleased to have him with us today.

THE ADMINISTRATION'S HAITIAN POLICY IS A MISTAKE

(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, the American people clearly do not believe that invading Haiti is worth the life of a single young American. The American people overwhelmingly believe that the administration's Haitian policy is a mistake. It disturbs me that after weeks of public relations, the Congress still is not doing anything to be on record. Let me quote from the Speaker during Desert Storm/Desert Shield. He said, "If such a decision is taken, I think it would be incumbent on the President to seek the approval of the Congress." The Speaker said, "We must share in this decision. We have been elected to do it. The Constitution mandates it, and we would shirk our duty if we easily acquiesce in what the President decides."

The majority leader said, "I think we could be in a constitutional crisis because the Congress feels very strongly that we should be involved in a debate and a vote on that issue. I hope that the President will come to the Congress and ask for a declaration of war, or an approval of the U.N. resolution." The majority leader went on to say, "I think the Congress would show great displeasure with the President riding over the Constitution where it is at its clearest."

□ 1230

I just think that the Congress, since this has become so public and is so clearly opposed by the American people, and is so clearly a risk to the lives of young Americans, I believe the Democratic leadership owes it to schedule, before anything happens, an up-or-down vote in the House.

KEEP GUNS AWAY FROM KIDS

(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, today President Clinton signed a comprehensive crime bill, which bans semiautomatic assault rifles and prohibits kids under 18 from buying or possessing a handgun.

The vast majority of gun owners are decent, law-abiding citizens. But more and more assault rifles and handguns are ending up in the hands of our children. Boys who used to fight with fists now carry deadly firepower.

Two 15-year-olds and a 13-year-old in my district were arrested for the murder last month of a little girl, killed by random gunfire as she slept.

Three teenagers were arrested last week in the shooting death of two high school honor students.

And as students returned to school last week, two kids were shot in a gang fight just outside Evergreen High School.

This is crazy. We have to stop the senseless spread of guns and violence among our kids. The crime bill is only one step in this fight. I urge my colleagues to support tough measures to keep guns out of the hands of children.

DO NOT INVADE HAITI, MR. PRESIDENT

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

Mr. DOOLITTLE. Mr. Speaker, President Clinton, who could not find a single reason to take up arms against North Vietnam, has apparently decided that American blood and fortune are needed to shoo General Cedras from his palace in Port-au-Prince.

For which cause will American servicemen and women risk their lives? To restore democracy? Hardly. Ousted President Jean-Bertrand Aristide is no friend of freedom and is no friend of the United States.

Columnist Charles Krauthammer writes: "It is a curious American policy that seeks to advance American interests at the risk of American lives by installing an anti-American demagogue." That is not only a curious policy, Mr. Speaker, it is a rotten policy.

Mr. Speaker, I know the President is hungry for a foreign policy success, but invading the poorest country in the Western Hemisphere where the United States has no national interest is not the right way to save face, and is not in the best interests of this country.

SOCIAL SECURITY LIFE CERTIFICATE

(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, when his disability check did not arrive, Mr. Zimmerman of Roanoke, Virginia called the Social Security office and they said, "Mr. Zimmerman you're ineligible to receive any more checks because you're dead." He said, "Believe me, I'm not dead. I'm on the phone." He said, "No, Mr. Zimmerman, you are dead. In fact, you died on August 15."

Mr. Zimmerman went to a doctor. They gave him a certificate, said he was alive. Social Security investigated the certificate and finally said the Social Security office is dead wrong and Mr. Zimmerman is dead right.

Maybe there is a message to all of this. The Lord giveth and the Government taketh away. In America it has gotten so bad that not only does the taxpayer have to prove they are innocent in a tax case in court, now they have to prove they are alive to the Social Security Administration.

Beam me up.

INVASION OF HAITI NOT WORTH AMERICAN BLOOD

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

Mr. BUNNING. Mr. Speaker, why on Earth would the President of the United States be considering the invasion of tiny Haiti? Is it because we have an election 8 weeks from now and Mr. Clinton's poll ratings are in the cellar?

Clearly we are not planning to invade Haiti because of the threat that it poses to the United States.

Haiti does not have nuclear missiles aimed at the United States; it does not send subversives into other countries to overthrow their governments.

Haiti has not invaded a neighboring country and put the world energy supply in jeopardy; and, it does not operate as a base for terrorists and drug smugglers.

Haiti is not a threat to the vital interests of the United States.

There is no good reason for Mr. Clinton to undertake this foolish invasion that will cost the lives of young Americans and innocent Haitians.

The people of this country says "no" to an invasion of a tiny country that has done us no wrong. Congress must just say "no" to this senseless adventure.

Mr. Clinton's polls are not worth a drop of our servicemen's blood.

PEACE IN NORTHERN IRELAND

(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, for those of us who have prayed for peace in Ireland, these are critical days. All sides have made historic steps forward, but, not surprisingly, a great distance remains.

A lasting peace will not come quickly or easily—history is not soon forgotten. But we must make every effort to encourage dialog. And efforts should be made, as well, to encourage Unionist leaders to support the peace process.

The actions of extremists—on whatever side—cannot be allowed to derail progress. The opportunity to break with the hatred and violence of the past cannot be missed.

President Clinton gave his support to the negotiations, and helped so by granting Gerry Adams a visa. I also salute a former Connecticut Congressman, Bruce Morrison, for his role in helping bring about this accord. We all have those in own districts that have been working for years toward this end. In Connecticut, Richard Lawlor and Tom McBride deserve special recognition.

LET CLINTON LEAD THE CHARGE

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

Mr. HEFLEY. Mr. Speaker, Bill Clinton's Haiti policy has been erratic to say the least. His latest moves—preparing to invade Haiti—is unadulterated insanity.

Haiti holds no economic or strategic interest for the United States. It has no nuclear weapons pointed in our direction. Its military barely has enough money to buy uniforms. And its economy is in a shambles and the government we are seeking to restore to power is a disaster.

Yet Clinton is clearly positioning us to do battle. Well, I say it's never too late for Bill Clinton to get a little combat experience. If he's so sure we need to risk the blood of even one American soldier, let him lead the invasion into Haiti. Then all the Members of Congress who support Bill's excellent adventure can be the first wave of troops to hit the beach.

In my view, Haiti is not worth the loss of even one American life. But if we are going to risk lives, let it just be the lives of the policymakers who think war with Haiti is a good idea.

GEORGE LUCAS OF THE MOVIES HONORED FOR INNOVATIONS IN WORKPLACE

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

Ms. WOOLSEY. Mr. Speaker, the million of Americans who struggle everyday to balance the demands of work and family are our true unsung heroes.

That is why it is fitting that this morning, movie genius George Lucas, the man behind so many big screen heroes, was recognized by Working Mother magazine, and Secretary of Labor Robert Reich for his innovative efforts to create a family friendly workplace.

While Mr. Lucas is truly deserving of this honor, the real winners are the 800 persons employed by Mr. Lucas in Marin County, CA—the area that I am so proud to represent in Congress.

These families that work for George Lucas, are provided benefits such as child care, flex time, paid family, and medical leave, as well as health insurance for domestic partners and their dependents.

Mr. Speaker, Congress would do good to follow the lead of George Lucas by encouraging businesses to ease the burden on working families. On behalf of working parents across this Nation, I say to George Lucas, "Thank you, and may the work force be with you."

□ 1240

REMEMBER PORT-AU-PRINCE?

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

Mr. BALLANGER. Mr. Speaker, remember the Maine.

Remember the Alamo.

Remember Pearl Harbor.

Remember Port-au-Prince?

Not exactly a stirring reason to invade a country.

Why is the Clinton administration blundering uncontrollably into a half-baked invasion of our tiny neighbor to the south?

Why are we risking American lives to pursue domestic policies in foreign countries?

Mr. Speaker, I have a better alternative to the Clinton policies.

Let us lift economic santions so the poor Haitians will have a chance to eat.

Let us sponsor new elections under United Nations supervision, so we can give the Haitian people a chance to select their own leaders. And let us leave our troops at home.

Remember Port-au-Prince? Let us forget about an invasion.

JOIN IN THE BIPARTISAN SKAGGS RESOLUTION

(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 proudly join with many in the bipartisan resolution being led by the gentleman from Colorado [Mr. SKAGGS].

And what does it say? It says this House must have a debate on Haiti; of course, we must have a debate on Haiti. There is no reason not to have a debate on Haiti.

We should never commit American lives offshore anywhere without people being fully convinced there is some national interest that is really worth that. At this point, I am not convinced.

I will give the President his chance to come and try and convince us, but I really think to try and evade that convincing of us is wrong constitutionally, is wrong politically, and does not really fall in the way that it should and has in the past.

I hope everybody joins the Skaggs resolution.

HAITI: CONGRESS SHOULD NOT LET PRESIDENT CLINTON LEAD PUBLIC ASTRAY

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

Mr. KNOLLENBERG. Mr. Speaker, by all accounts, President Clinton is leading us into a war with Haiti.

But unlike the wars of our fathers and grandfathers, who participated in conflicts out of deep-set, national principles, this administration is determined to be so short-sighted as to believe that transparent political ends justify America's very real human costs.

President Clinton has stated that he will not seek congressional consent. Instead, he will try and convince the American public that this tiny Caribbean nation is worth needless bloodshed and millions of dollars.

The administration says that we should do this because of our role as the world's only remaining superpower. However, this is precisely the reason we should not be embarking on this foolhardy strategy. And to resort to

"Big Stick" policies is not an approach that will help bolster the United States' international reputation.

Yes, we should be concerned about the situation in Haiti, but no more so than those situations we are dealing with in Bosnia, North Korea, China, and Somalia. President Clinton needs to come to grips with the fact that his policies must be anchored by the true conviction of his principles and not his political concerns.

The invasion of Haiti is not worth one drop of American blood.

ANTICIPATED RULES REQUEST FOR H.R. 3171, DEPARTMENT OF AGRICULTURE REORGANIZATION ACT OF 1994

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

Mr. DE LA GARZA. Mr. Speaker, pursuant to rule 37 of the House Democratic caucus, I rise to inform Members of my intention as chairman of the Committee on Agriculture to seek a modified open rule that will provide for the consideration of H.R. 3171, the Department of Agriculture Reorganization Act of 1994.

I anticipate seeking floor consideration of the bill next week. At this time it is my intention to request a rule that will require some type of preprinting requirement for amendments.

I want my colleagues on both sides of the aisle to be fully aware of my anticipated rule request so that they will have adequate opportunity to prepare and make available to the Committee on Rules any amendments which they may wish to offer. If any Member has questions, please feel free to contact Mr. Andy Baker, one of our committee counsels, at 225–1663.

Mr. Speaker, I thank my colleagues for their cooperation.

IMPUGNING THE PRESIDENT'S MOTIVES WON'T HELP THE HOUSE FULFILL ITS CONSTITUTIONAL RESPONSIBILITIES

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

Mr. SKAGGS. Mr. Speaker and my colleagues, the gentleman from Illinois [Mr. DURBIN], the gentleman from New York [Mr. BOEHLERT], and I are cosponsoring a bipartisan effort to make sure this House fulfills its constitutional responsibilities in the matter of Haiti and votes prior to any invasion.

I have talked extensively with members of the administration about this, and while we disagree about the underlying policy considerations, I am absolutely convinced of the honesty and straightforwardness of their motives. The President is seeking a resolution in Haiti for reasons he thinks are in the national interest and important internationally. It does not serve the purposes of an informed and respectful bipartisan engagement on this issue to have the motives of the President or the administration impugned in the course of a very, very important debate, a debate that ought to be carried out by this body on the merits, with serious regard to our constitutional responsibilities and without suggesting that there are ulterior motives at work.

INSTALL DEMOCRACY, NOT ARISTIDE

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

Mr. COX. Mr. Speaker, I rise in strong support of the remarks just made by my colleague from Colorado and my other colleague from Colorado preceding him.

President Bill Clinton, Warren Christopher, Madeleine Albright have all told us, they have announced publicly, they intend to invade Haiti upon the authorization of the United Nations, but not the authorization of the United States Congress. Why? Why is Bill Clinton willing to seek a vote of the United Nations but unwilling to seek a vote of the Congress?

The answer is because while he claims that the purpose is to restore democracy to Haiti, the stated objective is to restore the Marxist demagog, John Bertrand Aristide. Just before the erratic Mr. Aristide was ousted, he made the following speech in support of necklacing, the necklacing of his opponents, burning them to death by giving them a necklace filled with gasoline and setting it afire.

He said, "What a nice tool. What a nice instrument. What a nice device. It is a pretty one. It is elegant, attractive, splendorous, graceful, and dazzling. It smells good. Wherever you go, you feel like smelling it."

Mr. Speaker, if put to a vote, the U.S. Congress will not support a policy based on installing Aristide instead of installing democracy.

LET US DEBATE AND VOTE ON INVOLVEMENT IN HAITI

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

Mr. PENNY. Mr. Speaker, I rise to add my voice to those to support the Skaggs resolution. This resolution was referenced by earlier speakers and by the gentleman from Colorado [Mr. SKAGGS] himself just a minute ago.

The resolution simply calls upon the Congress to schedule a debate and a vote on the issue of American involvement in Haiti. I am one of those Members who is inclined to support the President's position on this issue. I have indicated my support for many of the issues they have undertaken to date, and I am inclined to support the provisions of the U.N. resolution recently approved.

But I do not believe that this is an action that can be taken by the President of the United States without the approval of the U.S. Congress. This is, by any definition, a foreign engagement. The Constitution is very clear on this point. A debate and a vote is required, and the President would do himself a disservice if he proceeded to take action without the kind of debate that will bring the American public behind this decision.

INVASION OF HAITI

(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, 73 percent of Americans are against invading Haiti. Probably 80 percent of the Congress is against invading Haiti. Canada will not participate and neither will any other major government in our hemisphere. No European ally has signed on. A few hundred Caribbean military will help as peacekeepers after we win the fight and probably lose a few Americans by storming those beaches.

No American citizens are in immediate danger as was the case in Grenada. Now, there is not going to be any vote in Congress, at least we do not think so right now, and all to put a man of questionable sanity in power who sanctions putting a tire around people's necks and gasoline in it and burning them to death.

Now the President has asked for approval of the United Nations but not approval of the Congress that represents the people of this country.

Let the American people, Mr. President, be heard; please, do not be arrogant where American blood is at stake.

□ 1250

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TORRES). Members must address their remarks to the Chair.

CONGRESS SHOULD VOTE BEFORE MILITARY ACTION IS TAKEN WITH REGARD TO HAITI

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

Mr. MAZZOLI. Mr. Speaker, those of us who served in the House in 1991,

when we debated the issue of the gulf War, remember that remarkable 2-day period as one of the most elegant and eloquent periods in the history of the House. Every Member, virtually to a person, had an opportunity to talk about the issue from his or her perspective. The President won that vote, we prosecuted the war, it was quick, it was clean, and basically it had the support of the American people.

What I very much fear from what I hear at least, that the White House seems to be devoted to going to war in Haiti without having had this elegant, and eloquent, and complete debate, is that the invasion of Haiti will not have the support of the American people, and we saw what happened during the Vietnam war, which was some years ago, but there we had a difference of opinion on the wisdom of that action which eventually wound up in national discord.

I really believe, Mr. Speaker, that the interest of the White House, of the administration, of the Nation, of the Congress, of all of us together, would be very well served by having this debate and having a vote but not to take action toward Haiti before the vote.

CONGRESSIONAL ANALYSIS AND DEBATE IS WARRANTED BEFORE ACTION IS TAKEN IN HAITI

(Ms. MOLINARI asked and was given permission to address the House for 1 minute.)

Ms. MOLINARI. Mr. Speaker, there is great concern for the President's Haitian policy at home and abroad. Nationally people do not understand it, and people feel it. Internationally former U.S. Ambassador to the United Nations, Jeane Kirkpatrick, writes, "Canada turned down appeals to join the force, no European ally of the United States will participate in the military phase of the operation, no major government of this hemisphere will join in the invasion."

This should tell us something. It should tell us that at the very least congressional analysis and debate is warranted. If Bush, Powell, Schwarzkopf, and Cheney had to come before Congress for Operation Desert Storm, then clearly Clinton, and Christopher and Strobe Talbot must be subject to the same effort.

Our allies have said, "We don't have a stake in this." Our neighbors tell us, when we go home, they do not understand it, and we all believe that our military deserves much better than this. They deserve an explanation, and clearly, Mr. Speaker, there is bipartisan support for a congressional debate on this action, and we only hope, and for the military we pray, that the President hears what is going on in the well of Congress today.

LET'S NOT DO IT AGAIN

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

Mr. HUTCHINSON. Mr. Speaker, when I visited Haiti a few years ago, I found a fiercely proud and independent people. They threw the French out in 1804, and, while they cannot keep us out, they can inflict bloody casualties. It would be a terrible, terrible misjudgment to invade Haiti.

Mr. Speaker, they may hate the current military dictatorship, but the minute we invade and install Aristide, we will become the object of their resentment and hatred. Going in will be the easy part; getting out will be much more difficult. Once we put Aristide in, then we must prop him up.

The last time we went in, Mr. Speaker, we were there 19 years, and I say, "Let's not do it again. There is no compelling national interest, and, Mr. Speaker, I'm deeply troubled by an administration that eagerly seeks the blessing, approval and sanction of the United Nations and cavalierly dismisses the United States Congress as an irrelevancy."

WHAT ARE THE PRESIDENT'S MOTIVES IN HIS HAITIAN POLICY?

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

Mr. EWING. Mr. Speaker, Members have come to the well today who say we should not disparage the President's motives in his Haitian policy, but we do not know the President's motives. Mr. Speaker, the President should have the responsibility to inform this Congress of his motives in Haiti before he does anything.

Mr. Speaker, we learned, or should have learned, a lesson in Vietnam. We cannot dictate the government of nations around the world.

I find our policy, between Haiti and China, so inconsistent; how we can accept a dictatorship in one country and deplore it in another? I suggest the President has a responsibility to this body to make his policy known, and his motives.

DEFINE "VICTORY"

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

Mr. KLUG. Mr. Speaker, I have to ask this morning whether we are about to invade Haiti or whether we are going to adopt Haiti. As my colleagues know, we have had this unruly stepchild under our guidance once before, and it was an absolute disaster. The United States won that initial fight easily, too, in 1915, Mr. Speaker, and then spent 19 years chasing and fighting 10,000 armed guerrillas across the countryside.

I do not think we can send a single U.S. soldier to die on the beachhead until we understand how we are going to define victory and how we define when we are going to go home. There is no vital United States interest in Haiti, no strategic threat, no threat to a single American except for the young American soldiers who will soon be ordered to become Haiti's cops.

"When you ad lib a mission, Mr. President, you lose. Look at Vietnam. Look at Somalia. And look at Lebanon."

My constituents do not understand why we want to run the international affairs of Haiti, and frankly, Mr. Speaker, neither do I.

PRESIDENT CLINTON SHOULD REQUEST SURGEON GENERAL'S RESIGNATION

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

Mr. STEARNS. Mr. Speaker, earlier this summer, 87 Members of this House signed a letter to the President calling for the resignation of Surgeon General Joycelyn Elders based on the divisive nature of her use of her office. Subsequently, a number of other Members of the House, both Republican and Democrat, joined in that call.

The White House's response to this letter stated that, while Dr. Edlers' statements were controversial, they served to broaden debate on matters related to public health. In this context, I would like to remark upon a recent statement by Dr. Elders.

In a comment quoted by Margaret Carlson of Time magazine, Dr. Elders caustically described the Catholic Church as "filled with celibate old men in love with the fetus." Ms. Carlson went on to note, "that's enough to offend those of us who believe that abortion should be safe, legal and rare. Imagine the outrage of Catholics."

The type of intolerance and contempt that this latest remark by Dr. Elders exemplifies cannot be tolerated from an elected official. Nor can her recent statement that selling cocaine is not a crime.

Dr. Elders has been given every opportunity to change her ways, but she refuses. Once again, I call for President Clinton to ask for her resignation.

OUR PRESIDENT HAS THE CONSTITUTIONAL RESPONSIBILITY TO COME TO CONGRESS FIRST

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

Mr. DURBIN. Mr. Speaker, I have listened to the speeches this morning, and it is very clear that with few exceptions my Republican colleagues are expressing their opinions very strongly on the question of Haiti and the question of whether the President should take military action without the approval of Congress. Having served here a few years, Mr. Speaker, I find it curious that this same political party was largely silent when President Reagan invaded Grenada and President Bush invaded Panama, but I will say that some Members on both sides have been consistent when it comes to all of these conflicts.

For those who argue that President Bush came to Congress to ask our approval before the Persian Gulf war, they are rewriting history. The Bush administration begrudgingly acknowledged the fact that they had to face congressional approval, and they put up the good fight, and they prevailed, but there was never any enthusiasm from the Bush administration to adhere to the very clear edicts of our Constitution.

Now we face, I think, a similar challenge today with Haiti before us. There should be an argument on this House floor, and in the Senate as well, as to the wisdom of our policy in Haiti, but that argument, whether it is won or lost by the administration, must be made under the terms of the Constitution.

I am happy to cosponsor the resolution with the gentleman from Colorado [Mr. SKAGGS] and the gentleman from New York [Mr. BOEHLERT] to remind the President of his constitutional responsibility to come to Congress first.

AFTER WE INVADE HAITI, WHAT THEN, MR. PRESIDENT?

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

Mrs. VUCANOVICH. Mr. Speaker, I am very alarmed to see President Clinton's erratic Haiti policy take yet another dramatic turn to one of imminent invasion. Unfortunately, the question is no longer if we invade Haiti, but when we invade Haiti.

I am alarmed because I do not understand how Haiti poses a threat to United States national interests. I am alarmed because most foreign policy experts say a quagmire similar to Somalia awaits the United States in Haiti. It is certainly not worth putting thousands of American lives at risk.

Former Assistant Secretary of State of Inter-American Affairs Elliot Abrams sums it up best:

After we invade Haiti? What then, Mr. President? When will the troops be withdrawn? When will Haiti become democratic? What if that takes 10 years?

Should our soldiers act as Mr. Aristide's bodyguards? And what if Mr. Aristide misbehaves, jailing opponents or advocating violence against them? Will the administration that put him back in power then take him out? As in Somalia, intervening is easy; it is getting out that will be hard.

Mr. Speaker, at the very least, President Clinton should not put American troops into harm's way without the support of the Congress and the American people. As far as most Nevadans I have talked to are concerned, American troops have no business in Haiti.

□ 1300

EXPANDED WELFARE ENTITLEMENTS WOULD LEAD TO MASSIVE GOVERNMENT SPENDING

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

Mr. ISTOOK. Mr. Speaker, the frontal assault has been abandoned, but the health care debate is not over. Watch out for a sneak attack. Using misleading labels, some in Congress are trying to push us into another welfare entitlements trap.

The biggest deception is the innocent-sounding suggestion that we develop new Federal subsidies to help low-income families to buy health insurance. But the phrase "low-income subsidies" is a code phrase for expanding our already-troubled welfare system. "Low-income" is being broadly defined to include 63 million or more Americans, even some who already earn up to $36,000 a year.

This is a huge expansion of welfare entitlements. Estimates show these plans would require $80 billion to over $130 billion a year in new Government spending.

This would cost taxpayers more than the 1993 Clinton tax hike, which was the largest in American history.

Government already pays for over 40 percent of the health care in America. Is that not enough? My view is straightforward: Any plan that expands Government spending, or expands the number of people dependent on Government, does not deserve to be called "reform." And it does not deserve to pass.

NO EXCUSE TO INVADE HAITI

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

Mr. HERGER. Mr. Speaker, it is outrageous that the Clinton administration is considering an invasion of Haiti. Choosing sides in Haitian politics is not worth the loss of a single American soldier's life. An American invasion will not restore democracy in Haiti. Aristide is a would-be dictator, whose complicity in human rights violations is documented in national press reports. He has praised torture, jailed political opponents, and threatened others with death.

The only reason an invasion is imminent is political. The Clinton foreign policy needs to demonstrate some backbone, and the President hopes for a bump up in the polls.

Mr. Speaker, we need to debate this issue in the Congress. American troops are not pawns, and this administration should not endanger them to further its voodoo foreign policy.

NO ONE AGREES WITH CLINTON ON HAITI

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

Mr. DELAY. Mr. Speaker, yesterday's Washington Post summed up the doubts of the Nation about the President's policy on Haiti.

It said:

As President Clinton presses ahead with plans to invade Haiti, it is not clear that such action is in the U.S. national interest or that Clinton can overcome potentially strong opposition from Congress and the U.S. public opinion foreign policy experts say * * *.

The Post went on:

The experts say that if Clinton flinches from his unequivocal, public threats to use force, he would be regarded as a laughingstock in foreign ministries around the world. His only hope of avoiding such humiliation, without invading, would be if Haiti's military rulers heed U.S. calls to surrender power and leave the Caribbean island republic.

How many times have we heard this plea that America must swallow a bad policy in order to salvage this President?

Somewhere this administration has gotten it backward. It is the President's job to serve the people, not the people's job to serve the President.

America's foreign policy should be about protecting America's interests, not protecting the President from being a laughingstock, or being humiliated as the Washington Post said.

Mr. Speaker, we need a vote on Haiti. We need to let the American people speak through their representatives.

THE WEINBURGER USE-OF-FORCE PRINCIPLES

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

Mr. KASICH. Mr. Speaker, we should consider the Weinburger use-of-force principles, as enunciated in a major speech from the Secretary: When it comes to the United States use of force, No. 1, the question is, is there a direct United States interest in going to Haiti? The President has not shown it.

Is there an achievable goal? The President has not explained it.

Is there an exit policy, a policy for leaving wherever we go with U.S.

force? The President clearly has not shown it.

And do the American people and does the Congress support the military action? Obviously the President has not rallied that support.

If the President of the United States or any President of the United States cannot show a direct U.S. interest, demonstrate an achievable goal, clearly outline an exit policy, and rally the American people and the Congress to support that military action, it should not be undertaken.

Mr. Speaker, we need a debate on this House floor.

VICIOUS MURDERS OF ST. PAUL POLICEMEN EMPHASIZE WHY WE NEEDED CRIME BILL

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

Mr. VENTO. Mr. Speaker, August 26, 1994, was a tragic day for Minnesota; in the community of St. Paul, on my own eastside, two of our finest St. Paul police officers were shot dead.

This inexplicable crime is mourned by the families, their fellow officers, and the whole community and State. The death of Officers Ron Ryan Jr. and Tim Jones remind us in poignant terms of the risk and violence that pervades our Nation's city streets and rural byways.

The assailant was from out of State. He was sleeping in his car in the parking lot of the Sacred Heart Parish, awoke and unstable when pressed, he lashed out with a hail of gunfire that cost Ron Ryan, Jr., his life. As a 2d year patrolman who had already distinguished himself, Ron Ryan was a young man following in his father's career, Ron Ryan Sr. Sadly, Ron Ryan gave his life in performance of his role as a St. Paul law enforcement officer.

Officer Tim Jones, with his canine partner "Laser", found the suspect shortly thereafter in a stored ice fishing house. Before they could act both Officer Tim Jones and the police dog "Laser" were shot and died together. Officer Jones, a national award winning canine officer, again gave his life in the name of doing his job.

Today President Clinton signed the crime bill with provisions for prevention, police, punishment and prisons into law. The President rightly asserted that the task is to convert the 1,000-plus page document now a law into action. To do so we must rely upon the law enforcement and police authorities at the local level; the laws on the books have to be administered and implemented, and that is the role, the responsibility and the duty that Ron Ryan, Jr. and Tim Jones accepted and gave their lives to achieve. This law promises 100,000 additional law enforcement officers to take up that challenge.

Every day on the streets of our Nation, men and women put on a uniform or a badge to carry out the role of maintaining order in our society; they deserve the best tools, resources, and backup available, so they can successfully complete their assignments.

In the final analysis, the burden falls upon these dedicated few, the thin blue line, to maintain law and order.

Mr. Speaker, our community mourns the loss of its dedicated sons and extends our heartfelt sympathy to the very special families and fellow law enforcement officers my hope is that the new Crime Act that President Clinton signed today will be a clarion call across this Nation to reduce the incidents of violence and mark from this point in time a new day and renewal of the ideas of freedom and values of our Nation and a commitment to work together with the law enforcement personnel who we trust with our personal safety. It is important to remember that the price of law and order is not only measured in dollars, but in lives lost.

PUBLIC HEARINGS NEEDED BEFORE ANY INVASION OF HAITI

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

Mr. GILMAN. Mr. Speaker, the President has made it abundantly clear that he is about to order United States servicemen into battle in Haiti. Though he has sought the approval of the U.N. Security Council and other foreign powers, the President has not yet made his case to the American people or to the Congress that U.S. security and U.S. interests justify the risk to American lives.

Today I called on the chairman of our Committee on Foreign Affairs to hold public hearings to hear from Secretary of State Christopher and Secretary of Defense Perry on this momentous issue. I hope that we will do so, and do it promptly, including considering legislation that reflects the will of the Congress on this issue.

The American people expect no less from us than to debate and examine this matter fully and put ourselves on the record before any U.S. armed personnel put their lives on the line.

NATIONWIDE CONCERN ABOUT HAITI POINTS UP NEED FOR HEARINGS

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

Mr. GOSS. Mr. Speaker, there is no question that the subject of the invasion of Haiti is dominating the media, it is dominating conversation in town and around the beltway, and it is dominating conversation across the country. We heard it in special orders last night, in morning business today, and in these 1-minutes now. It is clear that the discussion and the concern about an invasion of Haiti is there.

Why does the Democratic leadership not get the picture and schedule a debate and let us have a vote and let us get about the business of deliberation? What extraordinary irony it is that when we are trying to set the example of democracy in the Western Hemisphere and for the whole globe, we are not following the trend and the pattern, of democracy in our own House, going through the democratic process of representative government, letting each person weigh in on this subject.

We are talking here about something far more than sending a signal. As the distinguished chairman of the Foreign Affairs Committee has said, we should have this debate because we are talking about utilizing the lives of the men and women in the armed services of America. They deserve this consideration, and they deserve our debate.

□ 1310

RESPONSIBILITY OF THE HOUSE TO DEBATE ISSUES AND EXPRESS THE VIEWS OF THE PEOPLE

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

Mr. HAYES. Mr. Speaker, constitutional scholars can view both the War Powers Act and article I, section 8 of the Constitution and argue the implications as to just what the executive branch, embodied by the President, can or cannot do regarding an invasion. But there is no equal intellectual argument to differentiate between scholars as to what the obligation of a Member of the House of Representatives is to the over half million people who call them Congressmen. That obligation is for the people on this floor to discuss, to debate, and to make a deliberative attempt to bring the issues before the public, and then to express the public's views.

Whether those views are binding on the President, whether they are instructive to the President, or whether in his judgment he must indeed differ with those views, or agree with those views, is a consequence. But there is no question that the day this House relinquishes the power to debate and discuss, it relinquishes the power of the people, by and for them, and for that there is never going to be a scholarly constitutional excuse or defense.

CRIME BILL IRONY

(Mr. MICA asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, what an irony that the crime bill President Clinton signs today contains a ban on rifles with grenade launchers and weapons on which you can attach a bayonet, but not a ban on Cessna aircraft.

What an irony it is that a mentally ill veteran who attacked the White House lost his business and could not get proper care from the country he served.

Is it not ironic that it is easier for an illegal immigrant to get Government care and benefits than an American veteran?

Is it not ironic that a thousand armed police could not stop an assault on our fortified White House?

We can put a million police on our streets, build 10,000 prisons and pass a hundred more laws.

But until we change Federal policies that kill business, ignore care for our own, destroy our families and send the wrong message about drugs to our children, and continue a welfare system that rewards failure and penalizes success, we will continue to fail.

And finally, until we return some sense of values, respect for human life and discipline in our classrooms, we will not solve the crime problems facing our Nation.

CONGRESS SHOULD ACT BEFORE INVADING HAITI

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

Mr. WALKER. Mr. Speaker, it is disturbing to have the news reports that an invasion of Haiti is imminent, particularly since most of Congress has not been consulted on this matter and most of Congress has in fact indicated in one way or another that they do not approve of the direction the administration has been going. This is an administration that went to the United Nations and asked their permission to move in Haiti. It is an administration that went to the OAS and asked their permission to move in Haiti, but has not yet come to the Congress of the United States that is going to have to supply the money and supply the moral backing for this action should it take place.

It seems to me it is absolutely incumbent upon this administration to come to the House of Representatives and come to the U.S. Senate and ask us to act on this matter before the troops are moved. Not to do that, it seems to me, will have an action under way by our military that will lack the moral authority necessary for long-term, sustained military actions.

We have made mistakes like that in the past. We ought to have learned from those mistakes. We ought not make that mistake again.

REQUEST BY MEMBER TO OFFER PRIVILEGED RESOLUTION ON HAITI

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

Mr. TAYLOR of Mississippi. Mr. Speaker, I have at the Speaker's desk a privileged resolution raising a question of the privileges of the House. I offer that resolution, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. TORRES). Under the rules of the House, the gentleman may announce his intention, but may not call up the resolution at this point.

Mr. TAYLOR of Mississippi. Mr. Speaker, I wish to address the Chair on that matter.

The SPEAKER pro tempore. The gentleman is recognized for 1 minute.

Mr. TAYLOR of Mississippi. Mr. Speaker, I am requesting a vote on a privileged resolution. This resolution is similar to the resolution that passed the House on January 12, 1991. That resolution expressed the sense of Congress that Congress must approve any offensive action against Iraq.

This resolution is a privileged resolution under the rules of the House of Representatives, under rule IX, which states, "Questions of privilege shall be, first, those affecting the House collectively."

Second, section 664 of rule IX entitled "General principles as to precedence of questions of privilege" states that "as the business of the House began to increase, it found necessary to give certain important matters a precedence by rule, and such matters are called 'privileged questions.'"

Section 664 goes on to state, "Certain matters of business, arising under the provisions of the Constitution mandatory in nature, have been held to have a privilege which superseded the rules establishing the order of business."

One provision of our Nation's Constitution that is most clearly mandatory in nature is article 1, section 8, clause 11. It states, "The Congress shall have the power to declare war * * * to raise and support armies, to maintain a navy, to make rule for the Government and regulation of the land and naval forces."

Mr. Speaker, the events of the past few days can lead one to no other conclusion than that the President of the United States intends to wage war against Haiti. As of yesterday, the President had received commitments from 17 heads of state to participate in this war. Last night, the major news networks reported on our Nation's military preparedness for an invasion of Haiti.

This Congress cannot stand idly by and avoid our constitutional duty. The decision to declare war rests solely with the Congress of the United States.

I request that the Chair rule immediately on this resolution, and in making that ruling, abide by section 664 of the House rules, of rule IX, "General principles as to the precedence of questions of privilege."

Once again, it states, "Certain matters of business arising under the provisions of the Constitution mandatory in nature have been held to have a privilege which has superseded the rules establishing the order of business."

Obviously, the decision to go to war with Haiti is directly affected by a provision of the Constitution mandatory in nature.

This resolution is therefore a privileged resolution as defined by rule IX of the rules of the House of Representatives.

The SPEAKER pro tempore. The Chair at this time will read from rule IX. A resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within 2 legislative days after the day on which the proponent announces to the House his intention to offer the resolution and the form of the resolution.

The Chair would state at this point that the gentleman may read into the RECORD the form of his resolution.

Mr. TAYLOR of Mississippi. Mr. Speaker, before I do that, I would ask again to be recognized for 1 minute.

The SPEAKER pro tempore. The Chair would advise that the gentleman has had his 1 minute to inform us of his intention and must now read the form of his resolution into the RECORD.

RESOLUTION REGARDING AMERICAN INVOLVEMENT IN HAITI

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

Mr. GLICKMAN. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. TAYLOR] for 1 minute.

Mr. TAYLOR of Mississippi. Mr. Speaker, before I read the resolution, I would like to remind the Speaker and encourage the Speaker to continue reading the rules of the House, because in the next paragraph or so it clearly states that in earlier Congresses, the Speaker would call for this vote immediately. It was only in more recent Congresses that the Speaker began to delay for a couple of days on that motion.

The SPEAKER pro tempore. The Chair is not ruling on the privileged status of the resolution; he is simply reading the rule on notice as amended in the 103d Congress.

Mr. TAYLOR of Mississippi. Mr. Speaker, the resolution reads as follows:

H. RES. —

Whereas, Article I, Section 8 of the Constitution reserves to the Congress the power to declare war; and

Whereas, numerous press and other reports suggest that the Administration is preparing to deploy military forces of the United States of America to invade the Republic of Haiti in a manner likely to be deemed an act of war; and

Whereas, the President of the United States has not requested the Congress to authorize the attack of the Republic of Haiti by military forces of the United States; and

Whereas, the Congress has not specifically authorized the President to use military forces of the United States to invade, assault, or otherwise attack the Republic of Haiti; Now therefore be it

Resolved, That, as a matter of the constitutional privileges of the Congress to declare war, no military forces of the United States shall be used to invade, assault, or otherwise attack the Republic of Haiti until such time that the Congress has specifically authorized, after having been requested to do so by the President, the use of military forces of the United States to invade, assault, or otherwise attack the Republic of Haiti.

□ 1320

The SPEAKER pro tempore (Mr. TORRES). The Chair would state at this time that the gentleman has notified the House of his intention under rule IX.

PARLIAMENTARY INQUIRIES

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. The gentleman has stated that intention under the procedures. When would the gentleman's resolution be eligible for consideration?

The SPEAKER pro tempore. As the Chair read previously, the time would be at a time or place designated by the Speaker within 2 legislative days, if the Speaker, in fact, rules that it is privileged.

Mr. WALKER. Well, I will ask that question in a moment. But do I understand then that the gentleman's resolution could come up on Friday when the House is due to be in pro forma session?

The SPEAKER pro tempore. The Chair would not be in position to comment at this time as to when the House will be in session.

Mr. WALKER. Could it come up on Friday?

The SPEAKER pro tempore. Conceivably anything could happen.

Mr. WALKER. Conceivably.

The SPEAKER pro tempore. If that is the next legislative day, yes. It is possible.

Mr. WALKER. Further, the Chair has heard the privileged motion would be available to either the majority or the minority leader to bring to the floor today; is that correct?

The SPEAKER pro tempore. If the Speaker, in fact, ruled that it was a privileged resolution.

Mr. WALKER. That was my parliamentary inquiry. We have heard the resolution. Does it constitute a question of privilege which if brought to the floor today could in fact be voted on by the House?

The SPEAKER pro tempore. The Chair would state to the gentleman that the Chair is not ruling at this time. The Chair is not required to rule.

Mr. WALKER. But it becomes a matter of some concern to the membership whether or not we get a chance to vote today before the House leaves here and get a chance to vote in a timely manner on a matter that may relate to our troops going into battle. It is very important to understand whether or not it is potentially available to bring the language as drafted by the gentleman to the floor yet today. The resolution has been read and it would be valuable for the House to know whether or not such language does constitute a question of privilege that can be brought up later on today.

The SPEAKER pro tempore. The Chair would state to the gentleman from Pennsylvania that the Chair does not make rulings on hypothetical motions until they are in order to be called forth.

Mr. WALKER. As a further parliamentary inquiry, I am not certain why the Chair is ruling it is hypothetical. The gentleman has already announced his language to the Chair. The Chair now has that language before it. This gentleman's parliamentary inquiry is whether or not such language would constitute a question of privilege which could then be brought to the floor by the appropriate Members later on today.

The SPEAKER pro tempore. The Chair would again state that the resolution is not before the House until it is called up. At that point, the Chair would rule.

Mr. WALKER. So the language that was brought by the gentleman under a question of privilege would be eligible to be brought to the floor later on today by either the majority or the minority leader and at that point the Chair would rule upon the language and the House would then have the ability, if it did not agree with the ruling of the Chair, to appeal the ruling of the Chair at that point; is that correct?

The SPEAKER pro tempore. The Chair has read the rule and if a resolution is offered by the leader, the Chair would then have to rule on its propriety at that time.

Mr. WALKER. Just to clarify then, as a further parliamentary inquiry, the language offered by the gentleman from Mississippi could in fact be brought to this floor later on today by either the majority leader or by the minority leader and at that point the Chair could rule one way or the other on whether or not it constitutes a question of privilege that could then be debated for an hour. If the Chair were to rule in favor of the resolution, it would be debated for an hour and the House would get a vote up or down on the questions raised by the gentleman's resolution. If the Chair were to rule against the resolution, it would in fact be within the power of the House to appeal the ruling of the Chair at that point and decide to take up the resolution; is that correct?

The SPEAKER pro tempore. The gentleman recites correctly the normal procedure on questions of privilege.

Mr. WALKER. I thank the Chair.

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. HAYES. Mr. Speaker, by failing to rule, I am making this inquiry, is the Chair in effect ruling that the language of section 9 supersedes that of 664? Therefore, implicit in the Chair's failure to recognize this as a personal privilege would, therefore, mean that the Chair is ruling that the 664 language does not supersede?

The SPEAKER pro tempore. Again, to the gentleman from Louisiana, the Chair is making no such ruling at this time on the issue of privilege. Only on the issue of notice as required by the rules of the 103d Congress.

Mr. HAYES. However, by failing to rule, the Chair is implicitly making that determination, whether it states it as a rule or not.

The SPEAKER pro tempore. The Chair does not agree with the gentleman.

Mr. HAYES. One more parliamentary inquiry. As I understand the role of the Parliamentarian, it is to serve the House as opposed to the executive or legislative branch. Is that a correct determination of the Parliamentarian's role in the system of government?

In other words, if not clear, I will repeat it: if there is a conflict that appears, that has not been resolved by the Supreme Court, appears to be a conflict of the legislative and executive branches, what is the role of the Parliamentarian, to act as an objective observer or to defend the House of Representatives of the United States?

The SPEAKER pro tempore. The Chair is responding to the gentleman as the Chair interprets the rules.

Mr. HAYES. I thank the Chair very much for the response.

APPOINTMENT OF CONFEREES ON H.R. 4299, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence

Agency Retirement and Disability System, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas? The Chair hears none, and without objection, appoints the following conferees:

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Messrs. GLICKMAN, RICHARDSON, DICKS, DIXON, TORRICELLI, COLEMAN, SKAGGS, and BILBRAY, Ms. PELOSI, and Messrs. LAUGHLIN, CRAMER, REED, COMBEST, BEREUTER, DORNAN, YOUNG of Florida, GEKAS, HANSEN, and LEWIS of California.

From the Committee on Armed Services, for consideration of the defense tactical intelligence and related activities:

Messrs. DELLUMS, SISISKY, and SPENCE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 601 and 704 of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, KENNEDY, LAROCCO, MCCANDLESS, and CASTLE.

As additional conferees from the Committee on Government Operations, for consideration of section 601 of the House bill, and modifications committed to conference:

Messrs. CONYERS, TOWNS, and CLINGER.

As additional conferees from the Committee on the Judiciary, for consideration of sections 802–04 of the House bill and sections 601, 703–07, and 709–12 of the Senate amendment, and modifications committed to conference:

Messrs. BROOKS, EDWARDS of California, and HYDE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4606, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies 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 SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. PORTER

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

The Clerk read as follows:

Mr. PORTER 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. 4606, be instructed to insist on the House position with respect to amendment number 152.

□ 1330

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Iowa [Mr. SMITH] is recognized for 30 minutes.

For what purpose does the gentlewoman from California [Ms. WATERS] rise?

Ms. WATERS. Mr. Speaker, it is my understanding that the gentleman from Iowa [Mr. SMITH] is not opposed to the motion to instruct conferees as such. Pursuant to rule XXVIII, I request one-third of the time for debate.

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

Mr. SMITH of Iowa. Mr. Speaker, I am not going to oppose the motion.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PORTER] will be recognized for 20 minutes, the gentlewoman from California [Ms. WATERS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

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

Mr. Speaker, this motion deals with the so-called 85–15 student loan rule.

The House bill contains a 1-year delay in implementation of this rule that was sponsored by Mr. BONILLA.

The Senate bill has no provision.

Mr. Speaker, the intent of the 85–15 rule is a good one—to eliminate student aid mills and reduce fraud and abuse.

Unfortunately, the rule is poorly written, in my judgment.

The regulation requires that schools participating in the student loan program derive no more than 85 percent of their revenue from the title IV student aid programs.

That is the good part, Mr. Speaker.

Unfortunately, the regulation then uses a very convoluted definition of what constitutes revenue.

In addition, the regulation, which was originally scheduled to take effect July 1, would apply retroactively.

As a result of these problems, the Department estimates that upon taking effect, the regulation would disqualify 30–50 percent of all proprietary institutions—many of which are doing a very fine job.

For instance, schools which provide off-site training to employees of large businesses cannot count those revenues for the purpose of 85–15 unless the training is exactly the same as that provided in their on-site courses.

In other words, the regulation inhibits its schools in responding to the private sector and broadening their revenue base through private contracts. The very things the regulation is trying to encourage, it inhibits.

Mr. Speaker, the chairman and ranking member of the Education and Labor Committee support the 1-year delay as do most members of the committee.

During consideration of this bill, the House rejected an amendment to strike the 85–15 delay by a vote of 63 to 365.

I ask that the House insist on its position on this matter in the conference, and retain the 1-year delay of the 85–15 rule.

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

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

Mr. Speaker, I rise in opposition to this motion to instruct conferees.

I have been involved in this fight against dishonest private, post-secondary schools since long before I came to Congress. This issue is troubling for many reasons. What disturbs me most is that bad trade schools take advantage of low-income students who are trying to earn an education. The 85–15 rule is all about preventing bad schools from taking advantage of poor students and the Federal Treasury.

What happens all over America is schools recruit low-income students, extend the maximum student loan, and then fail to provide an education and training that result in jobs for the student. Students then cannot afford to pay back their loan, they default, and a vicious cycle is continued.

Let me tell the Members how it works, Mr. Speaker. We have these private post-secondary schools that go to our unemployment offices, they go to public housing projects, wherever there are poor people and desperate people. They are in the downtown sections of many cities. They are not recruiting the homeless.

I call them the Joe Blow School of Computer Learning with no computers, and many of them really do not have teachers. Many of them are giving kickbacks to students who do not attend classes. They are all over America, and the complaints are many.

Mr. Speaker, I would simply ask the Members of this Congress to poll their districts, and ask their constituents whether or not they have been ripped off by these schools. You know who they are. They have a lot of advertising on television. They are in all of the newspapers. We are watching about $5 billion of American taxpayer money just go down the drain.

Mr. Speaker, I think the Members of Congress and others should ask why is

it MAXINE WATERS spends so much time on this issue. Is she not the so-called progressive that is always talking about investment of government resources in our constituents in order to ensure that we have a decent quality of life for all of our citizens?

Yes, Members will oftentimes find me on this Floor advocating investment in human potential, but when I take to this Floor and I say to the taxpayers and the Members of this body, "You are literally giving away the taxpayers' money," who is getting trained?

These schools talk about training truck drivers for $20,000. They talk about dental assistants. Nobody knows what a dental assistant is. They talk about technicians of all kinds. The fact of the matter is, Mr. Speaker, people are not being trained.

Even for those companies who talk about the 85–15 rule will hurt them, why should we pay more to private industries for training when they have these training programs within their own companies? They pay decidedly less money, but we are willing to go in and give away the taxpayers' dollars to private companies for training that they would not pay for.

Mr. Speaker, what happens when a student is ripped off by one of these fly-by-night institutions, and they have not learned anything? Let me tell the Members what happens.

They have not gotten any training, they do not get a job, and they default on the loan. We have innocent young people who are defaulting on loans because they cannot get a job. They have not been trained for anything.

When they do find a job, usually a minimum wage job, then their wages are garnished. They cannot qualify for the earned income tax credit. They cannot get public housing assistance. They cannot get any kind of Federal assistance, because they have defaulted on a loan from which they received no benefit.

How can we as public policymakers claim that we are working on behalf of our constituents when we allow this type of abuse to continue?

Mr. Speaker, many Members of Congress may not be familiar with the type of abuse I am describing. Again, I would ask the Members to poll their constituents through their newsletters, find out how many have been recruited by these private postsecondary schools, and what happened to them. I would bet many of the Members' constituents are being ripped off in ways Members are not aware.

No matter what happens on the 85–15 rule this year, and I desperately hope we resist delay, there will be hearings next year, I am told, at a minimum, to explore problems of bad trade schools, but Members should not allow Congress to get off the hook on holding these hearings.

They are going to be spectacular. Yes, Members are going to be surprised, because if they are advertised, if they are publicized, people are going to come out in large numbers, and we should force Congress to hold these hearings so that we can have those who have been ripped off come before our legislators and let them know what has happened.

Mr. Speaker, my office has received correspondence from all across the country—mostly from lawyers representing low-income students—describing waste, abuse and human tragedy. For example, the Legal Services of Miami sent a letter which reads as follows:

DEAR CONGRESSWOMAN WATERS: I represent several clients who have been the victims of proprietary trade/vocational schools * * *. Our clients are particularly susceptible to the recruitment tactics employed by these proprietary schools. They are poor, mostly uneducated, and unemployed. Our clients look to these schools for assistance in breaking out of the cycle of poverty. These schools promise training, grants, job placement, and stipends. They often deliver little or no education, large student loan debts, and no assistance with job placement.

I represent a person who is disabled and was solicited by a trade school recruiter while she stood in line to receive public assistance. She was told her education would be paid by grants. She quickly realized she was unable to understand the material. She advised her teacher of this but was told, oh, you can catch on but she never did. She graduated having acquired only a large student loan debt but no marketable skills.

Homeless persons are also easy prey for proprietary schools. One school went so far as to print fliers and hand them to homeless people who stood outside a shelter in downtown Miami. The education received is of no value and the homeless people graduate into a condition which is worse than before. No skills and large debts.

□ 1340

I could go on and on with these kind of stories, but at this time, Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from California [Ms. WATERS] has performed a valuable service in bringing this matter to our attention and in pursuing it all this time. However, we did receive a letter from the chairman of the authorizing committee and also from the ranking member and other members of the committee asking us to delay the implementation of the rule for 1 year; the reason being that the rule only became effective July 1, and it was felt that there was not time between July 1 and the time that these schools, including the legitimate schools as well as the ones that we would like to close down, start their school year. So we did relent and include in the bill a provision that there would be a delay of 1 year in implementation of this provision. However, we have also made it clear in the conference report, and I expect it to prevail in the conference, that this is a 1-year provision, we do not expect it to be renewed next year. I will be opposed to a renewing of it next year and I think other members of the subcommittee will, too. But under the circumstances, I felt that the thing to do was to permit it to be implemented a year from now instead of now. So that is the reason it is in the bill.

We had a vote in the House on this when the bill passed the House. The vote was 63 in favor of not delaying the implementation of the rule to 365 against. So the House has spoken. I hope it is not necessary to have a long discussion about it. It would be the same discussion that we had when we were up in the House, but under these conditions I feel, as chairman of the committee, I should go to the conference and try to prevail on the provision that is in the bill.

Ms. WATERS. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, the 85–15 rule is a good idea and its implementation should not be longer delayed. This is not a new idea. For many years under the original GI bill, we made it clear to educational facilities across the country that they had to obtain at least 15 percent of their operational funds from sources other than the Federal Government. We are simply suggesting that schools with programs of merit should be able to secure private sources of funding, tuition and fees, from their students, scholarships and grants and loans from entities other than the U.S. Government.

I think it is reasonable to question the value of the programs offered at a school when the only funding source seems to be U.S. Government grants and loans. Quality schools should have a broader base of support and should be able to secure more than 15 percent of their total funding from sources other than the Federal Government.

Mr. Speaker, this legislation was included in the recently passed Higher Education Act. These schools were given 2 years in order to get ready for this 85/15 policy. This did not catch anyone by surprise. The advance warning was of fered 2 years back.

The gentlewoman from California [Ms. WATERS] offers a very reasonable argument. And who better to speak to this issue than someone who represents a district in which these for-profit proprietary schools are prevalent and a district in which the population is of such an income level that they are more likely to qualify for Federal financial aid? As she has testified here today, in far too many instances, the best interests of these students are being violated by these schools who churn them through a program largely to get the money, leaving them with no

skills that result in meaningful employment, and also with the debts that accrue as they encumber sizable sums in Federal loan obligations.

Mr. Speaker, this issue represents a classic example of the misallocation of Federal funds. We have limited dollars to help needy students secure educational services in order to be trained for a meaningful job. We cannot afford to waste a single dollar in this part of the budget and yet we are frittering away hundreds of millions of dollars on these for-profit trade schools who simply churn these students with no concern about the students' future employability.

Mr. Speaker, this issue may have been resolved by an earlier vote of this House. But we should not compound the mistake of that vote by another vote today to instruct conferees to stick to the House position. I hesitate to say that the Senate is right, but on this issue, the Senate is right. They have had 2 years to get ready for the 85–15 rule. They do not need another year. We should not delay the implementation of this rule. We should reject the motion from the gentleman from Illinois [Mr. PORTER].

Ms. WATERS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I rise in the strongest possible support of the position of the gentlewoman from California [Ms. WATERS] and in opposition to the motion to instruct being offered by my colleague, the gentleman from Illinois.

The gentleman from Iowa [Mr. SMITH] stated earlier that on a vote on this question several weeks ago, the House registered its position by a vote of 63 to 365 in favor of the position being supported by the motion to instruct. I would hazard a guess after a few years in this institution that in very short order, many of the 365 Members of this House of Representatives who stood behind these proprietary trade schools will wish they had that vote to cast over again. Like rodents on the deck of a sinking ship, they will be scrambling to try to explain why they are defending institutions which in fact are exploiting the poorest people in America and exploiting taxpayers across the country. How many more cosmetologists, beauticians, and hairdressers do we need at a training cost comparable to what colleges and universities are charging to train engineers and medical specialists?

In fact, the Federal Government is being dragged into this day in and day out. The young people are being dragged into it day in and day out by diploma mills and ripoff programs that promise these kids a job if they will just sign on the dotted line. The kids sign on, they go to a few courses, there is no job, but when it is all over, they are still holding the bag, a debt to the Federal Government which, if they cannot pay, has to be absorbed by taxpayers.

This sort of thing is an outrage. Just a few weeks ago, we were engaged in a debate on this floor about a crime bill and the possibility of a prevention program. Some of the more conservative Members of this body stood up and ridiculed the idea of prevention programs when it came to fighting crime, calling it pure pork. I will tell Members what is pure pork, it is these proprietary schools which are not providing education to kids, which are ripping them off and exploiting them and doing the same thing to taxpayers. The 85–15 rule is sensible, the Senate is right, the motion to instruct should be defeated.

□ 1350

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

Mr. Speaker, I realize that much of what we say today may fall on deaf ears. The Career College Association is a very powerful lobby in Congress and they have done an effective job of organizing their members schools to make our Members believe that they cannot exist if the 85–15 rule is put into effect.

Since the House last considered this issue, there have been several newspaper articles and editorials denouncing our action and advocating delay. The Washington Post editorialized against delay. The Los Angeles times also ran an editorial in opposition to a delay.

Let me quote from that article:

About 5 percent of the Nation's 15 million students in higher education attend trade schools * * * trade schools receive 25 percent of the $20 billion the U.S. Government spends each year on student aide * * * trade schools also account for 76 percent of all student loan defaults.

Let me repeat that:

About 5 percent of the Nation's 15 million students in higher education attend trade schools * * * trade schools receive 25 percent of the $20 billion the U.S. Government spends each year on student aide * * * trade schools also account for 76 percent of all student loan defaults.

The 85–15 rule was intended to give school owners incentive to offer quality education. This requirement is more than appropriate. But Congress has delayed its implementation for 2 years at the behest of the trade schools lobby * * * trade school students, and taxpayer-funded Federal student loans, should be protected from fraud and abuse. The 85–15 rule must not be delayed further.

This is a scandal, Mr. Speaker, about to happen. Let me quote from the inspector general of the U.S. Department of Education in the last paragraph of a letter to me.

Because I believe this very valuable purpose is served by the 85–15 rule, I am not convinced that it should be delayed based on arguments by the proprietary trade schools that some percentage of such schools will close if the rule takes effect on schedule. We must be concerned first and foremost about the students who are victimized by inflated tuition prices for training for generally low-wage jobs, and end up defaulting on their student loans. Second, we have not seen data supporting the statistics for potential school closures cited by the proprietary trade schools. Third, we do not know whether schools that maintain they cannot comply with the 85–15 rule have made any serious efforts to do so in the 2 years since the law became effective. Finally, based upon this office's extensive experience auditing and investigating proprietary trade schools in the Title IV programs, we believe it likely that most schools that cannot meet the 15 percent rule have other serious programmatic problems such as high default rates, late refunds and administrative capability problems. I do not believe that good schools—those providing valuable training for reasonable prices—will fall victim to the 85–15 rule.

The inspector general said, "I urge you to reject any attempt to delay or otherwise weakening the 85–15 rule."

Mr. Speaker, I close by saying this is a scandal. Many who are here today supporting not implementing the 85–15 rule and who are doing what they are told to do by this lobby will be the first ones who will try to extricate themselves when it really is known to the American public about our support of this industry, $5 billion or more that are literally being ripped off by this industry that those who are supporting it now are going to have to run and hide from in the future. This is not just pork. This is waste, it is fraud, it is abuse, and the Members of this Congress should not tolerate it.

I ask Members not to support this motion to instruct the conferees to accept the House's actions on this measure. It is not in the best interests of our taxpayers to do so.

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

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

Mr. PORTER. Mr. Speaker, I am pleased to yield such time as he may consume to the able and distinguished gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Speaker, first of all I am happy to say I have never taken any PAC money in 20 years so, I am not here defending any lobbyists. What I am defending is the opportunity to provide a good education for those people at a time when it is going to be critical, critical to have the best proprietary education we can possibly have.

If we were talking about modern-day history, if we were talking about present-day history I would be right in the well with all three of my colleagues defending what they are saying. They are talking about past history because under the leadership of our chairman, the gentleman from Michigan [Mr. FORD], we have taken the necessary steps to make it past history.

I am not here to defend what happened in the past. It happens in every good-meaning program we ever send out there. We get ripped off because we

are not smart enough, and I guess we never could be, to make sure that the rip-off artists are not somehow or other ripped out before they ever get an opportunity.

Asbestos, what a ripoff. It came before my committee. I said one, we better make sure that we allow the local districts to take 1 percent of their Federal dollars to implement whatever it is we are telling them to implement because they do not have any money to do it themselves. No. two, we better make very sure that there are not ripoff artists out there, the only people who are going to be out there telling country schools this is what they have to do. Was it a ripoff? Was it ever a ripoff. Now we are saying that is not right, we should not have done it that way and now we are ripping them off again.

Let me tell Members what is happening in my community, four little towns in the area in which I live with the ADA. I am a strong supporter, a promoter, a pusher of the ADA in the Congress of the United States. What is happening in those small towns, and I suppose all over the country, they are going to every curb where there is a State road or a town road or a city road, and they are making ramps. Members say well, that sounds proper. Certainly it sounds proper. Unfortunately, one block down, two houses down there are no sidewalks, the roots have brought the sidewalk out if there ever was one, and a little bit further down there is a driveway that goes in, no ramp on those driveways, so great, I can now move in on my vehicle and I can go about a half a block, and then I have to turn around and come back. Some places they even have steps down on the private property.

Talk about ripoff, that is exactly what it is. That is exactly what happened here.

That is what happened in Medicare. As I have told hospitals, "You ripped us off, now as a Congress we are ripping you off," and that is what we have done with them the last couple of years.

So let us talk about present history. Let us talk about today. Let us talk about what is happening now as far as proprietary schools are concerned.

First of all, I support the motion to instruct. I oppose the opposition to it because first of all the department was retroactive in the manner in which they handled it. It was to take effect July 1, 1994. There was no 2 years to get ready, and do not tell me there was, because the regulations were not out. No one knew what was going to be in the regulations. They changed every minute down in the department.

So they said, well, we are going to make this effective back to July 1, 1993. Back to July 1, 1993, how could they prepare for that when the law was not to take effect until July 1, 1994?

The rule has already, I might say, caused the closing of good proprietary schools, good proprietary schools, and many more will take place if we do not have the 1-year delay. They did not close because of bookkeeping and accounting practices as a result of fraud and abuse.

□ 1400

They closed because of the retroactivity of the rule. Let me give you one example: Western Medical College in Oregon. This school helped welfare recipients get an education, get jobs, and most importantly, get off of welfare. But the 85–15 rule caused it to close its doors. Now, who gets ripped off? The taxpayer gets ripped off, and all of those students who are enrolled and are halfway through the program, they are now out. They have lost everything, no opportunity for an education, no opportunity for a job, and no opportunity to get any money back from the money that was sent out by the Federal Government.

The delay will allow quality institutions to organize their programs and finances to meet the requirements of 85–15. The delay will not cause or allow for rampant fraud and abuse.

As I indicated, we have taken many steps in the last couple of years that are really proving that we moved in the right direction. First of all, and again under Chairman FORD's leadership, we have put 20 percent of those schools out of business, 20 percent already we have put out of business. How did we do it? We delayed disbursement. We should have done it in the first place. But we were not smart enough to see that far ahead; delayed disbursement, put them out of business in a hurry. They needed the money immediately. The way we were doing it, we were giving it to them immediately. The student did not even know what the program was and did not even know if they wanted it, 2 days later they were gone, the school had the money, and we should have been smart enough to see in advance, but we were not. We changed that. We now delay disbursement. We put caps on default rates, sent another bunch out. We put loan limits, sent another group out, and insisted on good placement statistics, which sent another group out of the program.

But let us not get caught up in the business that all of this is the proprietary schools. Let me tell you, there are many 4-year institutions, and I know we do not want to debate those at this particular time, and we know who they are, whose default rate is far greater than even the worst default rates in many of these proprietary schools, and it was not $4 billion that we lost. It was $2 billion, $2 billion, get your statistics right, and that is down from $3.6 billion in 1991. So it is working, from $3.6 billion down to $2 billion.

But that includes everybody. That includes 4-year institutions, that includes 2-year institutions, and that includes proprietary schools. It is working because we, as an oversight committee, have done what we should have done earlier, and I will admit that, but we are doing it, and we are doing it well.

Student loan default rates have decreased by more than 7 percent from 1990 to 1992. The greatest decline in default rates has been in the proprietary sector, where there is a 10-percent decrease in that time. The actual number of students attending proprietary institutions defaulting on their student loans has decreased by 239,000 between 1990 and 1992.

Yes, more efforts are needed to curb default rates in all institutions. The committee is making those efforts, and we are going to build on what we have done in the last 2 or 3 years. But we have had a very, very effective beginning.

Now, let us not throw the baby out with the bathwater. We need well-trained people from proprietary schools. We cannot do it in 4-year institutions alone. We cannot do it in 2-year institutions alone.

Twenty-five percent of our students, only 25 percent, ever graduate from a 4-year institution, only 25 percent, so when the Secretary of Labor had us bring before you a bill to make sure that we have people properly trained and prepared for the work force, we made that point clear, that we have to do more for the 75 percent. We have been doing it all for the 25 percent, and that is not going to help us in this very competitive world.

I agree wholeheartedly and ask you to support the motion to instruct the conferees and delay this 1 year so that we do not throw out the good institutions that are out there that are preparing the workers that we need for a very competitive work force.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired.

The question is on the motion to instruct offered by the gentleman from Illinois [Mr. PORTER].

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. SMITH of Iowa, OBEY, STOKES, and HOYER, Ms. PELOSI, Mrs. LOWEY, Mr. SERRANO, Ms. DE LAURO, Messrs. SABO, PORTER, and YOUNG of Florida, Mrs. BENTLEY, Mr. BONILLA, and Mr. MCDADE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4554, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. DURBIN. Mr. Speaker, I ask unanimous consent to take from the

Speaker's table the bill (H.R. 4554) making appropriations for agriculture, rural development, Food and Drug Administration, and related agencies programs 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 SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. SKEEN

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

The Clerk read as follows:

Mr. SKEEN 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. 4554, be instructed to insist on the House position on the amendments of the Senate numbered 43 and 80.

The SPEAKER pro tempore. Under the rule, the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. DURBIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SKEEN].

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

Mr. Speaker, my motion insists the House conferees sustain the firm position of the House to provide $914 million for the essential operations of the Food and Drug Administration.

Second, Mr. Speaker, my motion instructs the House conferees to support and maintain the House provision giving the Farmers Home Administration the authority to create a loan guarantee program to provide rural rental housing for low- and middle-income recipients.

I think that covers the intent of it.

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

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

Mr. Speaker, this is a good motion. I support it.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of the motion by the gentleman from New Mexico. This motion would instruct House conferees to insist on inclusion in the conference report of the House-passed provision providing $1 million for a Farmers Home Administration demonstration program of loan guarantees for multifamily rental housing in rural areas.

On June 17, 1994, the House approved an amendment to H.R. 4554, made by this Member, to transfer $1 million from the 502 Direct Loan Program and reserve it for funding for a Rural Rental Guarantee Program. This 50 project demonstration program to provide Federal loan guarantees for the development of multifamily rental rural housing is included in H.R. 3838 which passed the Banking Committee on June 15, 1994. The amendment specified that the $1 million transfer would become available only upon the enactment of the authorizing legislation.

The demonstration would finance 25 projects in each of fiscal years 1995 and 1996 and would provide a 90-percent guarantee on loans made by private lenders to the developers of rental housing for five or more families.

Current law provides direct loans for the development of rental housing for low- to moderate-income families. The demonstration program will provide for additional housing for moderate income families at a limited cost to the Federal Government. Unlike direct loans, which require appropriations of the whole amount of a loan, loan guarantees only cost the Federal Government the amount of defaults on private loans.

This Member worked with Fannie Mae, the National Association of Homebuilders and the Rural Housing Council and others in creating this program. This new program is based on the highly successful existing 502 middle-income loan guarantee program for individual homeownership in rural areas. This program has a default rate of only 1.59 percent.

Mr. Speaker, this Member is pleased that the House has shown the foresight to fund this program and urges his colleagues to support this motion to instruct to maintain the House position. This Member thanks the gentleman from New Mexico for offering this motion and urges its passage.

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

Mr. SKEEN. Mr. 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 New Mexico [Mr. SKEEN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. DURBIN, Mr. WHITTEN, Ms. KAPTUR, Mr. THORNTON, Ms. DELAURO, Messrs. PETERSON of Florida, PASTOR, SMITH of Iowa, OBEY, SKEEN, and MYERS of Indiana, Mrs. VUCANOVICH, Mr. WALSH, and Mr. MCDADE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4602, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. DICKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies 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 SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. REGULA

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

The Clerk read as follows:

Mr. REGULA 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. 4602, be instructed to insist on the House position on amendments numbered 67 and 68.

The SPEAKER pro tempore (Mr. ANDREWS of Texas). The gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes, and the gentleman from Washington [Mr. DICKS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. REGULA].

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

Mr. Speaker, I rise to offer this motion to instruct on a moratorium that I have offered in the past 4 years. The language has been included in the House Interior appropriations bill since fiscal year 1992, and each year negotiators with the other body have demanded this provision be stricken during the conference.

This year I had hoped comprehensive mining reform legislation would be enacted, as bills had passed both bodies, but as yet the conference has made little progress. I am increasingly less optimistic that reform of this antiquated law will occur in this Congress.

The language in question does not stop mining. It does not require royalties. It does not impose any new reclamation requirements. In short, it simply insures that the taxpayers retain title to the land at the termination of the mining process.

As an example of what has happened, in Denali, we have several thousand acres, 1,300 acres, that were purchased for $6,000 total. We are estimating we will have to pay $22 million to repurchase land that was sold by the Government for $6,000.

□ 1410

I do not want that to happen in the future. In June the Mineral Policy Center released a report which echoed the concerns I have had over this issue for some time. Their report captioned "Golden Patents, Empty Pockets" concludes that unless Congress takes action during the 103d Congress, title to more than $34 billion in mineral resources belonging to the American taxpayers will be signed over to private mining companies for no more than $800,000. Thirty-four billion for $800,000 and with no royalties. Many of these companies with pending patent applications are not even American businesses. We are literally giving our rich mineral resources—our gold, our silver, our platinum—away to foreign interests for bargain basement prices.

It is possibly the biggest travesty in Government and yet it has been happening under an antiquated 1872 law.

The Mineral Policy Center report estimates that since 1872 the Federal Government has given away more than $231 billion of mineral resources belonging to the public, either by patent or by royalty-free mining on public lands.

Now I recognize that these figures do not represent profits to the mining industry. Certainly there are costs incurred in getting these minerals out of the ground, but these figures are a clear indication that the Government is not receiving a reasonable return for the taxpayers under the current law. I find it incomprehensible that we are willing to give away the public lands with virtually no compensation.

Just recently the Secretary of the Interior was forced to approve a patent application of the American Barrick Resources Corp. for 1,038 acres. Those lands hold mineral reserves valued at more than $10 billion. Barrick took title to the land for $5,190 and will pay no royalty on the mineral resources that until the patent was approved were owned by the Federal Government. A Canadian company has secured from the United States title to these valuable lands, something it could not secure from its own government. No other country that I am aware of in the world deeds their land and minerals over to industry without retaining some interest for the Government.

Patent applications have increased as Congress has tried unsuccessfully in recent years to reform the mining law. Currently 613 patents covering 250,000 acres are being processed by BLM. The longer Congress avoids mining reform, the more likely all of the mineral resources are to leave public ownership for the bargain rate of $2.50 to $5 an acre with no chance of gaining royalty payment on the resources.

While many of these 613 applications are too far along in the process to be affected by my amendment, if we adopt my patent moratorium we at least slow the rapid giveaway and maybe will require that both sides get to the bargaining table on mining reform, and that is what should happen. We should get a completion of the mining reform conference. The Mineral Policy Center recommends an immediate patent moratorium and estimates this would save more than $10 billion in recoverable minerals reserved from being privatized by mining companies.

Mr. Speaker, this is the fourth year that the House has adopted this language, and in each of the past three it has been sacrificed for some other cause in conference. If my amendment had been in place in May, the Secretary, and that is in May of this year, would not have been forced to turn over an estimated $10 billion in minerals to a Canadian company. The secretary himself called the land transfer, quote, "the biggest gold heist since the days of Butch Cassidy." While the Barrick travesty is history we can take action to stop further give aways and possibly force the reluctant mining interest to the table for meaningful negotiations on comprehensive mining reform. Absent a patent moratorium, time is on the side of the mining industry. This amendment gives the American taxpayers, the owners of those public lands, a better bargaining position by ending the land giveaways until a more comprehensive solution is reached.

My motion is supported by the chairman of the Natural Resources Subcommittee and by Secretary Babbitt, and I urge the Members to adopt this motion.

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

Mr. Speaker, I rise in support of the motion to instruct the conferees.

Mr. Speaker, Senate amendments 67 and 68 strike provisions the House included in the bill that would prevent accepting and processing applications for patents and prohibit the actual patenting of Federal lands to claimants under existing mining laws. Similar provisions have been included by the House many times in the recent past and have similarly been rejected by the Senate.

There is no question that the practice of transferring title to Government lands to the private sector for nominal fees, and the subsequent mining of minerals with no compensation to the Government, is one that many of us in Congress believe should be changed. Currently a bill reforming the entire mining law is in a House-Senate conference. Were the conference to conclude with an agreement acceptable to both Houses the provisions we carry in this bill would be unnecessary. However, the outcome of that conference is in some doubt. Absent a permanent change in the law, lands can continue to be transferred to the private sector without adequate compensation. This is why these provisions are important.

I would caution that these provisions will meet with strong opposition in the Senate, both from Senate conferees as well as western mining interests in the Senate as a whole, and are apt to be filibustered in a manner similar to grazing fee provisions in last year's bill, even if agreed to by Senate conferees.

Mr. REGULA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to the motion of the gentleman from Ohio, RALPH REGULA, a colleague of mine on the full Appropriations Committee.

I am sure he is sincere in his view that mineral patenting is a flawed system. The gentleman knows I disagree with him on this matter, as do many western Members. The other body disagrees as well, for the offending provisions in H.R. 4602 were removed in the Senate Appropriations Committee and were not restored on the floor.

Mr. Speaker, there are indeed champions of a mineral patenting overhaul in the other body, indeed, several sit on the Senate Appropriations Committee. Yet, they did not choose to use an appropriations maneuver to effect such reform. Why did they choose not to? Because there is an ongoing mining law reform conference wrestling with the patenting issue as well as broader concerns about hardrock mining in the West.

The insistence of our House conferees on a mineral patent moratorium in the fiscal year 1995 spending bill greatly imperils the likelihood a successful conclusion to the reform conference can be achieved. It's that simple, Mr. Speaker.

A simple freezing of the status quo on mineral patents—something Secretary Babbitt has practically achieved administratively, in derogation of the law, I might add—may well pull the rug out from under efforts to reach comprehensive reform. These reforms are more than just the manner in which tenure is granted, these are changes in the manner in which mining claims are initiated, the lands prospected, discoveries made and developed into mines and the land reclaimed.

Mr. Speaker, I don't wish to seem disingenuous about my position on comprehensive reform. As the ranking member of the authorizing subcommittee on mining, I'm sure many Members will remember my strong views on H.R. 322, the House-passed reform vehicle.

But my opposition to that bill is irrelevant to this debate. I urge a "no" vote from my colleagues on this motion because I truly believe it undermines the effort of the authorizing committee of conference. Furthermore, Mr. Speaker, this would not be the first time an appropriations moratorium on mineral patent issuance has occurred. The fiscal year 1992 bill for the Interior Department attempted to restrict then Secretary Lujan from processing oil shale mining claim patent applications. It is instructive to note what happened to that ban.

An oil shale miner challenged the Department's refusal to process his application for claims near Vernal, UT, in the Federal district court. On July 28, 1992, Judge Bruce Jenkins ruled that the Secretary's duty to process mineral patent applications in a timely fashion was not extinguished by that year's oil shale moratorium provision. Furthermore, it is my understanding that the Justice Department did not appeal the ruling, and the application was subsequently processed.

Mr. Speaker, I think its clear, given this judicial precedent, that if such a moratorium is signed into law this year, mineral patent applicants will simply sue to have it overturned. But why should the Congress make citizens have to litigate a property right like this? It just doesn't make sense to me.

Let's continue to work within the confines of the mining law reform conference to achieve consensus on comprehensive amendments to the manner in which our public lands are used for hardrock mining. That is a tall order, I know, but I believe it remains possible to reach closure this Congress if sham reform such as a patenting moratorium is not substituted in its place.

Mr. Speaker, I urge a "no" vote.

□ 1420

Mr. DICKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me the time, and I rise in support of the motion to instruct offered by the gentleman from Ohio [Mr. REGULA]. I thank him for his leadership on this issue.

I think it is absolutely critical to maintain the moratorium in the House bill on the patenting of Federal lands.

There are three general reasons for doing this. No. 1, we need to protect the taxpayers' interests. It is way past time to continue to sell off this land at $2.50 or $5 an acre, the price that was set in 1872, when it might have been a reasonable price. It certainly is not now, given the extremely valuable resources that are at issue here. The General Accounting Office estimates there is something like 64 billion dollars' worth of minerals on Federal lands today. Selling those at $2.50 an acre does not make a whole lot of sense.

The second reason for supporting the moratorium is that we all know or at least hope that we are going to get a mining law reform bill passed sometime soon. When we do, there will be revisions in this area. Obviously, in anticipation, there is a rush to patent claims now. We need to have this moratorium in place so as not to be further ripped off by this rush to patent while awaiting final passage of mining reform.

Finally, there is a strong environmental reason for doing this. Under the provisions of the mining reform bill that we hope to see enacted, we are going to see requirements for reclamation and remediation and other ways of avoiding environmental problems associated with hard rock mining. We need to limit unrestricted patents now so as to enable these protections to be put in place in as many sites as possible where they will be needed.

Mr. DICKS. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. RAHALL], a senior member of the Committee on Natural Resources and an expert on this matter.

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

Mr. Speaker, this land is not your land. This land is not my land. This land is the hardrock mining companies for basically free.

The lands I am talking about are our public lands—rich in minerals such as gold and silver—to which the name of each American is on the deed of title.

Yet, these are the lands under which the mining law of 1872 still, to this day, allows multinational mining conglomerates to seize fee simple title under what is known as a mining claim patent for a mere $2.50 or $5 an acre.

And what type of so-called mining law is this?

Why, a couple of years ago the Arizona Republic carried a story about a gentleman who paid the Federal Government $155 for 61 acres' worth of mining claims. Did he mine these claims? Did he produce mineral wealth from them.

Well, today, these mining claims are the site of a Hilton hotel. The gentleman who patented them now estimates that his share of the resort is worth about $6 million. Not a bad deal, except from the taxpayers point-of-view.

I could cite countless examples of similar situations. There are billions of dollars worth of federally owned minerals that have already been given away. And, there are billions of dollars more, about 34 billion dollars' worth to be precise, that are currently subject to patent applications pending before the Interior Department.

The situation we find ourselves in is that the House of Representatives over the last several years has included a provision to place a moratorium on the further issuance of mining claim patents as part of the Interior appropriation bills.

And, by a 3 to 1 margin, last year this body passed the comprehensive mining law reform bill I am sponsoring. Yet, time and time again we find resistance to these provisions in the other body. Enough is enough. Let us have comprehensive mining law reform.

But as a stop-gap measure, let us support the gentleman from Ohio, RALPH REGULA, in this motion to instruct the House conferees on the Interior appropriations bill to maintain the patent moratorium provision in conference with the Senate.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate my friend, the gentleman from Ohio, yielding this time to me.

Mr. Speaker, this attempt to impose a moratorium on future mining patents in my opinion will only serve to diminish the prospects for enacting overall, comprehensive mining law reform this year. I would urge my colleagues to reject this motion to instruct House Members to insist on the patent moratorium adopted by the House earlier this year.

I support responsible, comprehensive reform this year, but simply adopting this piece-meal approach to mining reform will only serve to jeopardize chances for a broader bill. For those who want to see mining law reform should realize that singling out issues such as patenting will only reduce Congress' resolve to enact comprehensive reform this session. Mining law reform must be given the chance to be dealt with in its entirety under the existing conference committee.

Many Members of the House have worked to develop responsible proposals addressing the whole spectrum of mining issues. Resolving the patenting issue should remain one of the key goals of the conference and should be developed within the confines of the conference.

It is unfortunate that the very ardent proponents of mining law reform continue to offer elements of their larger agenda on a piecemeal basis to an appropriations bill. It strikes at the very heart of the legitimacy of their claims that they want reasonable reform of the mining law.

This effort will not serve the best interest of the conference nor achieve the goal of finding a final resolution to mining law reform. I would urge my colleagues to defeat this motion.

Mr. DICKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Idaho [Mr. LAROCCO], a member of the Committee on Natural Resources.

Mr. LAROCCO. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to the motion to instruct offered by the gentleman from Ohio [Mr. REGULA].

This motion to instruct would place a 1-year moratorium on patenting of hard rock mining claims. I want to say to my colleagues that we are addressing this issue right now in a comprehensive mining law conference committee, and I would not want to do anything to derail those efforts.

But let me say to my colleagues that I recognize that the gentleman from Ohio is raising legitimate issues. Nobody in my State of Idaho in particular would deny that there have been abuses of the patenting process. But I think what we ought to do is deal with these abuses in a comprehensive way in the conference that is now going on instead of taking these issues in an isolated fashion.

If I may, as we often do in the House of Representatives, let me talk about my district. In 1982, in Shoshone County, in my district, there were 8,400 hard rock mining jobs and associated jobs in the industry. Right now we have about 500. But with the price of silver creeping up, there is a good chance we are going to get those miners back to work and we will have some active mines and we can bring back a restructuring and a rebirth of the mining industry in a proper way. We can do it hopefully with a reasonable reform bill and do it

with what is going on right now in the conference. But I do not feel that we should be picking apart this bill right now.

Mr. Speaker, I urge my colleagues to vote no on the motion to instruct. Let me say that I am working as hard as I can to bring about reasonable mining law reform, but I do not think this is the way to do it. Again, in my State, which is known as the Gem State, where we have hard rock mining jobs, I do not want to send those jobs overseas and offshore, so I urge a no vote on the motion to instruct.

Mr. DICKS. Mr. Speaker, it is my honor to yield 3 minutes to the distinguished gentleman from California [Mr. LEHMAN], the chairman of the Subcommittee on Energy and Natural Resources.

Mr. LEHMAN. Mr. Speaker, I thank the gentleman from Washington for yielding this time to me.

Mr. Speaker, I rise in strong support of the motion to instruct.

The House has supported a patent moratorium for several years now as an interim step to achieving comprehensive mining reform. And, we have addressed the overriding need to reform the 1872 mining law, fundamental to which is ending the archaic practice of patenting—or practically giving away—public mineral lands.

As you will recall, the House voted by a 3-to-1 margin last fall to reform the mining law of 1872. The House passed a strong bill, but one that will not harm the mining industry's ability to mine profitably on Federal lands while at the same time allow the Government to keep a fraction of the value of such minerals.

One of the key issues in the mining reform debate is that of patents. Under the 1872 law, which governs mining for precious metals, like gold, silver, and platinum on Federal lands, miners who discover one of these minerals are entitled to a patent—or fee-simple title to the land. Since 1872, the United States had transferred over 231 billion dollars' worth of mineral assets to mining companies, charging minimal administrative costs for the land transfer and no royalty whatsoever.

The bill adopted by the House and reflected in the House counteroffer would eliminate the patenting process.

As many of you know, it is the patenting system which legally forced Interior Secretary Bruce Babbitt to transfer ownership of nearly 2,000 acres of public land in Nevada—land containing $10 billion in gold—to a Canadian-owned mining company for the appalling sum of just $9,765. If we do not stop patenting, through mining reform or through a patenting moratorium pending achievement of mining reform—we will see more and more such cases in the years to come.

We are trying to resolve this issue, and many more, with the Senate conferees right now. However, we are not optimistic. After receiving an offer from the Senate conferees on June 29, we countered prior to the August recess. We are now waiting to hear back from the Senate. The industry is pushing hard to block reform. The Senate appears entirely undecided about what kind of mining reform to enact, or, for that matter, whether or not to support any kind of mining reform at all.

In the meantime, and in light of the very real possibility that we will not achieve reform this year, we should move to block mining conglomerates from pirating valuable public minerals just because they are able to tie up reform in the Congress.

That is where the provision on a patent moratorium in the Interior appropriations bill comes in.

Unless Congress acts now by enacting H.R. 322 or by enacting this patent moratorium, title to an additional 24 billion dollars' worth of mineral reserves—which rightfully belong to the American taxpayer—will be signed over to international mining conglomerates for the paltry sum of less than $1 million. These companies will win the golden ring simply by paying $5 an acre—and what do the taxpayers get in return? Nothing, an empty pocket.

The patent moratorium is not comprehensive mining reform: but it is a very important interim step.

So, I urge a vote for the motion to instruct. Far from obstructing the work of the mining conferees, it will expedite our work, and will demonstrate that the House—and hopefully the Senate as well—insist that if we cannot achieve real reform, we will at a minimum stop the giveaway of public resources until such time as we do achieve reform.

I congratulate the gentleman from Ohio [Mr. REGULA] for his motion. We should stand in support of it on this floor today.

□ 1430

Mr. REGULA. Mr. Speaker, I yield 10 minutes to the gentleman from Alaska [Mr. YOUNG], the ranking member on the House authorizing committee.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong opposition to the motion of my friend from Ohio, seeking to direct the Secretary to break existing laws even as we labor in conference to change those laws.

Mr. Speaker, rarely have I heard as much disinformation about the existing state of affairs than I have heard about the mining law. At a time when Americans are worrying about jobs and the state of the economy, we are being asked to short circuit an ongoing conference on reform of the mining law which threatens the outcome of that conference.

Many of my colleagues in this body do not agree with me and my colleagues who have miners earning a living in their districts. I do not have an automobile plant in my district, but I would be the last to attempt to short-circuit the process of a conference regarding automobile safety standards by outlawing the sale of gasoline. Especially on an appropriations bill.

Largely because of Secretary Babbitt's insistence on making media appeals on behalf of mining law reform, Congress has spoken in both Houses on the matter. By varying degrees, all concerned about the jobs of Americans in the mining industry want to see appropriate changes to that bill. That is why we are now in conference on an authorizing bill. It makes no sense to alter that now and risk the entire conference.

Mr. Speaker, we have all heard about how under the existing law, you can get public land for as little as $5 an acre. After seeing Secretary Babbitt on TV complaining his being compelled by the courts to issue a mineral patent, Mr. Richard Swainbank, of Fairbanks, AK, wrote the Secretary to ask for an acre. He included a check for $5, and asked that his acre be on a lake in Alaska with a view of mountains. Furthermore, he asked the Secretary, that his acre come complete with gold, platinum, or scandium. Much to his surprise, Mr. Swainbank received a letter from the Department of Interior saying, in essence, that it was not nearly that easy. To quote in brief, "For most individuals, the exploration process leading to the discovery of a valuable mineral deposit may cost several hundreds of thousands of dollars per claim, and that expenditure may lead to nothing if no minerals are found or the BLM mineral examiners determine that the requirements of discovery of valuable minerals have not been met."

So, Mr. Swainbank got his check for $5 back, and did not get his land. Neither, apparently, does anyone else, according to this Department of Interior official.

So, I ask the House: If the idea that you can get land for $5 an acre is dead wrong according to Secretary Babbitt's own Department, and the Congress is already engaged in a conference on meaningful mining law reform, why should we support any measures which could disrupt such reform? I suggest we should not, and urge my colleagues to do the same and defeat the motion.

Let me just add to my friend from Ohio, the author of the motion, that I was in my office when he described the problem of the mining claims in Denali National Park. The gentleman fully knows that we would not be acquiring those lands if they were not added to the park which they should have never been. I have argued long and hard against land grabs which affect private property. I wish that some of my colleagues would listen a little more closely before adding active mining claims like this to national parks. It is

not the fault of the miners seeking to work their claims—it is the fault of the Congress whose appetite for new parklands and acquiring private property seems to have no bounds.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, am I not correct that the change of boundaries came out of the gentleman's committee and not ours?

Mr. YOUNG of Alaska. Mr. Speaker, I will agree with the gentleman. The gentleman voted for it. It was not my idea. It was by that time Mr. Udall and Mr. MILLER and the rest of them that voted for it.

Mr. REGULA. It came out of the authorizing process, am I correct?

Mr. YOUNG of Alaska. It did. But I voted against it, remember that, and I talked against it on the floor.

Mr. REGULA. I understand. There has been a lot of talk about this affecting jobs. The mining can go on with the moratorium. There is nothing in the moratorium that stops the mining. So how would it affect jobs?

Mr. YOUNG of Alaska. If you cannot achieve an ultimate goal of the patent on the claim, why should you keep on mining?

Mr. REGULA. I thought the goal was to mine, not to own the land.

Mr. YOUNG of Alaska. Oh, both. Both. It is both. Second, may I suggest to you, we are now working on this process in the conference.

□ 1440

The gentleman knows good and well what he is doing is running around the back door, trying to undo what the conference may not be able to achieve this session. I think that is inappropriate. If the gentleman wants to do this, let the appropriate committees do it, not through the Committee on Appropriations.

Mr. REGULA. Mr. Speaker, if the gentleman will continue to yield, what does he think the chances are of getting comprehensive mining reform in this session?

Mr. YOUNG of Alaska. Mr. Speaker, I hope zero, right up front. I hope zero because the bill is a bad bill that left this House. It was a decent bill when it left the Senate, and there now has been a mark put forth that no one could accept. But that is beside the point. We are going through the process.

If the gentleman wants to do all the legislative process in the appropriations bill, let us let him do it. But that is not the way it should be done. This is the back door approach to a solution that can be done through the legislative process and the conference.

If we do not succeed this year, then the House has to come back next year and do the bill right, as they should have done this year, not take and put our jobs overseas and take jobs away from the miners.

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

Mr. YOUNG of Alaska. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, if the gentleman is so pessimistic about the outcome of the conference, he is on the conference committee.

Mr. YOUNG of Alaska. The gentlemen and I sit side by side.

Mr. RAHALL. Mr. Speaker, would the gentleman be willing to help us in that conference committee resolve this issue so this does not become a perennial issue for the House of Representatives?

Mr. YOUNG of Alaska. Mr. Speaker, we will resolve the issue when the gentleman accepts the fact that there are miners and mining industry in this country in the West that need some provisions that the gentleman did not include in the bill that he brought out. He knows it.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, is the gentleman saying that he would support getting conclusion of the conference report?

Mr. YOUNG of Alaska. Mr. Speaker, we support revision of the 1872 mining law. And by the way, we have worked on 37 different changes. The Senate passed the bill, a very good bill, and the House messed it up. It went over there. Then they got a mark from the leading Senator. I should not mention his name. We do not know where we are right now.

Then, fortunately, the gentleman from West Virginia [Mr. RAHALL] has to put up with sitting next to me, and I know it just pains him terribly. I do not have the control that he has. He is in the majority. I do not know who is going to call the conference.

But besides that, there is a meeting of the mind and protection and promotion of mining legitimately. I do not think we have a chance this session.

That is not the point. The point is, we still have the opportunity to do the process. Why go around the back door? I do not understand that at all. I do not think it is the appropriate thing.

My colleagues know my feelings on the other pieces of legislation in the appropriations process, legislating on the authorizing committee. I am surprised that the gentleman from California [Mr. MILLER] is not here right now raising holy heck about this. He is always one who objects to this process.

Mr. RAHALL. Mr. Speaker, if the gentleman will continue to yield, the gentleman from Alaska refers to the actions of the other body. I think it would be important to remind our colleagues that the other body passed this, their so-called reform, by only a voice vote. They are not on record.

We have passed this reform authorization bill this year by an overwhelming bipartisan, along with western members of my party supporting in this effort. So I hope that the gentleman would recognize that there are those from the Western States that represent mining companies and miners who represent the mining industry who recognize that there have been abuses in the past.

What we are trying to do here is correct those abuses along with mining rather than speculating on the public's land.

Mr. YOUNG of Alaska. Mr. Speaker, reclaiming my time, may I suggest respectfully, the gentleman hit it right on the head. In the past.

What this committee has done and has always tried to do is punish for those people in the past. There has been over 37 changes in that mining law. The miners have to apply themselves to every clean air, clean water law today.

Now they are telling the people that they cannot keep their mines. They have to pay money up front.

What we are trying to do is drive the industry over to other countries. By the way, Mexico and all the Scandinavian countries do not charge royalties, and we are trying to charge royalties today. Do not go through the back door.

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

Mr. CRAPO. Mr. Speaker, I appreciate the opportunity to speak for a couple minutes on this issue. I also sit on the mining conference committee and also come from a Western State, where mining is an important industry to our people.

It is important that we recognize what is happening here. We have a mining conference that is now operative between the House and Senate, the committees that are germane to the issue who are working on the issue. And yet here we face in an appropriations bill an effort to put into place a moratorium.

It has been said and just discussed recently that there have been some past circumstances that are continuously pointed to where Members can point to abuses of the system. But I want to reemphasize that those circumstances by and large have already been addressed and in the conference committee itself we are ready and willing to talk about solutions.

One of the solutions, if my colleagues are concerned about a small payment for a patent claim, it has already been agreed to have the payment be made for fair market value or for the surface, a royalty to be paid on the minerals that are taken and reverter deeds that gives land back to the Federal Government when the mining operations terminate. There are reasonable Members

willing to work together to find a good solution to this.

What we do not need to see is efforts to go outside the system and put into place a piecemeal approach to solving a problem. In fact, that is going to be counterproductive to helping us get the entire issue resolved in terms of mining reform. We cannot ask those who are involved on the germane committees to come together and work to try to resolve the differences in this country and between the House and the Senate on this issue if we are going to piecemeal it in the appropriations process.

I urge a vote against this motion.

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

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

Let me again point out to my colleagues, we have had this moratorium through the House, passed the House four times in the last 4 years. Each time it drops out because we are told we are going to have comprehensive mining reform.

We have been promised that for 4 years. Nothing has happened.

We talk about piecemeal. This is not permanent legislation. This is for 1 year only. We are saying, let us not give away another 250,000 acres for $2.50 an acre on these 613 patents that are pending and in the meantime wait for some more mining reform.

That is what we need, and I hope that the commitment I have heard today comes to fruition. But I am getting pessimistic, given the fact that this has been promised for the last 4 years.

Let me emphasize, this does not affect jobs. This moratorium does not in any way effect a requirement of royalties. It does not affect anything having to do with environmental rehabilitation. It does not affect jobs because mining can go on regardless of the moratorium, and so I think it is only responsible that we put in the moratorium so that we can get the comprehensive mining reform and address this problem permanently. If that were to happen, then we could drop this out of our conference report, if we can get that done this year.

Mr. MILLER of California. Mr. Speaker, I strongly support the motion to instruct.

Inclusion of the patent moratorium is more important this year than at any other time in the past. As Members will recall, the House voted by a 3-to-1 margin last fall to reform the mining law of 1872, a Civil War era law that encourages the giveaway of billions of dollars of gold, silver, and other minerals that belong to the American taxpayer. We passed a good bill, a tough bill, but one that will both allow the mining industry to continue to operate profitably, and also allow the taxpayer to recoup some of the value generated by the mining of its metals.

We are now in a conference committee with the Senate, which passed a bill—openly repudiated at the time of its passage—designed to serve only as a ticket to conference.

Now, some 10 months later, serious obstacles stand in the way of achieving mining reform this year. The Senate appears entirely undecided about the scope and design of what is acceptable as policy or can pass that body. There are three, or four, or more factions, each threatening to kill any package that does not meet with their often contradictory views. For a body which often has to function largely by unanimous consent, that is an ominous signal.

One of the key issues in the mining reform debate is that of patents. Under the 1872 law, which governs mining for precious metals, like gold, silver, and platinum on Federal lands, miners who discover one of these metals are entitled to a patent—or fee-simple title to the land from American citizens and the mineral wealth it contains. Since 1872, the United States has let over 231 billion dollars' worth of mineral assets slip through our fingers in this manner, charging minimal costs for the land transfer and no royalty whatsoever.

Now, the position of the House, which this body approved by a 3-to-1 margin, is that we should end the patenting system. We should not give away permanent ownership of the public lands. We don't do that in oil and gas leasing. The States don't do it in hard rock mining. I don't think that many private individuals do it.

The Senate has seen the issue somewhat differently. They propose giving patented ownership of the subsurface resource to the mining company, and having the public retain the surface rights. Then, when all the valuable mineral has been stripped away, ownership of the site would revert to the taxpayers.

This, Mr. Speaker, is the meaning of the phrase, "They get the gold, and we get the shaft." It is a preposterous argument. Although the mining industry claims patenting is critical to its ability to function, no State gives private companies title to its resources, and yet the companies mine on State land. I know of no private citizens who give mining companies title to their land for mineral exploration and production, and yet they mine on private lands.

And while we are discussing the States, I should point out that mining companies pay royalties to States and private landowners, too, unlike on Federal lands.

Under the infamous patenting system, Interior Secretary Bruce Babbitt earlier this year was forced to transfer absolute ownership of nearly 2,000 acres of public lands in Nevada—land containing $10 billion in gold—to a Canadian-owned mining company for the miserable sum of just $9,765. If we do not stop patenting—through mining reform or through a patenting moratorium pending achievement of mining reform—we will see more and more such cases in the years to come.

We are trying to work this issue, and many more, out with the Senate conferees right now. The House conferees have forwarded several offers to the Senate in the last few weeks but have received no positive signs as yet from the Senate.

There are ominous signs that suggest the mining industry may not wish this issue resolved, believing that, at this late date in the congressional session, it may be possible to kill the legislation altogether and with it, reform of the patenting process and the payment of a fair royalty to the American people.

The House, which has repeatedly voted for reform, has included a moratorium on future patents in this Interior appropriations bill. The House wisely included this moratorium because of concerns that, should mining reform fail, Secretary Babbitt would be compelled under the 1872 mining law to continue to virtually hand over ownership of public resources.

No one hopes more than I that we do pass a mining reform law this year. But in the event that we do not—and I must candidly say that it is possible that the mining industry can prevent enactment of reform—we cannot be party to the continued looting of the Treasury by foreign gold companies and others.

So we should include a patent moratorium for two reasons. One, symbolically, we should send a clear message to the mining industry and its spokespeople in the Congress that the House—and hopefully the Senate—are not going to depend solely on the prospect for mining reform; we are taking out an insurance policy in the form of a patent moratorium.

And second, as a practical matter, we should not leave the 1872 law, and particularly the patenting process, on the books should no action be taken on comprehensive reform. If we must defer until next year comprehensive reform for the benefit of the taxpayers who own the resource, we should hold the program in abeyance. For while we may not have agreed on the precise design of reform at the point, virtually everyone agrees drastic reform of the mining program is necessary.

So, I urge a vote for the motion to instruct. Far from obstructing the work of the mining conferees, it will expedite our work, and will demonstrate that the House—and hopefully the Senate as well—insist that if we cannot achieve real reform, we will at a minimum stop the giveaway of public resources until such time as we do achieve reform.

Mr. GILLMOR. Mr. Speaker, I oppose the motion.

Patenting is the last step in a very laborious, time-consuming and expensive process that often costs mining companies millions of dollars. Based on the faith that through diligence and expertise, a properly pursued claim can be ripened into a concrete bundle of property rights known as a patent, companies spend years locating a mineral deposit, recording a claim to it, working and developing it, and turning it into a profit-making endeavor. That is what the mining law of 1872 envisions, and that is what mining companies do.

Mining companies are willing to invest in the search for minerals, in the process creating jobs and tax revenues as well as vital commodities for our Nation's industry, because they know that a successful search for a commerciable deposit can be protected under the law by the rights provided in a patent. Yet again this year, some people are asking the mining industry to continue to invest in and search for and develop mineral deposits and forego the valuable patent rights they seek. It is unfair to continue to ask this year after year based on the prospect that we in Congress will comprehensively fix the mining bill. Results of these reform efforts are at best uncertain again this year.

I have great respect for my friend, Mr. REGULA. He and I have talked at length about the mining bill and patenting in particular, so I am familiar with his justifications. Nonetheless, Congress has been working on mining reform for at least the past 6 years, and each year we ask mining companies to tie up their planning, their activities, their investment for just a little longer by accepting a patent moratorium. I share the concern that a few patents have in the past come back to haunt the taxpayers, but there are better ways to deal with that problem, including better enforcement of existing law, than a patent moratorium.

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

The SPEAKER pro tempore (Mr. ANDREWS of Texas). 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 conferees offered by the gentleman from Ohio [Mr. REGULA].

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

Mr. RAHALL. 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 318, nays 64, not voting 52, as follows:

[Roll No. 421]

YEAS—318

Abercrombie	Carr	Fields (LA)
Andrews (ME)	Castle	Filner
Andrews (NJ)	Chapman	Flake
Andrews (TX)	Clay	Foglietta
Applegate	Clayton	Ford (TN)
Bacchus (FL)	Clement	Fowler
Baesler	Clyburn	Frank (MA)
Barca	Coble	Franks (CT)
Barcia	Coleman	Franks (NJ)
Barlow	Collins (GA)	Frost
Barrett (WI)	Collins (IL)	Furse
Bartlett	Collins (MI)	Gallegly
Bateman	Conyers	Gejdenson
Beilenson	Costello	Gekas
Bereuter	Coyne	Gephardt
Berman	Cramer	Geren
Bevill	Cunningham	Gibbons
Bilirakis	Danner	Gilchrest
Bishop	Darden	Gilman
Blackwell	de la Garza	Gingrich
Bliley	Deal	Glickman
Blute	DeLauro	Gonzalez
Boehlert	Dellums	Goodlatte
Boehner	Deutsch	Goodling
Bonilla	Diaz-Balart	Gordon
Bonior	Dicks	Goss
Borski	Dingell	Grandy
Boucher	Dixon	Green
Brewster	Dooley	Greenwood
Brooks	Duncan	Gutierrez
Browder	Durbin	Hall (OH)
Brown (CA)	Edwards (TX)	Hamburg
Brown (FL)	Ehlers	Hamilton
Brown (OH)	English	Harman
Bryant	Eshoo	Hastert
Bunning	Evans	Hastings
Byrne	Everett	Hefley
Callahan	Ewing	Hefner
Canady	Farr	Hilliard
Cantwell	Fawell	Hinchey
Cardin	Fazio	Hoagland
Hobson	Menendez	Saxton
Hochbrueckner	Meyers	Schenk
Hoekstra	Mica	Schiff
Holden	Michel	Schroeder
Horn	Mineta	Schumer
Houghton	Minge	Scott
Hoyer	Moakley	Sensenbrenner
Hughes	Montgomery	Sharp
Hutchinson	Moorhead	Shaw
Hutto	Moran	Shays
Hyde	Morella	Shepherd
Inglis	Murphy	Shuster
Inslee	Murtha	Sisisky
Jacobs	Myers	Skaggs
Jefferson	Neal (MA)	Skelton
Johnson (CT)	Neal (NC)	Slaughter
Johnson (GA)	Nussle	Smith (IA)
Johnson (SD)	Oberstar	Smith (MI)
Johnson, E.B.	Obey	Smith (NJ)
Johnston	Olver	Smith (TX)
Kanjorski	Ortiz	Snowe
Kaptur	Oxley	Solomon
Kasich	Pallone	Spence
Kennedy	Parker	Spratt
Kennelly	Pastor	Stark
Kildee	Payne (NJ)	Stokes
Kim	Payne (VA)	Strickland
King	Pelosi	Studds
Kleczka	Penny	Stupak
Klein	Peterson (FL)	Swift
Klink	Peterson (MN)	Tanner
Klug	Petri	Taylor (MS)
Kreidler	Pickett	Taylor (NC)
LaFalce	Pickle	Tejeda
Lambert	Pomeroy	Thompson
Lancaster	Porter	Thornton
Lantos	Portman	Thurman
Lazio	Poshard	Torkildsen
Leach	Price (NC)	Torres
Lehman	Pryce (OH)	Torricelli
Levin	Quillen	Traficant
Levy	Quinn	Tucker
Lewis (GA)	Rahall	Unsoeld
Linder	Ramstad	Upton
Lipinski	Ravenel	Valentine
Lloyd	Reed	Vento
Long	Regula	Visclosky
Lowey	Reynolds	Volkmer
Mann	Richardson	Walker
Manton	Ridge	Walsh
Margolies-Mezvinsky	Roberts	Waters
	Roemer	Watt
Markey	Rogers	Waxman
Martinez	Rohrabacher	Weldon
Matsui	Ros-Lehtinen	Wheat
Mazzoli	Rose	Whitten
McCloskey	Roukema	Williams
McDade	Rowland	Wise
McDermott	Roybal-Allard	Wolf
McHale	Rush	Woolsey
McHugh	Sabo	Wyden
McKinney	Sanders	Young (FL)
McMillan	Sangmeister	Zeliff
McNulty	Santorum	Zimmer
Meehan	Sarpalius	
Meek	Sawyer	

NAYS—64

Allard	Gillmor	McCrery
Archer	Hall (TX)	McInnis
Armey	Hancock	McKeon
Bachus (AL)	Hansen	Miller (FL)
Baker (CA)	Herger	Molinari
Baker (LA)	Hoke	Orton
Ballenger	Hunter	Packard
Barrett (NE)	Inhofe	Paxon
Barton	Istook	Pombo
Bilbray	Johnson, Sam	Royce
Burton	Kingston	Schaefer
Buyer	Knollenberg	Skeen
Calvert	Kolbe	Stearns
Combest	Kyl	Stenholm
Cox	LaRocco	Stump
Crane	Lewis (KY)	Talent
Crapo	Lightfoot	Tauzin
DeLay	Livingston	Thomas (CA)
Doolittle	Lucas	Vucanovich
Dunn	Manzullo	Young (AK)
Emerson	McCandless	
Fields (TX)	McCollum	

NOT VOTING—52

Ackerman	Camp	Cooper
Becerra	Clinger	Coppersmith
Bentley	Condit	DeFazio
Derrick	Laughlin	Serrano
Dickey	Lewis (CA)	Slattery
Dornan	Lewis (FL)	Smith (OR)
Dreier	Machtley	Sundquist
Edwards (CA)	Maloney	Swett
Engel	McCurdy	Synar
Fingerhut	Mfume	Thomas (WY)
Fish	Miller (CA)	Towns
Ford (MI)	Mink	Velázquez
Gallo	Mollohan	Washington
Grams	Nadler	Wilson
Gunderson	Owens	Wynn
Hayes	Rangel	Yates
Huffington	Rostenkowski	
Kopetski	Roth	

□ 1509

The Clerk announced the following pairs:

On this vote:

Ms. Velázquez for, with Mr. Dornan against.

Mrs. Maloney for, with Mr. Grams against.

Mr. Nadler for, with Mr. Smith of Oregon against.

Mr. Lewis of Florida for, with Mr. Thomas of Wyoming against.

Mr. ROYCE and Mr. LIVINGSTON changed their vote from "yea" to "nay."

Mrs. COLLINS of Illinois and Mr. CUNNINGHAM 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 (Mr. ANDREWS of Texas). Without objection, the Chair appoints the following conferees: Messrs. YATES, MURTHA, DICKS, BEVILL, SKAGGS, COLEMAN, OBEY, REGULA, MCDADE, KOLBE, and PACKARD.

There was no objection.

□ 1510

APPOINTMENT OF CONFEREES ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4650) making appropriations for the Department of Defense 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 SPEAKER pro tempore (Mr. ANDREWS of Texas). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. WALKER

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

The Clerk read as follows:

Mr. WALKER 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. 4650, be instructed to agree to the following language:

No funds appropriated under this Act shall be used to deploy United States Armed

Forces to Haiti or otherwise support United States Armed Forces in Haiti for purposes of removing the de facto regime or for subsequent peacekeeping by United States Armed Forces without first obtaining the prior approval of the Congress.

POINT OF ORDER

Mr. MURTHA. Mr. Speaker, I make a point of order against the motion to instruct conferees. The motion instructs conferees to include matter outside the scope of the conferees' authority and is in violation of clause 3, rule XXVIII.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania [Mr. WALKER] wish to be heard on the point of order?

Mr. WALKER. Mr. Speaker, I do wish to be heard on my motion and on the point of order.

Mr. Speaker, my dear friend, the gentleman from Pennsylvania [Mr. MURTHA], raises the point that the instruction that I have proposed falls outside the scope of the legislation that we have before us.

Mr. Speaker, the problem with the gentleman's point is the fact that we are about to engage, according to media reports and according to announcements from the administration, in an action in Haiti. This is not an action that was contemplated at the time the bills were being drafted either in the House or the Senate.

Moreover, the troops are being deployed at the present time to Haiti under funds appropriated last year, none of which were for the purpose of an invasion of Haiti. In my view, the only place that the House has to legitimately address this issue is in the defense appropriations bill where we can limit funding if we do not believe that this particular action should be taken.

This instruction, while it does not meet the strict interpretation of scope, is certainly within the scope of the moneys that are going to be utilized in the bill that is before us. There is no doubt that if this invasion takes place, the moneys that are going to be appropriated under this bill will be used in Haiti.

This is an instruction assuring that the Congress has acted on this issue and assuring that none of these funds will go forward and be used by our Armed Forces in Haiti until there has been a prior approval by the Congress for that action.

So I think this is a necessary action to take and conferees would then be authorized to place this language into the bills that come back for final action in the House. I would hope that the Chair would rule in favor of this as an entirely appropriate way for the House to engage in the issue of Haiti and assure that the Members of this House have had at least a vote on whether or not to engage in a combatant action in the nation of Haiti.

Mr. MURTHA. Mr. Speaker, I ask for a ruling.

The SPEAKER pro tempore (Mr. ANDREWS of Texas). The Chair is prepared to rule.

The motion offered by the gentleman includes matter not within the scope of differences on any of the Senate amendments being sent to conference. The motion is, therefore, out of order under clause 3 of rule XXVIII.

On page 715 of the Manual it is stated that a point of order may be sustained against a motion to instruct House conferees to address a matter beyond the scope of differences being committed to conference by the 215 Senate amendments.

The Chair sustains the point of order.

MOTION TO INSTRUCT OFFERED BY MR. MCDADE

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

The Clerk read as follows:

Mr. MCDADE 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. 4650, as they resolve Senate amendment numbered 214, relating to fiscal year 1994 funding for Rwanda, be instructed to agree to the following provisos contained in Senate amendment 214:

"*Provided further*, That no funds are available for United States participation in operations in or around Rwanda after October 7, 1994"; and

"*Provided further*, That any change in the mission from one of strict refugee relief to security, peace-enforcing, nation-building or any other substantive role, shall not be implemented without the further approval of the Congress".

Mr. MCDADE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MCDADE].

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

Mr. Speaker, my motion is simple and straightforward—it would have the House conferees agree to the limits set by the Senate regarding our military's involvement in Rwanda.

Mr. Speaker, when our troops were dispatched to the Rwanda area beginning in late July, many of us feared what was starting out as a mission of mercy by our troops would be transformed into a more difficult, expensive, lengthy, open-ended, and dangerous mission. Much as our involvement in Somalia changed from relief to peacekeeping, and finally taking sides in a civil war, the terrible conditions in Rwanda could draw our military into a similar quagmire.

The first week in August, our Defense Subcommittee had a chance to relay these concerns directly to the Secretary of Defense in a public hearing. And soon thereafter, the Senate passed this amendment which sets clear guidelines for our military involvement: that the mission be limited to humanitarian relief only, and that it be concluded by October 7 of this year.

Any change in that mission—be it peacekeeping, peace-enforcement, or so-called nation-building activities—or timetable can only occur if specifically approved by the Congress.

It appears the message we were trying to send is being received. Our troops have performed magnificently—helping prevent a massive outbreak of disease and saving thousands of lives. And it appears our military's involvement is now winding down. While the refugee problem still exists, our forces are in the process of handing off the longer term relief requirements to the United Nations and relief agencies.

This motion puts us on record with the Senate to ensure our military's involvement in Rwanda remains limited, and that the transition to other organizations continues. I do not mean to minimize the problems that remain in Rwanda—they are serious and will require enormous effort to resolve. But our Armed Forces are not, and should not, be part of this longer term effort.

And I would hope this would also send a signal regarding similar operations involving our military. At a time when we are cutting our defense budget and military forces drastically, we simply cannot embark on open-ended missions in areas where our national security interests are not at stake. Today we are engaged in a number of such operations besides Rwanda: around Iraq and Bosnia, and in the Caribbean—and as we all know the administration appears committed to an even greater use for our forces in such situations.

Mr. Speaker, we may differ over the policy involved in each of these deployments, but we can all see these missions are pushing our military's resources to the limits. We are hollowing out the force, and unless we change direction at some point we will see our military continue to slide back into the conditions it was in in the late 1970's.

So I ask for your support for this motion, setting sensible limits on our mission in Rwanda.

Mr. MURTHA. Mr. Speaker, I have no objection.

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

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

There was no objection.

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

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: Messers: MURTHA, DICKS, WILSON, HEFNER, SABO, DIXON, VISCLOSKY, DARDEN, OBEY, MCDADE, YOUNG of Florida, LIVINGSTON, LEWIS of California, and SKEEN.

There was no objection.

MOTION TO CLOSE CONFERENCE

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

The Clerk read as follows:

Mr. MURTHA moves pursuant to rule XXVIII, clause 6(a) of the House rules that the conference meetings between the House and the Senate on the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, be closed to the public at such times as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

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

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 376, nays 0, not voting 58, as follows:

[Roll No. 422]

AYES—376

Abercrombie	Byrne	Evans
Allard	Callahan	Everett
Andrews (ME)	Calvert	Ewing
Andrews (NJ)	Canady	Farr
Andrews (TX)	Cantwell	Fawell
Applegate	Cardin	Fazio
Archer	Carr	Fields (LA)
Armey	Castle	Fields (TX)
Bacchus (FL)	Chapman	Filner
Bachus (AL)	Clay	Flake
Baesler	Clayton	Foglietta
Baker (CA)	Clement	Ford (TN)
Baker (LA)	Clyburn	Fowler
Ballenger	Coble	Frank (MA)
Barca	Coleman	Franks (CT)
Barcia	Collins (GA)	Franks (NJ)
Barlow	Collins (IL)	Frost
Barrett (NE)	Collins (MI)	Furse
Barrett (WI)	Combest	Gallegly
Bartlett	Conyers	Gejdenson
Barton	Costello	Gekas
Bateman	Cox	Gephardt
Beilenson	Coyne	Geren
Bereuter	Cramer	Gibbons
Berman	Crane	Gilchrest
Bevill	Crapo	Gillmor
Bilbray	Cunningham	Gilman
Bilirakis	Danner	Gingrich
Bishop	Darden	Glickman
Blackwell	de la Garza	Gonzalez
Bliley	Deal	Goodlatte
Blute	DeLauro	Goodling
Boehlert	DeLay	Gordon
Boehner	Dellums	Goss
Bonilla	Deutsch	Grandy
Bonior	Diaz-Balart	Green
Borski	Dicks	Greenwood
Boucher	Dingell	Gutierrez
Brewster	Dixon	Hall (OH)
Brooks	Doolittle	Hall (TX)
Browder	Duncan	Hamburg
Brown (CA)	Dunn	Hamilton
Brown (FL)	Durbin	Hancock
Brown (OH)	Edwards (TX)	Hansen
Bryant	Ehlers	Harman
Bunning	Emerson	Hastert
Burton	English	Hastings
Buyer	Eshoo	Hefley
Hefner	McDade	Sangmeister
Herger	McHale	Santorum
Hilliard	McHugh	Sarpalius
Hinchey	McInnis	Sawyer
Hoagland	McKeon	Saxton
Hobson	McKinney	Schaefer
Hochbrueckner	McMillan	Schenk
Hoekstra	McNulty	Schiff
Hoke	Meehan	Schroeder
Holden	Meek	Schumer
Horn	Menendez	Scott
Houghton	Meyers	Sensenbrenner
Hoyer	Mica	Shaw
Hughes	Michel	Shays
Hunter	Miller (FL)	Shepherd
Hutchinson	Mineta	Shuster
Hutto	Minge	Sisisky
Hyde	Moakley	Skaggs
Inglis	Molinari	Skeen
Inslee	Montgomery	Skelton
Istook	Moorhead	Slaughter
Jacobs	Moran	Smith (IA)
Jefferson	Morella	Smith (MI)
Johnson (CT)	Murphy	Smith (NJ)
Johnson (GA)	Murtha	Smith (TX)
Johnson (SD)	Myers	Snowe
Johnson, E.B.	Neal (MA)	Solomon
Johnson, Sam	Neal (NC)	Spence
Johnston	Nussle	Spratt
Kanjorski	Oberstar	Stark
Kaptur	Obey	Stearns
Kasich	Olver	Stenholm
Kennedy	Ortiz	Stokes
Kennelly	Orton	Strickland
Kildee	Oxley	Studds
Kim	Packard	Stump
King	Pallone	Stupak
Kingston	Parker	Swift
Kleczka	Pastor	Talent
Klein	Paxon	Tanner
Klink	Payne (NJ)	Tauzin
Klug	Pelosi	Taylor (MS)
Knollenberg	Penny	Taylor (NC)
Kolbe	Peterson (FL)	Tejeda
Kreidler	Peterson (MN)	Thomas (CA)
Kyl	Petri	Thompson
LaFalce	Pickett	Thornton
Lambert	Pickle	Thurman
Lancaster	Pombo	Torkildsen
Lantos	Pomeroy	Torres
LaRocco	Porter	Torricelli
Lazio	Portman	Traficant
Leach	Poshard	Tucker
Lehman	Price (NC)	Unsoeld
Levin	Pryce (OH)	Upton
Levy	Quillen	Valentine
Lewis (GA)	Quinn	Vento
Lewis (KY)	Rahall	Visclosky
Lightfoot	Ramstad	Volkmer
Linder	Ravenel	Vucanovich
Lipinski	Reed	Walker
Livingston	Regula	Walsh
Lloyd	Reynolds	Waters
Long	Richardson	Watt
Lowey	Ridge	Waxman
Lucas	Roberts	Weldon
Manton	Roemer	Wheat
Manzullo	Rogers	Whitten
Margolies-Mezvinsky	Rohrabacher	Williams
Markey	Ros-Lehtinen	Wise
Martinez	Rose	Wolf
Matsui	Roukema	Woolsey
Mazzoli	Rowland	Wyden
McCandless	Roybal-Allard	Young (AK)
McCloskey	Royce	Young (FL)
McCollum	Rush	Zeliff
McCrery	Sabo	Zimmer
	Sanders	

NOT VOTING—58

Ackerman	Engel	Maloney
Becerra	Fingerhut	Mann
Bentley	Fish	McCurdy
Camp	Ford (MI)	McDermott
Clinger	Gallo	Mfume
Condit	Grams	Miller (CA)
Cooper	Gunderson	Mink
Coppersmith	Hayes	Mollohan
DeFazio	Huffington	Nadler
Derrick	Inhofe	Owens
Dickey	Kopetski	Payne (VA)
Dooley	Laughlin	Rangel
Dornan	Lewis (CA)	Rostenkowski
Dreier	Lewis (FL)	Roth
Edwards (CA)	Machtley	Serrano
Sharp	Synar	Wilson
Slattery	Thomas (WY)	Wynn
Smith (OR)	Towns	Yates
Sundquist	Velazquez	
Swett	Washington	

□ 1539

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NORTH AMERICAN WETLANDS CONSERVATION ACT AMENDMENTS OF 1994

The SPEAKER pro tempore (Mr. ANDREWS of Texas). The unfinished business is the question of suspending the rules and passing the bill, H.R. 4308, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4308, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 5, not voting 61, as follows:

[Roll No. 423]

YEAS—368

Abercrombie	Cardin	Flake
Allard	Carr	Foglietta
Andrews (ME)	Castle	Ford (TN)
Andrews (NJ)	Chapman	Fowler
Andrews (TX)	Clay	Frank (MA)
Applegate	Clayton	Franks (CT)
Archer	Clement	Franks (NJ)
Armey	Clyburn	Frost
Bacchus (FL)	Coble	Furse
Bachus (AL)	Coleman	Gallegly
Baesler	Collins (GA)	Gejdenson
Baker (CA)	Collins (IL)	Gekas
Baker (LA)	Collins (MI)	Gephardt
Ballenger	Combest	Geren
Barca	Conyers	Gilchrest
Barcia	Costello	Gillmor
Barlow	Cox	Gilman
Barrett (NE)	Coyne	Gingrich
Barrett (WI)	Cramer	Glickman
Bartlett	Crapo	Gonzalez
Barton	Cunningham	Goodlatte
Bateman	Danner	Goodling
Beilenson	Darden	Gordon
Bereuter	de la Garza	Goss
Bevill	Deal	Grandy
Bilbray	DeLauro	Green
Bilirakis	Dellums	Greenwood
Bishop	Deutsch	Gutierrez
Blackwell	Diaz-Balart	Hall (OH)
Bliley	Dicks	Hall (TX)
Blute	Dingell	Hamburg
Boehlert	Dixon	Hamilton
Boehner	Dooley	Hansen
Bonilla	Doolittle	Harman
Bonior	Duncan	Hastert
Borski	Dunn	Hastings
Boucher	Durbin	Hefley
Brewster	Edwards (TX)	Hefner
Brooks	Ehlers	Hilliard
Browder	Emerson	Hinchey
Brown (CA)	English	Hoagland
Brown (FL)	Eshoo	Hobson
Brown (OH)	Evans	Hochbrueckner
Bryant	Everett	Hoekstra
Bunning	Ewing	Hoke
Burton	Farr	Holden
Buyer	Fawell	Horn
Byrne	Fazio	Houghton
Calvert	Fields (LA)	Hoyer
Canady	Fields (TX)	Hughes
Cantwell	Filner	Hunter

Hutchinson	Menendez	Saxton
Hutto	Meyers	Schaefer
Hyde	Mica	Schenk
Inglis	Michel	Schiff
Inslee	Mineta	Schroeder
Istook	Minge	Schumer
Jacobs	Moakley	Scott
Jefferson	Molinari	Sensenbrenner
Johnson (CT)	Montgomery	Shaw
Johnson (GA)	Moorhead	Shays
Johnson (SD)	Moran	Shepherd
Johnson, E. B.	Morella	Shuster
Johnston	Murphy	Sisisky
Kanjorski	Murtha	Skaggs
Kaptur	Myers	Skeen
Kasich	Neal (MA)	Skelton
Kennedy	Neal (NC)	Slaughter
Kennelly	Nussle	Smith (IA)
Kildee	Oberstar	Smith (MI)
Kim	Obey	Smith (NJ)
King	Olver	Smith (TX)
Kingston	Ortiz	Snowe
Kleczka	Orton	Solomon
Klein	Oxley	Spence
Klink	Packard	Spratt
Klug	Pallone	Stark
Knollenberg	Parker	Stearns
Kolbe	Pastor	Stenholm
Kreidler	Paxon	Stokes
Kyl	Payne (NJ)	Strickland
LaFalce	Payne (VA)	Studds
Lambert	Pelosi	Stupak
Lancaster	Penny	Swift
Lantos	Peterson (FL)	Talent
LaRocco	Peterson (MN)	Tanner
Lazio	Petri	Tauzin
Leach	Pickett	Taylor (MS)
Lehman	Pickle	Taylor (NC)
Levin	Pombo	Tejeda
Levy	Pomeroy	Thomas (CA)
Lewis (GA)	Porter	Thompson
Lewis (KY)	Portman	Thornton
Lightfoot	Poshard	Thurman
Linder	Price (NC)	Torkildsen
Lipinski	Pryce (OH)	Torres
Livingston	Quillen	Torricelli
Lloyd	Quinn	Traficant
Long	Rahall	Tucker
Lowey	Ramstad	Unsoeld
Lucas	Ravenel	Upton
Mann	Reed	Valentine
Manton	Regula	Vento
Manzullo	Reynolds	Visclosky
Margolies-Mezvinsky	Richardson	Volkmer
	Ridge	Vucanovich
Markey	Roberts	Walker
Martinez	Roemer	Walsh
Matsui	Rogers	Waters
Mazzoli	Rohrabacher	Watt
McCandless	Ros-Lehtinen	Waxman
McCloskey	Rose	Weldon
McCrery	Roukema	Wheat
McDade	Rowland	Whitten
McHale	Roybal-Allard	Wise
McHugh	Royce	Wolf
McInnis	Rush	Woolsey
McKeon	Sabo	Wyden
McKinney	Sanders	Yates
McMillan	Sangmeister	Young (AK)
McNulty	Santorum	Young (FL)
Meehan	Sarpalius	Zeliff
Meek	Sawyer	Zimmer

NAYS—5

Crane	Hancock	Stump
DeLay	Johnson, Sam	

NOT VOTING—61

Ackerman	Fingerhut	McCollum
Becerra	Fish	McCurdy
Bentley	Ford (MI)	McDermott
Berman	Gallo	Mfume
Callahan	Gibbons	Miller (CA)
Camp	Grams	Miller (FL)
Clinger	Gunderson	Mink
Condit	Hayes	Mollohan
Cooper	Herger	Nadler
Coppersmith	Huffington	Owens
DeFazio	Inhofe	Rangel
Derrick	Kopetski	Rostenkowski
Dickey	Laughlin	Roth
Dornan	Lewis (CA)	Serrano
Dreier	Lewis (FL)	Sharp
Edwards (CA)	Machtley	Slattery
Engel	Maloney	Smith (OR)
Sundquist	Towns	Wilson
Swett	Velazquez	Wynn
Synar	Washington	
Thomas (WY)	Williams	

□ 1604

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

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations to assist in carrying out the North American Wetlands Conservation Act for fiscal years 1995 through 1998, and for other purposes."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, due to activities related to the primary elections in my home State of Maryland, I was unavoidably detained earlier today in my district. I therefore missed rollcall votes No. 420, on approving the previous day's journal; No. 421, on the motion to instruct conferees on H.R. 4606, the Labor-HHS-Education appropriations for fiscal year 1995; No. 422, to approve the motion to close the conference committee meeting on H.R. 4650, the Department of Defense appropriations for fiscal year 1995, to the public; and No. 423, to suspend the rules and pass H.R. 4308, the Wetlands Conservation Act Amendments.

Had I been present, I would have voted "aye" on all occasions.

PERSONAL EXPLANATION

Mr. FINGERHUT. Mr. Speaker, due to a malfunction of my pager, I was not aware of votes taking place and inadvertently was absent. If I had been here I would have cast my vote as follows:

I would have voted "yes" on rollcall No. 421, a motion to instruct conferees on appropriations for the Department of Interior.

I would have voted yes on rollcall No. 422, a motion to close portions of the conference making appropriations for the Department of Defense.

I would have voted yes on rollcall No. 423, a motion to suspend the rules and pass H.R. 4308 to authorize appropriations under the North American Wetlands Conservation Act.

PERSONAL EXPLANATION

Mr. WYNN. Mr. Speaker, due to activities related to the primary elections in my congressional district in the State of Maryland, I was unable to cast votes on rollcall votes No. 420, on approving the previous day's journal; No. 421, on the motion to instruct conferees on H.R. 4606, the Labor-HHS-Education appropriations for fiscal year 1995; No. 422, to approve the motion to close the conference committee on H.R. 4650, the Department of Defense appropriations bill for fiscal year 1995, to the public, and No. 423, to suspend the rules and pass H.R. 4308, the Wetlands Conservations Act Amendments.

Had I been present, I would have voted "aye" on each of these votes.

PERSONAL EXPLANATION

Mr. COPPERSMITH. Mr. Speaker, due to my unavoidable absence on Tuesday, September 13, I was unable to record my vote during even rollcalls, Nos. 420 through 423, inclusive. Had I been present, I would have voted "aye" on rollcall Nos. 420, 421, 422, and 423.

ANNOUNCEMENT OF INTENTION TO OFFER PRIVILEGED RESOLUTION

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

Mr. COX. Mr. Speaker, I rise, pursuant to clause 2(a)(1) of rule IX, to announce to the House my intention to offer a privileged resolution.

The form of the resolution is as follows:

HOUSE RESOLUTION

Calling for prior Congressional debate and authorization for United States invasion of Haiti.

Whereas, it appears that United States military action against Haiti is imminent; and

Whereas, as a result of this impending military action the rights of this House collectively pursuant to Article I, Section 8 of the Constitution in question, and

Whereas, rule IX of the House of Representatives provides that a privileged motion shall be in order to protect the rights of this House collectively,

Resolved, That pursuant to Article I, Section 8 of the Constitution, the Speaker should immediately schedule a debate and a vote upon the wisdom of a military invasion of Haiti so that such debate and vote can occur prior to the commencement of any such military action.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore (Mr. ANDREWS of Texas). The gentleman will state it.

Mr. COX. Mr. Speaker, given that rule IX provides that the Speaker shall designate a time for debate of a privileged resolution such as this within 2 legislative days and given that the next legislative day is Friday, when we will be only in pro forma session, I would respectfully request that pursuant to rule IX, debate on this privileged resolution be scheduled for Monday.

The SPEAKER pro tempore. The Chair will consult with the Speaker on the gentleman's request.

ADJOURNMENT TO FRIDAY, SEPTEMBER 16, 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Friday, September 16, 1994.

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

There was no objection.

ADJOURNMENT FROM FRIDAY, SEPTEMBER 16, TO MONDAY, SEPTEMBER 19, 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, September 16, 1994, it adjourn to meet at noon on Monday, September 19, 1994.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 21, 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday, September 21, 1994.

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

There was no objection.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1993

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 995) to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services Employment and Reemployment Rights Act of 1993".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Purposes; sense of Congress.
"4302. Relation to other law; construction.
"4303. Definitions.
"4304. Character of service.
"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS
"4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
"4312. Reemployment rights of persons who serve in the uniformed services.
"4313. Reemployment positions.
"4314. Reemployment by the Federal Government.
"4315. Reemployment by certain Federal agencies.
"4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
"4317. Employee pension benefit plans.
"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION
"4321. Assistance in obtaining reemployment or other employment rights or benefits.
"4322. Enforcement of rights with respect to a State or private employer.
"4323. Enforcement of rights with respect to the Federal executive agencies.
"4324. Enforcement of rights with respect to certain Federal agencies.
"4325. Conduct of investigation; subpoenas.
"SUBCHAPTER IV—MISCELLANEOUS
"4331. Regulations.
"4332. Outreach.

"SUBCHAPTER I—GENERAL

"§4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter.

"§4302. Relation to other law; construction

"(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance) or employer practice, policy, agreement, or plan that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

"(b) This chapter supersedes any State law (including any local law or ordinance) or employer practice, policy, agreement, or plan that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

"§4303. Definitions

"For the purposes of this chapter—

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or an employer practice or custom and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

"(3)(A) The term 'employee' means any person employed by an employer.

"(B) With respect to employment in a foreign country, the term 'employee' includes an individual who is a citizen of the United States.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State;

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

"(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311 of this title.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4317 of this title.

"(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, and any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5.

"(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

"(7) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(8) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

"(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

"(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

"(11) The term 'Secretary' means the Secretary of Labor or any person designed by such Secretary to carry out an activity under this chapter.

"(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(13) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(14) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

"(A) the nature and cost of the action needed under this chapter;

"(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

"(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

"(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

"(16) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

"§ 4304. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance, service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can demonstrate that the action would have been taken in the absence of such membership, application for membership, performance, service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

"(d)(1) An employer may take an action otherwise prohibited by this section with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer to violate the law of the foreign country in which the workplace is located.

"(2) If an employer controls a corporation incorporated and located in a foreign country, any practice prohibited by this chapter that is engaged in by such corporation shall be presumed to be engaged in by such employer.

"(3)(A) The prohibitions of this section shall not apply to a foreign employer not controlled by an American employer.

"(B) For purposes of this paragraph the determination of whether an employer controls a corporation shall be based on—

"(i) the interrelation of operations;

"(ii) the common management;

"(iii) the centralized control of labor relations; and

"(iv) the common ownership or financial control of the employer and the corporation.

"§4312. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b), (c), and (d), any person who is absent from a position of employment by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) the person reports to, or submits an application for reemployment to, such employer in accordance with subsection (e).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) An employer is not required to reemploy a person under this chapter if—

"(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable; or

"(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 of this title, such employment would impose an undue hardship on the employer.

"(2) In any proceeding involving an issue of whether—

"(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances, or

"(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 of this title would impose an undue hardship on the employer,

the employer shall have the burden of proving the impossibility or unreasonableness or undue hardship.

"(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service.

"(D) In the case of a person whose period of service in the uniformed services was for more

than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

"(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated by, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

"(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the period specified in subparagraph (A) impossible or unreasonable.

"(3) A person who fails to report for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not been terminated pursuant to section 4304 of this title.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3)(A) Except as provided in subparagraph (B), the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A), (B), and (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4317(a)(2)(A) of this title.

"(4) An employer may not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

"(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service, or the nature of such training or service (including voluntary service) in the uniformed services, shall not be a basis for denying protection of this chapter if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

"§4313. Reemployment positions

"(a) Subject to subsection (b) (in the case of any employee) and section 4314 of this title (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312 of this title upon completion of a period of service in the uniformed services shall be promptly reemployed in a position of employment in accordance with the following order of priority:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 31 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) if the person is not qualified to perform the duties of the position referred to in subparagraph (A), after reasonable efforts by the employer to qualify the person, in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 30 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status, and pay, the duties of which the person is qualified to perform; or

"(B) if the person is not qualified to perform the duties of a position referred to in subparagraph (A), after reasonable efforts by the employer to qualify the person, in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform.

"(3) In the case of a person who has a disability incurred in, or aggravated by, such service, and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniformed services for any reason (other than disability incurred in, or aggravated by, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) If two or more persons are entitled to reemployment under section 4312 of this title in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

"(2) Any person entitled to reemployment under section 4312 of this title who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

"(B) In the case of a person who has a disability incurred in, or aggravated by, service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1), consistent with circumstances of such person's case, with full seniority.

"§4314. Reemployment by the Federal Government

"(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312 of this title, such person shall be reemployed in a position of employment as described in section 4313 of this title.

"(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

"(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 of this title and for which the person is qualified; and

"(B) ensure that the person is offered such position.

"(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

"(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

"(B) it is impossible or unreasonable for the agency to reemploy the person.

"(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured

an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"§ 4315. Reemployment by certain Federal agencies

"(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

"(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313 of this title.

"(c)(1) The regulations prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

"(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

"(3) A determination pursuant to this subsection shall not be subject to judicial review.

"(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

"(d)(1) Except as provided in this section, nothing in this section, section 4313 of this title, or section 4324 of this title shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

"(2) This section may not be construed—

"(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

"(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

"(2) the appropriate officer of the agency determines under section 4315(c) of this title that reemployment of the person by the agency is impossible or unreasonable; and

"(3) the person submits an application to the Director for an offer of employment under this subsection.

"§4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

"(a) A person who is reemployed under this chapter after a period of service in the uniformed services is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of such service plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

"(b)(1)(A) Subject to paragraphs (2) through (6), a person who performs service in the uniformed services shall be—

"(i) deemed to be on furlough or leave of absence while performing such service; and

"(ii) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a practice, policy, agreement, or plan in effect at the commencement of such service or established while such person performs such service.

"(B) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to subparagraph (A) to the extent other employees on furlough or leave of absence are so required. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan arising under this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period served by the person in the uniformed services).

"(2) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits which the person would not otherwise be entitled if the person were not on a furlough or leave of absence.

"(3) A person is not entitled under this subsection to coverage under a health plan to the extent that the person is entitled to care or treatment from the Federal Government as a result of such person's service in the uniformed services.

"(4) A person is not entitled under this subsection to coverage, under a disability insurance policy, of an injury or disease incurred or aggravated during a period of active duty service in excess of 31 days to the extent such coverage is excluded or limited by a provision of such policy.

"(5) A person is not entitled under this subsection to coverage, under a life insurance policy, of a death incurred by the person as a result of the person's participation in, or assignment to an area of, armed conflict to the extent that such coverage is excluded or limited by a provision of such policy.

"(6) The requirement that an employer provide rights or benefits under paragraph (1) to a person deemed to be on furlough or leave of absence shall expire on the earlier of—

"(A) the date of the end of the 18-month period that begins on the date on which the person commences the performance of the service referred to in paragraph (1); or

"(B) the date of the expiration of the person's obligation with respect to such service to notify the person's employer of the person's intent to return to a position of employment under section 4312(e) of this title.

"(7) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4317 of this title.

"(c)(1)(A) Subject to paragraphs (2) and (3), if a person's employer-sponsored health-plan coverage would otherwise terminate due to an extended absence from employment for purposes of performing service in the uniformed services, the person may elect to continue health-plan coverage acquired through civilian employment in accordance with this paragraph so that such coverage continues for not more than 18 months after such absence begins.

"(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 4980B(f)(4))) associated with such coverage for the employer's other employees, except that in the case of a person who performs a period of service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

"(C) In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan arising under this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period served by the person in the uniformed services).

"(2) A person who elects to continue health-plan coverage under this subsection shall not be entitled to coverage under the plan to the extent that the person is entitled to care or treatment from the Federal Government as a result of such person's service in the uniformed services.

"(3) The period of coverage of a person and the person's dependents under a continuation of health-plan coverage elected by the person under this subsection shall be the lesser of—

"(A) the 18-month period beginning on the date on which the absence referred to in paragraph (1) begins; or

"(B) the aggregate of the period of the person's service in the uniformed services and the period in which the person is required to notify the person's employer of the person's intent to return to a position of employment under section 4312(e) of this title.

"(d)(1) Except as provided in paragraph (2), in the case of a person whose coverage by an employer-sponsored health plan as an employee is terminated by reason of the service of such person in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of the coverage of the person upon reemployment under this chapter, or in connection with any other individual who is covered by the health plan by reason of the reinstatement of the coverage of such person upon reemployment, if an exclusion or waiting period would not have been imposed under such health plan had coverage of such person by such health plan not been terminated as a result of such service.

"(2) Paragraph (1) shall not apply to the condition of a person if the Secretary determines that the condition was incurred or aggravated during active military, naval, or air service.

"(e) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

"(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

"(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

"(f)(1) Any person described in paragraph (2) whose employment with an employer referred to in that paragraph is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation or annual leave with pay accrued by the person before the commencement of such service.

"(2) A person entitled to the benefit described in paragraph (1) is a person who—

"(A) has accrued vacation or annual leave with pay under a policy or practice of a State (as an employer) or private employer; or

"(B) has accrued such leave as an employee of the Federal Government pursuant to subchapter I of chapter 63 of title 5.

"§4317. Employee pension benefit plans

"(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. This subparagraph shall not be construed to affect any other right or benefit under this chapter.

"(2)(A) Except as provided in section 4312(f)(3)(B) of this title, a person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall be liable to an employee benefit pension plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2). For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145) or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan described in this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period described in subsection (a)(2)(B)).

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the person elects to make employee contributions or elective deferrals that are attributable to the period of service described in subsection (a)(2)(B). No such contributions or deferrals may exceed the amount the person or employer would have been permitted or required to make had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any employee contribution or deferral to the plan described in this paragraph shall be made during any reasonable continuous period (beginning with the date of reemployment) as the employer and the person may agree but in no event shall such person be afforded a payment period shorter than the length of absence for service for which the payments are due.

"(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B)—

"(A) shall be computed at the rate the employee would have received but for the absence during the period of service; or

"(B) if the employee's compensation was not based on a fixed rate, shall be computed on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(4) Notwithstanding any other provision of this section—

"(A) no earnings shall be credited to an employee with respect to any contribution prior to such contribution being made; and

"(B) any forfeitures during the period described in subsection (a)(2)(B) shall not be allocated to persons reemployed under this chapter.

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide notice of such reemployment to the administrator of such plan.

"(d) No provision of this section shall apply to the extent it—

"(1) requires any action to be taken which would cause the plan, any of its participants, or employer to suffer adverse tax or other consequences under the Internal Revenue Code of 1986; or

"(2) requires contributions to be returned or reallocated, or additional contributions to be made, with respect to employees not reemployed under this chapter.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"§4321. Assistance in obtaining reemployment or other employment rights or benefits

"(a) The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

"(b)(1)(A) A person referred to in subparagraph (B) may submit a complaint to the Secretary with respect to the matters described in clause (ii) of such subparagraph. Such complaint shall be submitted in accordance with subsection (c).

"(B) A person may submit a complaint under subparagraph (A) if the person claims—

"(i) to be entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

"(ii) that the employer (including the Office of Personnel Management, if the employer is the Federal Government) has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter.

"(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and to such claimant's employer.

"(c) A complaint submitted under subsection (b) shall be in a form prescribed by the Secretary and shall include—

"(1) the name and address of the employer or potential employer against whom the complaint is directed; and

"(2) a summary of the allegations upon which the complaint is based.

"(d) The Secretary shall investigate each complaint submitted pursuant to subsection (b). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

"(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

"(1) the results of the Secretary's investigation; and

"(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4322 of this title (in the case of a person submitting a complaint against a State or private employer) or section 4323 of this title (in the case of a person submitting a complaint against the Federal Government).

"(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

"§4322. Enforcement of rights with respect to a State or private employer

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4321(e) of this title of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

"(2)(A) A person referred to in subparagraph (B) may commence an action for appropriate relief in an appropriate United States district court.

"(B) A person entitled to commence an action for relief with respect to a complaint under subparagraph (A) is a person who—

"(i) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4321(c) of this title;

"(ii) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

"(iii) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

"(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

"(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of

a complaint, motion, petition, or other appropriate pleading by or on behalf of the person entitled to a right or benefit under this chapter—

"(i) to require the employer to comply with the provisions of this chapter;

"(ii) to require the State or private employer, as the case may be, to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) to require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions and temporary restraining orders, to vindicate fully the rights or benefits of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, and not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) In any such action, only a State and local government (as an employer), an employer, or a potential employer, as the case may be, shall be a necessary party respondent.

"(6) No State statute of limitations shall apply to any proceeding under this chapter.

"(7) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

"§4323. Enforcement of rights with respect to Federal executive agencies

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4321(e) of this title of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

"(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

"(B) If the Special Counsel decides not to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

"(b)(1) A person referred to in paragraph (2) may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board. A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

"(2) A person entitled to submit a complaint to the Merit Systems Protection Board under paragraph (1) is a person who—

"(A) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4321(c) of this title;

"(B) has received a notification from the Secretary under section 4321(e) of this title;

"(C) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

"(D) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

"(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b)(1).

"(2) If the Board determines that a Federal executive agency has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

"(3) Any compensation received by a person pursuant to an order under paragraph (1) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

"(4) If the Board determines as a result of a hearing or adjudication conducted pursuant a complaint submitted by a person directly to the Board pursuant to subsection (b)(1) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

"(d) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

"(e) A person may be represented by the Special Counsel in an action for review of a final order or decision issued by the Merit Systems Protection Board pursuant to subsection (c) that is brought pursuant to section 7703 of title 5 unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

"§4324. Enforcement of rights with respect to certain Federal agencies

"(a) This section applies to any person who alleges that—

"(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 of this title was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

"(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

"(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

"(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4321(d) of this title.

"(d) This section may not be construed—

"(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"§4325. Conduct of investigation; subpoenas

"(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.

"(b) In carrying out any investigation under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter and district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

"SUBCHAPTER IV—MISCELLANEOUS

"§4331. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with respect to States and local governments (as employers) and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers.

"(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

"(A) The Merit Systems Protection Board.

"(B) The Office of Special Counsel.

"(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

"§ 4332. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and employers under this chapter.".

(b) TABLE OF CHAPTERS.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of members of the uniformed services ..... 4301".

(c) REPORT RELATING TO IMPLEMENTATION OF REEMPLOYMENT RIGHTS PROVISIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Labor, the Attorney General of the United States, and the Special Counsel referred to in section 4323(a)(1) of title 38, United States Code (as added by subsection (a)), shall each submit a report to the Congress relating to the implementation of chapter 43 of such title (as added by such subsection).

SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) to an entitlement to rights and benefits under chapter 43 of this title.".

SEC. 4. REPEAL OF TITLE 5 PROVISIONS RELATING TO REEMPLOYMENT RIGHTS OF RESERVISTS.

(a) REPEAL.—Subchapter II of chapter 35 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the items relating to subchapter II and section 3551.

SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(b) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER CSRS.—Section 8334(j)(1) of such title is amended—

(1) by striking out "Each employee" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), each employee"; and

(2) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.".

(c) CREDITABLE MILITARY SERVICE UNDER FERS.—Section 8401(31) of such title is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(d) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER FERS.—Section 8422(e)(1) of such title is amended—

(1) by striking out "Each employee" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), each employee"; and

(2) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.".

(e) TECHNICAL AMENDMENTS.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out "1954" in the flush matter above clause (i) and inserting in lieu thereof "1986".

(2) In section 8422(a)(2)(A)(ii), by striking out "1954" and inserting in lieu thereof "1986".

(3) In section 8432(d), by striking out "1954" in the first sentence and inserting in lieu thereof "1986".

(4) In section 8433(i)(4), by striking out "1954" and inserting in lieu thereof "1986".

(5) In section 8440—

(A) by striking out "1954" in subsection (a) and inserting in lieu thereof "1986"; and

(B) by striking out "1954" in subsection (c) and inserting in lieu thereof "1986".

SEC. 6. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

"§8432b. Contributions of persons who perform military service

"(a) This section applies to any employee who—

"(1) separates or enters leave-without-pay status in order to perform military service; and

"(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

"(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—

"(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

"(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

"(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4)(A) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

"(i) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

"(ii) the period of time over which the employee wishes to make contributions under this subsection.

"(B) The employing agency may place a maximum limit on the period of time referred to in subparagraph (A)(ii), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

"(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

"(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

"(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

"(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f) Amounts paid under subsection (c) or (d) shall be paid—

"(1) by the agency to which the employee is restored or in which such employee is reemployed;

"(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

"(3) within the time prescribed by the Executive Director.

"(g)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

"(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

"(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(h) The Executive Director shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service.".

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(g)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.".

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(g)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.".

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) This subsection applies to any employee—

"(A) to whom section 8432b applies; and

"(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

"(i) is eligible to make an election described in subsection (b)(1); or

"(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).".

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

"(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

"(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

"(C) subsections (c) and (d) of section 8432b shall be disregarded.".

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code (as added by section 2(a)), occurs on or after August 1, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is restored or reemployed in a position of employment (in the circumstances described in section 8432b(a) of title 5, United States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

SEC. 7. CONFORMING AMENDMENTS.

(a) TITLE 5.—Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".

(b) TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".

SEC. 8. TECHNICAL AMENDMENT.

(a) TECHNICAL AMENDMENT.—Section 9(d) of Public Law 102–16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 102–16 to which such amendment relates.

SEC. 9. TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniform services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) Except as provided in paragraph (2), the provisions of section 4316(c) of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage shall become effective on the date of enactment of this Act.

(2) A person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue insurance coverage as provided in such section 4316. If such an election is made, insurance coverage shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4325 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) DEFINITION.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

SEC. 10. INCREASE IN AMOUNT OF LOAN GUARANTY FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out "$46,000" and inserting in lieu thereof "$50,750".

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services Employment and Reemployment Rights Act of 1994".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

"SUBCHAPTER I—GENERAL

"4301. Purposes; sense of Congress.
"4302. Relation to other law and plans or agreements.
"4303. Definitions.
"4304. Character of service.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
"4312. Reemployment rights of persons who serve in the uniformed services.
"4313. Reemployment positions.
"4314. Reemployment by the Federal Government.
"4315. Reemployment by certain Federal agencies.
"4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
"4317. Health plans.
"4318. Employee pension benefit plans.

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"SUBCHAPTER I—GENERAL

"§ 4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter.

"§ 4302. Relation to other law and plans or agreements

"(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

"(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

"§ 4303. Definitions

"For the purposes of this chapter—

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

"(3) The term 'employee' means any person employed by an employer.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State;

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

"(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

"(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

"(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

"(7) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(8) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

"(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

"(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

"(11) Notwithstanding section 101, the term 'Secretary' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

"(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(13) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(14) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

"(A) the nature and cost of the action needed under this chapter;

"(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

"(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

"(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

"(16) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

"§ 4304. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§ 4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, performance of service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services and shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).

"§4312. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b), (c), and (d) and to section 4304, any person who is absent from a position of employment by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) An employer is not required to reemploy a person under this chapter if—

"(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable;

"(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313, such employment would impose an undue hardship on the employer; or

"(C) the employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

"(2) In any proceeding involving an issue of whether—

"(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances,

"(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 would impose an undue hardship on the employer, or

"(C) the employment referred to in paragraph (1)(C) is brief or for a nonrecurrent period and without a reasonable expectation that such employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

"(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service or if submitting such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.

"(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

"(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

"(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the period specified in subparagraph (A) impossible or unreasonable.

"(3) A person who fails to report or apply for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not been terminated pursuant to section 4304.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3)(A) Except as provided in subparagraph (B), the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not

be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A), (B), and (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4318(a)(2)(A).

"(4) An employer may not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

"(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service, or the nature of such training or service (including voluntary service) in the uniformed services, shall not be a basis for denying protection of this chapter if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

"§ 4313. Reemployment positions

"(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, upon completion of a period of service in the uniformed services, shall be promptly reemployed in a position of employment in accordance with the following order of priority:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(3) In the case of a person who has a disability incurred in, or aggravated during, such service, and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason (other than disability incurred in, or aggravated during, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) If two or more persons are entitled to reemployment under section 4312 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

"(2) Any person entitled to reemployment under section 4312 who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with the circumstances of such person's case, with full seniority.

"(B) In the case of a person who has a disability incurred in, or aggravated during, a period of service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

"§ 4314. Reemployment by the Federal Government

"(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312, such person shall be reemployed in a position of employment as described in section 4313.

"(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

"(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 and for which the person is qualified; and

"(B) ensure that the person is offered such position.

"(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

"(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

"(B) it is impossible or unreasonable for the agency to reemploy the person.

"(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"§ 4315. Reemployment by certain Federal agencies

"(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

"(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313.

"(c)(1) The procedures prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

"(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or

unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

"(3) A determination pursuant to this subsection shall not be subject to judicial review.

"(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence and the Committee on Veterans' Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Veterans' Affairs of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

"(d)(1) Except as provided in this section, nothing in this section, section 4313, or section 4325 shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

"(2) This section may not be construed—

"(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

"(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

"(2) the appropriate officer of the agency determines under subsection (c) that reemployment of the person by the agency is impossible or unreasonable; and

"(3) the person submits an application to the Director for an offer of employment under this subsection.

"§ 4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

"(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

"(b)(1) Subject to paragraphs (2) through (6), a person who is absent from a position of employment by reason of service in the uniformed services shall be—

"(A) deemed to be on furlough or leave of absence while performing such service; and

"(B) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

"(2)(A) Subject to subparagraph (B), a person who—

"(i) is absent from a position of employment by reason of service in the uniformed services, and

"(ii) knowingly provides written notice of intent not to return to a position of employment after service in the uniformed service, is not entitled to rights and benefits under paragraph (1)(B).

"(B) For the purposes of subparagraph (A), the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and, in doing so, was aware of the specific rights and benefits to be lost under subparagraph (A).

"(3) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits to which the person would not otherwise be entitled if the person had remained continuously employed.

"(4) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph (1) to the extent other employees on furlough or leave of absence are so required.

"(5) The entitlement of a person to coverage under a health plan is provided for under section 4317.

"(6) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4318.

"(c) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

"(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

"(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

"(d) Any person whose employment with an employer is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service.

"§ 4317. Health plans

"(a)(1)(A) Subject to paragraphs (2) and (3), in any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person's dependents under such an election shall be the lesser of—

"(i) the 18-month period beginning on the date on which the person's absence begins; or

"(ii) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).

"(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer's other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

"(C) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

"(i) by the plan in such manner as the plan sponsor shall provide; or

"(ii) if the sponsor does not provide—

"(I) to the last employer employing the person before the period served by the person in the uniformed services, or

"(II) if such last employer is no longer functional, to the plan.

"(b)(1) Except as provided in paragraph (2), in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment under this chapter if an exclusion or waiting period would not have been imposed under health plan had coverage of such person by such plan not been terminated as a result of such service. This paragraph applies to the person who is reemployed and to any individual who is covered by such plan by reason of the reinstatement of the coverage of such person.

"(2) Paragraph (1) shall not apply to the coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

"§ 4318. Employee pension benefit plans

"(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

"(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension

benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability of the plan described in this paragraph shall be allocated—

"(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

"(B) if the sponsor does not provide—

"(i) to the last employer employing the person before the period served by the person in the uniformed services, or

"(ii) if such last employer is no longer functional, to the plan.

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, not to exceed five years.

"(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B) shall be computed—

"(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or

"(B) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"§ 4321. Assistance in obtaining reemployment or other employment rights or benefits

"The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

"§ 4322. Enforcement of employment or reemployment rights

"(a) A person who claims that—

"(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

"(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

"(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

"(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

"(c) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

"(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

"(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

"(1) the results of the Secretary's investigation; and

"(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in the case of a person submitting a complaint against a Federal executive agency).

"(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

"§ 4323. Enforcement of rights with respect to a State or private employer

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

"(2) A person may commence an action for relief with respect to a complaint if that person—

"(A) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4322(c);

"(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

"(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

"(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

"(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of a complaint, motion, petition, or other appropriate pleading by or on behalf of the person claiming a right or benefit under this chapter—

"(i) to require the employer to comply with the provisions of this chapter;

"(ii) to require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) to require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) In any such action, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

"(6) No State statute of limitations shall apply to any proceeding under this chapter.

"(7) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

"§ 4324. Enforcement of rights with respect to Federal executive agencies

"(a)(1) A person who receives from the Secretary a notification pursuant to section

4322(e) of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

"(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

"(B) If the Special Counsel declines to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

"(b) A person may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board if that person—

"(1) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4322(c);

"(2) has received a notification from the Secretary under section 4322(e);

"(3) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

"(4) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

"(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b). A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

"(2) If the Board determines that a Federal executive agency has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

"(3) Any compensation received by a person pursuant to an order under paragraph (2) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

"(4) If the Board determines as a result of a hearing or adjudication conducted pursuant to a complaint submitted by a person directly to the Board pursuant to subsection (b) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

"(d)(1) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

"(2) Such person may be represented in the Federal Circuit proceeding by the Special Counsel unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

"§ 4325. Enforcement of rights with respect to certain Federal agencies

"(a) This section applies to any person who alleges that—

"(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

"(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

"(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

"(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4322(d).

"(d) This section may not be construed—

"(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"§ 4326. Conduct of investigation; subpoenas

"(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.

"(b) In carrying out any investigation under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"§ 4331. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers, except that employees of the Federal Government may be given greater or additional rights.

"(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

"(A) The Merit Systems Protection Board.

"(B) The Office of Special Counsel.

"(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

"§ 4332. Reports

"The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1) and no later than February 1, 1996, and annually thereafter through 2000, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

"(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

"(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4323 or 4324, respectively, during such fiscal year.

"(3) The number of complaints filed by the Attorney General pursuant to section 4323 during such fiscal year.

"(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

"(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

"(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

"§ 4333. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 38.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of members of the uniformed services ..... 4301".

(2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".

(B) Subchapter II of chapter 35 of such title is repealed.

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".

(c) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—

(1) by striking out subsection (j);

(2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) to benefits under chapter 43 of this title.".

SEC. 4. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

"§ 8432b. Contributions of persons who perform military service

"(a) This section applies to any employee who—

"(1) separates or enters leave-without-pay status in order to perform military service; and

"(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

"(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—

"(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

"(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

"(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

"(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

"(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

"(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

"(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

"(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

"(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave-without-pay status to perform military service.

"(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

"(g) Amounts paid under subsection (c), (d), or (f) shall be paid—

"(1) by the agency to which the employee is restored or in which such employee is reemployed;

"(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

"(3) within the time prescribed by the Executive Director.

"(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

"(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

"(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(i) The Executive Director shall prescribe regulations to carry out this section.".

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service.".

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.".

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.".

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) This subsection applies to any employee—

"(A) to whom section 8432b applies; and

"(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

"(i) is eligible to make an election described in subsection (b)(1); or

"(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).".

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

"(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

"(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

"(C) subsections (c) and (d) of section 8432b shall be disregarded.".

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code, occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any

employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

(4) Deem section 8432b(b)(2)(A) of such title to be amended by striking "ending on the day before the date of restoration or reemployment (as applicable)" and inserting "ending on the date determined under section 4(f)(1) of the Uniformed Services Employment and Reemployment Rights Act of 1994".

SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(b) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER CSRS.—Section 8334(j) of such title is amended—

(1) in paragraph (1)—

(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(c) CREDITABLE MILITARY SERVICE UNDER FERS.—Section 8401(31) of such title is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(d) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER FERS.—Section 8422(e) of such title is amended—

(1) in paragraph (1)—

(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(e) TECHNICAL AMENDMENTS.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out "1954" in the flush matter above clause (i) and inserting in lieu thereof "1986".

(2) In section 8422(a)(2)(A)(ii), by striking out "1954" and inserting in lieu thereof "1986".

(3) In section 8432(d), by striking out "1954" in the first sentence and inserting in lieu thereof "1986".

(4) In section 8433(i)(4), by striking out "1954" and inserting in lieu thereof "1986".

(5) In section 8440—

(A) by striking out "1954" in subsection (a) and inserting in lieu thereof "1986"; and

(B) by striking out "1954" in subsection (c) and inserting in lieu thereof "1986".

SEC. 6. TECHNICAL AMENDMENT.

(a) TECHNICAL AMENDMENT.—Section 9(d) of Public Law 102-16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 102-16 to which such amendment relates.

SEC. 7. INCREASE IN AMOUNT OF LOAN GUARANTY FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out "$46,000" and inserting in lieu thereof "$50,750".

SEC. 8. TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniform services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) The provisions of section 4316 of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage (other than health) shall become effective with respect to furloughs or leaves of absence initiated on or after the date of enactment of this Act.

(2) With respect to the provisions of section 4317 of title 38, United States Code, as provided in the amendments made by this Act, a person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue a health plan as provided in such section 4317. If such an election is made, the health plan shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4326 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) RIGHTS AND BENEFITS RELATIVE TO NOTICE OF INTENT NOT TO RETURN.—Section

4316(b)(2) of title 38, United States Code, as added by the amendments made by this Act, applies only to the rights and benefits provided in section 4316(b)(1)(B) and does not apply to any other right or benefit of a person under chapter 43 of title 38, United States Code. Such section shall apply only to persons who leave a position of employment for service in the uniformed services more than 60 days after the date of enactment of this Act.

(h) EMPLOYER PENSION BENEFIT PLANS.—(1) Nothing in this Act shall be construed to relieve an employer of an obligation to provide contributions to a penison plan (or provide pension benefits), or to relieve the obligation of a pension plan to provide pension benefits, which is required by the provisions of chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect.

(2) If any employee pension benefit plan is not in compliance with section 4318 of such title or paragraph (1) of this subsection on the date of enactment of this Act, such plan shall have two years to come into compliance with such section and paragraph.

(i) DEFINITION.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. STUMP. Mr. Speaker, reserving the right to object, I shall not object, but I take this time to yield to the gentleman from Mississippi for an explanation of the House amendment to the Senate amendment to H.R. 995.

Mr. MONTGOMERY. Mr. Speaker, the amendments under consideration today reflect a compromise between the House bill (H.R. 995), which we passed in May 1993, and the Senate amendments, which cleared the Senate last November. Since that time, we have been working out our differences and responding to concerns raised about certain aspects of this legislation.

Mr. Speaker, this measure, which would replace current chapter 43, title 38, United States Code, is an update of a measure first enacted by the Congress in 1940, on the eve of World War II. It was one of the most important measures enacted to ensure the readjustment of veterans to civilian life following military service. H.R. 995, as amended, continues what has been our national policy for over 50 years—that is, it assures the citizen-soldier that he or she can return to the civilian job held prior to entering military service and can return without any loss of seniority. Additionally, this compromise clarifies and updates chapter 43 to reflect current employment conditions as well as current conditions of military service.

Mr. Speaker, although the joint explanatory statement accompanying this measure explains the compromise in detail, I'd like to summarize some of the important rights provided to veterans under H.R. 995, as amended:

(1) A servicemember would be free to perform military service of limited duration, either in active military service or in the Reserve, without fear of reprisal or other adverse action by his employer. Except for certain types of military service, the total service may not exceed 5 years.

(2) To address employers' concerns about unexplained absences, the servicemember would now be required to provide notice of impending military service whenever possible, and, when requested by the employer, to document honorable service upon return to civilian employment.

(3) A servicemember who leaves a civilian job would continue to be deemed on furlough or leave of absence and would be entitled to other rights and benefits that are available to other employees on leave of absence.

(4) The bill clarifies the servicemember's right to continue employer-sponsored health insurance.

(5) While guaranteeing a veteran's right to pension benefits which would have accrued during military service, regardless of the nature of the pension plan, the bill would make it plain that pension plans will not have to pay earnings or forfeitures on make-up contributions.

(6) A servicemember returning to Federal employment would be assured that employer-provided and contributory pension benefits could be restored with little if any loss of benefits.

Mr. Speaker, there are several matters related to this important legislation that I want to comment on in more detail. First, I want to express the committee's strong disagreement with the recent decision in *Rumsey* v. *N.Y. State Dept. of Corr. Services*, 19 F.3d 83 (2nd Cir. 1994), which limited the protection given reservists on active duty for training only to "substantial rights" such as discharge, demotion, or failure to promote. While the amended act speaks in terms of "benefit, benefits of employment or rights and benefits," and no longer uses the term "incident or advantage of employment," the intent has always been to have an expansive interpretation, such as that expressed by the sixth circuit in *Monroe* v. *Standard Oil Co.*, 613 F.2d 641, 645 (6th Cir. 1980), aff'd. 452 U.S. 549 (1981). "[I]ncidents or advantages of employment * * * is intentionally framed in general terms to encompass the potential limitless variation in benefits of employment that are conferred by an untold number and variety of business concerns."

Additionally, I want to stress that new section 4311, which prohibits discrimination and related acts of reprisal against persons who serve in the uniformed services, reaffirms that the standard of proof in a discrimination or retaliation case is the so-called but for test and that the burden of proof is on the employer, once a prima facie case is established. This standard and burden of proof apply to all cases, regardless of when the cause of action occurred, except for those new causes of action created in new section 4311(c).

It should be noted that, because of the blurring of the distinctions between the types of military service, for example, active duty versus active duty for training, it is no longer rational or equitable to make rights and obligations under chapter 43 dependent on the distinctions between types of service. Rather, under section 4312 of H.R. 995, as amended, most types of service would be cumulatively considered toward the service limits. Because employment and reemployment are intended to protect noncareer servicepersons, the committee considers this to be an appropriate approach. Accordingly, the measure we are considering today would generally establish a 5-year limitation on total military service during the period of employment with the employer against whom reemployment rights are asserted.

Section 4312(e) of H.R. 995, as amended, would base time limits for applying for reemployment strictly on the length or duration of the military service from which the serviceperson is being discharged or released. Under current law, the deadline for returning servicemembers to report to their preservice employer for reemployment depends on the type of category of service. It is the committee's view that this is a far more rational approach to this issue because both the employer and the serviceperson are affected by the length of time the servicemember is away from his or her civilian employment. The nature of the individual's service is unimportant and has no effect.

I want to also focus on principles related to new section 4313, concerning reemployment positions. This section would address the issue of the position to be granted a serviceperson disabled while in military service, regardless of length of service, and who is not qualified for the "escalator" position after reasonable efforts to accommodate the disability. That obligation would be to reemploy the returning servicemember in an equivalent position in terms of seniority, status, and pay for which the person is qualified or can become qualified with reasonable efforts by the employer. If no such position exists, the nearest approximate position in terms of seniority, status, and pay would be required to be found. If a position other than the "escalator" position is offered

to a returning disabled servicemember, full company seniority for all purposes is always to be accorded the disabled serviceperson, regardless of whether seniority follows an employee under other circumstances.

New section 4313 would also require the reemployment of returning servicepersons who are not found qualified for their "escalator" positions for any reason other than disability, regardless of length of service, but who can qualify for a lesser position in terms of status and pay. This provision is primarily intended to deal with employees who return to technologically advanced situations for which they cannot qualify but who can perform in another position not necessarily in their "escalator" line. They, too, would receive full company seniority for all purposes in the new position.

Section 4317 of H.R. 995, as amended, would provide that an employee on military leave shall, at his or her request, be covered by insurance provided by the employer for up to 18 months. This protection is similar to the continuation of health insurance under the so-called COBRA provisions of the Employee Retirement Income Security Act, 29 U.S.C. 1161, et seq., but applies to all individuals entering the uniformed services, without limiting qualifications such as the size of the work force of the person's employer. The individual employee may be required to pay not more than 102 percent of the full cost of continuing insurance coverage, except in the case of persons serving periods of training or service for 30 or fewer days. In the case of these short tours, the employer is required to continue the insurance coverage, and the individual employee may only be required to pay the employee share, if any. Dependents of Reserve component members are entitled to participate in the military health care system, including CHAMPUS, only when the member has been called to serve for at least 31 days. The committee intends new section 4317 to ensure that there is no gap in health insurance coverage of the reservist's family while the reservist is performing military training.

It should be noted that new section 4312(a)(1) would generally require an individual who leaves a civilian job for service in the uniformed services to give written or verbal notice of the forthcoming military absence from employment to his or her employer. Under current law, only a member of the Selected Reserve must notify his or her employer before leaving work for active duty for training or inactive duty for training. There is no current requirement to notify the employer before leaving work for active duty or initial active duty for training. Under the measure we are considering today, an individual who does not indicate in any way that he or she is leaving because of military duty would no longer be protected—unless the exception provided in new section 4312(b) is applicable, but an individual who leaves for two or more reasons, one of which is for military duty, would continue to be protected.

Sections 4316(a) and 4316(b)(1) of the compromise measure would reaffirm that a departing serviceperson is to be placed on a statutorily mandated military leave of absence while away from work, regardless of the employer's policy. Thus, terminating a departing serviceperson, or forcing him or her to resign, even with a promise of reemployment, is of no effect. Accordingly, while away on military leave, the servicemember would be entitled to participate in whatever nonseniority related benefits are accorded other employees on nonmilitary leaves of absence. In contrast, benefits which are seniority based would not be limited to the treatment accorded employees on nonmilitary leaves of absence, but are to be accorded, after reemployment, as if the servicemember had remained continuously employed under the escalator principle. Section 4316(b)(2), however, provides that a person who is absent from a position of employment because of service in the uniformed services and knowingly provides written notice of intent not to return to a position of employment after service in the uniformed service, is not entitled to rights and benefits not determined by seniority. I want to emphasize that the employer would have the burden of proving that a person providing written notice of intent not to return to a position of employment was fully aware of the consequences of this action.

Mr. Speaker, the issue of pension rights and benefits of persons serving in the Armed Forces is an important and sometimes controversial aspect of this legislation. In trying to clarify the status of existing law, the committee has learned that a very powerful industry has developed since the first reemployment rights bill was signed by President Roosevelt in 1940. Although the strength of this industry is not surprising, given the growth of American pension plans, the organized resistance to clarification of existing law with respect to veterans' pension rights stands in marked contrast to the widespread cooperation between employers and the Government in resolving fundamental issues related to veterans' reemployment rights.

This cleft between a supportive and generous employer community, which admittedly bears a burden when employees enter military service, and the at times stingy and antagonistic pension community is a mystery to me, Mr. Speaker. Parts of the pension community apparently fail to understand the necessity for a strong national defense, and that the existing veterans reemployment law imposes justifiable burdens on employers. I say justifiable because we are talking about providing for and contributing to the common defense of this country. The preamble to the Constitution of the United States declared the purpose of this far-reaching undertaking was "to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." Domestic tranquility, our individual freedoms and liberty, and the general welfare would be unattainable objectives if we did not have a strong common defense. As we learned when our Nation was attacked in 1941, just as our ancestors learned when the United States was invaded in the early part of the 19th century, a strong national defense is the essential underpinning to all of the other purposes of the Constitution.

The linkage between the purposes of the veterans reemployment law and the promotion of the common defense was ignored by some pension industry representatives in their discussion of this legislation, so I wish to remind my colleagues of the importance of this law to our Nation's defense. Most Americans today take for granted that we have a strong and protective military force, but this was not always the case. In the late 1930's, as the storm clouds of war and the leveling effect of tyranny were observed in Europe, our ability to defend this Nation against a determined aggressor was suspect. In spite of the changes in attitude and national policy which resulted from the harbingers of world war, such as the adoption of compulsory military service and a great strengthening of the defense industries, the Nation was stunned by the sudden Japanese attack on Pearl Harbor which destroyed much of the Pacific fleet. It is unlikely the most knowledgeable observers would have predicted this event even 1 year before this act of aggression took place, so it is worth noting how rapidly events on the world stage can unfurl.

Although few would compare the political situation in the world today with that which existed when the first veterans' reemployment rights legislation was enacted in 1940, it is important, Mr. Speaker, to examine the present and future roles of the defense forces of this country. Even as the notion of defending this country against foreign aggressors fades into distant memory, the United States has undertaken a much larger peacekeeping mission worldwide. Our Nation is debating what role the American military should play in response to situations in distant parts of the world involving anarchy, starvation, and allegations of genocide. It's a slightly different question than the one confronted by the Congress on the eve of World War II,

but there are similarities. Defending the United States against foreign aggressors is the simple role given such prominence by the authors of the Constitution; however, in view of the prominence of American interests and American personnel throughout the globe, a simplistic reading of this role may make it impossible to fulfill in a meaningful way.

Today, much of our national policy is focused on efforts to strengthen our national economic base—on plans to enable the engine of the national economy to run smoother and stronger, ever more powerful. In a fast-changing world, it too often goes unremarked that the U.S. military strength serves as a deterrent to aggressive leaders throughout the world, thus making it possible for the Nation to do business abroad. Clearly, the perception of a nation willing to respond to aggressive actions harmful to its national interests protects and provides an advantage to American companies operating in a global market.

Mr. Speaker, restoring the citizen-soldier to the position he or she would have obtained had he or she remained continuously employed is the principle which undergirds the veterans reemployment law. In the words of the law, the veteran is to be restored "without loss of seniority." Although there are certain benefits "that might have flowed from experience, effort, or chance to which he cannot lay claim under the statute," *McKinney* v. *Missouri-K.-T. R. Co.*, 357 U.S. 265, 271 (1958), the Supreme Court has determined that if "the benefit would have accrued, with reasonable certainty, had the veteran been continuously employed by the private employer, and if it is in the nature of a reward for length of service, it is a 'perquisite of seniority'" protected by the law. *Alabama Power Co.* v. *Davis*, 431 U.S. 581, 589 (1977). While the Alabama Power decision noted that pension benefits are a current cost of employing potential pension recipients and that current compensation may be reduced in favor of more favorable pension benefits, the Court affirmed that pension plans are a reward for length of service and consequently are a protected perquisite of seniority.

Thus, in 1977, some 37 years after the law was first enacted, the claims of Mr. Davis for pension rights which he earned during World War II were finally settled. Because the amount of an employee's pension benefit is usually not determinable until the end of the employee's tenure with the employer, and is generally calculated at the end of the employee's working life, an employer failure to observe the requirements of the existing law that the veteran be made whole may go unnoticed for several decades. Although Congress has several times amended the veterans reemployment law, it was the administration's 1991 proposal to rewrite the law which brought the question of veterans' rights to employer contributions in certain pension plans to the Congress' attention. In *Alabama Power*, the Supreme Court raised, but refused to decide, the rights of persons who are participants in defined contribution plans. Since there is a clear trend toward increasing employer reliance on such plans, which do not guarantee a particular benefit level to retirees, but which base the ultimate benefit on the employer's and in some cases, the employee's, contribution, the Court's refusal to rule on this issue has caused concern among participants in defined contribution plans who leave jobs for military service and expect to be fully restored when they return. Although there are clear differences in the manner in which defined benefit and defined contribution plans are funded and administered, the distinction between these two types of plans is merely one of convenience and cost so far as the employer is concerned. In both types of plans, the employer makes a payment of a certain amount in order to provide an incentive to the employee to continue working for the employer. The only difference is that in one type of plan, the employer pays an amount calculated by actuaries as necessary to meet a certain benefit level, while in the defined contribution plan, the employer is free to contribute an amount that will not produce any guaranteed benefit level. There is no reason to view this distinction as one that would change the nature of the benefit to the employee.

In 1991, when the Department of Labor transmitted its proposal to recodify the veterans reemployment law, it specifically treated those veterans whose employers happened to maintain a defined contribution plan as second-class citizens. Then-Secretary of Labor Lynn Martin wrote:

> If the employee is a participant in a defined contribution plan, the employee's period of service in the uniformed services will be treated as service with the employer or employers for purposes of vesting but not for purposes of benefit accrual. The exception of defined contribution plans (such as profit sharing plans) from the obligation to provide benefit accruals was made because such accruals represent the contributions actually made to the plan participants' individual accounts, and are more properly characterized as current compensation than as perquisites of seniority.

Uniformed Services Employment and Reemployment Rights Act of 1991 (H.R. 1578), House Report 56, 102d Congress, 1st Sess. 63 (1191).

Mr. Speaker, I think this was a callous and short-sighted position taken by the administration in 1991, and our committee rejected it when we reported the legislation now under discussion as well as the bill which was considered and passed by the House in the 102d Congress. Most employees are not in a position to negotiate the manner in which their employer provides pension benefits, and to attempt to change the character of such a benefit based on the manner in which the employer chooses to pay for it seems disingenuous and conflicts with the underlying principle of the existing law, which is that the returning servicemember is to be made whole.

The House bill and the Senate amendments have both rejected the previous administration's position that pension benefits should be characterized as current compensation. Although it is apparent that defined contribution plans differ from employer to employer and, by definition, offer no guaranteed benefit to qualifying employees, there is not such uncertainty about the amount which an absent employee accrues under defined contribution plans that such benefits should be excluded from the perquisites of seniority. Cf. *Tilton v. Missouri Pacific Railroad Co.*, 357 U.S. 265, 270 (1963) ("To exact such certainty as a condition for insuring a veteran's seniority rights would render these statutorily protected rights without real meaning."). To deny such rights to employees who serve in the military undermines the fundamental principle that the employee should not be disadvantaged by military service.

An additional consequence of the Court's failure to conclusively determine that all pension benefits, including benefits derived from defined contribution plans, are protected perquisites of seniority is the creation of confusion and dissent among the many factions involved in the funding and administration of pension benefits. This confusion is made worse by the fact that when the Congress enacted the Employee Retirement Income Security Act [ERISA] of 1974, it made no provision to deal with the pension rights of returning servicemembers who had faithfully served their country. So far as this committee has been able to learn, there is no reflection of the veterans pension rights at issue here in any of the regulations implementing that law or the laws granting employers favorable tax treatment for contributions made to such plans. The committee has learned that since ERISA does not include specific rules which require make-up contributions, many employers or pension plan administrators may have erroneously concluded that such contributions are not required under existing law. This is not the view of this committee or the House, and since the issue was raised by the administration's 1991 proposal, we have determined to resolve it once and for all. In arriving at our decision, we have not been unmindful of the compliance burden which may result from a clarification of this issue. Further, although we note the interest of

the tax-writing committees in clarifying that such employer contributions would be tax-deductible, this issue is not addressed in this legislation because it is not an issue within our committee's jurisdiction.

The Supreme Court determined in *Alabama Power* that service in the military is to be credited for both vesting and benefit accrual purposes because the benefit is a reward for length of service and it is reasonably certain that the benefit would have accrued had the employee not been away in military service. The protections of the law apply equally to both defined benefit plans and defined contribution plans, so long as the specific plan at issue meets the requirement of *Alabama Power*. See *Reilly* v. *New England Teamsters*, 737 F.2d 1274, 1281–82 (2d Cir. 1984). The same would be true of those profit-sharing plans which are rewards for length of service. To the extent that *Raypole* v. *Chemi-trol Inc.*, 754 F.2d 169 (6th Cir. 1985) suggests differently, it is wrongly decided.

The decision in *Raypole* clearly does not reflect the intent of Congress when it drafted the original act. Congress intended to assure civilians called to the colors that they would not be disadvantaged while in service compared to workers whose lives were not similarly interrupted. The *Raypole* opinion, relying on the *Alabama Power* decision, found that when the Supreme Court "expressly withheld its views on whether defined contribution plans are to be treated differently from defined benefit plans * * *" it meant that profit sharing plans were not to receive the full enforcement of this law, see *Alabama Power* Co., 431 U.S. 593 n. 18, 97 S.Ct. 2002, 2009 n. 18 (1977). The result in this case is that a veteran would clearly be denied a benefit which almost certainly would have accrued had he not gone into the service, a benefit which can not be reasonably distinguished from the pension benefits at issue in *Alabama Power*. The decision in *Raypole* ignores the Congress' intent that the law be interpreted broadly so the veteran will "* * * not be disadvantaged by serving his country." See *McKinney* v. *Missouri-Kansas-Texas Railroad Co.*, 357 U.S. 265, 270 (1957).

The *Raypole* court also stated that "[w]e do not believe that Congress intended the Act to operate such that veterans share in the earnings from profits which they did not create at the expense of those who did" in reaching its final conclusion. See *Raypole* at 174. But this reasoning is also at odds with the intent of Congress because this rule as applied would place the veteran in the same position as an employee who had been fired and then eventually rehired. Congress did not intend for this to occur because it weighed the costs to the employer in drafting the original act, and determined that any perceived injustice to employers was more than offset by the benefits gained in achieving domestic tranquility through an adequately manned military. Defined contribution plans, including profit sharing plans, are covered by the act because "no practice of employers or agreements between employers and unions can cut down the service adjustment benefits which Congress has secured the veteran under the Act." See *Fishgold* v. *Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946). This coverage applies to all persons who have rights under this act and its predecessors since 1940.

Section 8(h) of the compromise agreement contains two substantive provisions which speak to this issue. First, the bill provides that "[n]othing in this Act shall be construed to relieve an employer of an obligation to provide contributions to a pension plan * * * in effect on the day before this Act takes effect." It is the House's view that returning servicemembers have always been entitled to employer contributions that would have been made during military service, and that the provisions of proposed section 4318 are merely a restatement of the existing law. However, it should be noted that—

The strong deference accorded legislation in the field of national economic policy is no less applicable when that legislation is applied retroactively. Provided that the retroactive application of a statute is supported by a legitimate legislative purpose furthered by rational means, judgments about the wisdom of such legislation remain within the exclusive province of the legislative and executive branches.

Pension Benefit Guaranty Corp. v. *R.A. Gray & Co.*, 467 U.S. 717, 729 (1984). Thus, even if this legislation were found to be retroactive, instead of merely clarifying current law which I believe is the case, given the purpose of the law and the means of achieving it, the Congress' power to enact such legislation cannot be doubted. There can be no question about the substantial role which the provision of reemployment rights to former servicemembers has played in our national defense, especially during the time of the All-Volunteer Force. It is one of a number, but certainly one of the most important, inducements to persons to leave civilian life for a time and serve their country. I wish to emphasize that this inducement is not provided to the career soldier, and that it is tailored to be as unobtrusive as possible given the need to recruit young men and women to defend the national interest. The value of this law was most recently demonstrated during the Persian Gulf war, when hundreds of thousands of reservists and National Guard members were forced to leave their civilian jobs to form part of a force which ejected the Iraqi army from Kuwait and preserved a key economic and political alliance with Kuwait.

Second, the bill would provide noncomplying plans with 2 years to bring the terms of those plans into compliance with the act. This compliance may entail recalculating pensions already being paid to employees whose pensions were calculated without the benefit of makeup contributions during the employee's military service. Although pension industry representatives have expressed apprehension about potential noncompliance with this measure or ERISA, the committee has learned from extensive discussion with pension industry experts that noncompliance with pension law requirements is an everyday occurrence, and that there is nothing remarkable about a company discovering a liability that it was previously unaware of and making a multimillion-dollar retroactive contribution to the plan maintained for its employees. In contrast, compliance with the existing veterans reemployment law should not be a multimillion-dollar adjustment, since the number of persons who leave a civilian employer and return to that employer within the time limits established by the law is relatively small. One estimate is that fewer than 30,000 persons would be entitled to such makeup contributions from a defined contribution pension plan in a recent year—fiscal year 1992—with an average per-enrollee makeup contribution of $1,900 covering the entire period of military service. The number of enrollees and amount per enrollee would be much smaller for years prior to 1992.

According to the Congressional Research Service, the percent of workers covered by defined contribution plans more than tripled—from 11 million to 35 million workers—from 1975 to 1990. Spread across the millions of employers and billions of dollars which such plans accept in contributions each year—private pension plan assets exceeded $3 trillion in 1993, while contributions to such plans in 1990 amounted to $75.8 billion—compliance with the existing law, even if it is done with a lump-sum contribution, poses an almost insignificant burden on the employer community.

It should also be noted that the compromise does not include the House-passed provision requiring employers to make up earnings on employer contributions or to reallocate or otherwise add to the veteran's account forfeitures which were distributed to other employees' accounts during the period of military service. To address employer and pension plan administrator concerns about possible noncompliance, the compromise includes a 2-year window for noncomplying plans to make up employer contributions which were required, but not made, under existing law. The committee understands that other technical and conforming changes may also be recommended by the committees with jurisdiction over ERISA and the tax code.

Mr. Speaker, since 1940, this law has protected veterans' employment rights.

Pension rights have been and will continue to be an important aspect of employment seniority. Preserving the veteran's right to such benefits regardless of the way in which such benefits are calculated is consistent with the original intention of the 1940 act, which "was to preserve for the returning veterans the rights and benefits which would have automatically accrued to them had they remained in private employment rather than responding to the call of their country." *Accardi* v. *Pennsylvania R.R. Co.*, 383 U.S. 225, 229–30 (1966). Their response to that call is the basis for all of the bounties which residents of this great Nation enjoy today, and the House honors that response by its action here today.

Mr. Speaker, this compromise is important to our national defense efforts, and I urge all my colleagues to support it. There follows an explanatory statement comparing the House bill, the Senate amendment, and the compromise agreement.

EXPLANATORY STATEMENT ON H.R. 995

H.R. 995 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These measures are H.R. 995, which the House passed on May 4, 1993, (hereinafter referred to as "House bill"), and the text of S. 843, which the Senate passed on November 8, 1993, as an amendment to H.R. 995 (hereinafter referred to as "Senate amendment").

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of H.R. 995 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned House bill and Senate amendment are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

SCOPE OF COVERAGE

Current law: Section 4301(a) provides that an individual must have left a position (other than temporary) in the employ of an employer in order to perform training or service in the Armed Forces to be eligible for reemployment rights and benefits.

House bill: Proposed new section 4312(a) would provide that an individual must have left a position (other than temporary) in the employ of an employer for voluntary or involuntary service in the uniformed service to be entitled to a leave of absence or, upon completion of service, to reemployment.

Proposed new section 4303(8) would define "other than a temporary position" to mean a position of employment as to which there is a reasonable expectation that it will continue indefinitely.

Senate amendment: Proposed new section 4312(a) is similar to the provision in the House bill, but would not exclude individuals who held temporary positions when they entered the uniformed services from eligibility for reemployment rights and benefits. Also, proposed new section 4303 would not define the term "other than a temporary position."

Compromise agreement: Section 4312(d)(1)(C) would provide that an employer is not required to reemploy an individual if his or her employment prior to military service was for a brief, nonrecurrent period and there was no reasonable expectation that it would continue indefinitely or for a significant period.

The compromise agreement would not, therefore, include a definition of the term "other than temporary position."

PROHIBITION AGAINST DISCRIMINATION AND ACTS OF REPRISAL

Current law: Section 4301(b)(3) provides that an individual may not be denied hiring, retention in employment, or any promotion or other incident or advantage of employment because of any obligation as a member of a Reserve component of the Armed Forces.

House bill: Proposed new section 4311 would provide that (1) an individual may not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment because of present or past application for or membership in a uniformed service, or obligation for future service; (2) an employer is considered to have committed a prohibited act of discrimination or reprisal against an individual if the individual's service, application, or obligation for service was a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of the service, application, or obligation for service; (3) an employer may not discriminate against or take any adverse employment action against any individual because that individual has filed a claim under the Act, sought assistance concerning an alleged violation, testified in a proceeding, assisted or otherwise participated in an investigation, or exercised any right under the reemployment law; and (4) the prohibitions regarding discrimination will apply with respect to an individual regardless of whether that individual has performed service in the uniformed services.

Senate amendment: Proposed new section 4311 is substantively identical to the House provision but would extend protection under the reemployment law to employees in a foreign country.

Compromise agreement: Section 4311 does not contain protection for employees in a foreign country.

MAXIMUM PERIOD OF SERVICE FOR COVERAGE

Current law: Under section 4304, an individual is permitted to remain on active duty for a total of four years and still retain reemployment rights. An additional year of eligibility for reemployment rights is granted if an individual remains on active duty beyond the four-year period at the request of, and for the convenience of, the Federal Government. Active duty for training and inactive duty does not count toward the five years.

House bill: Subsections (a) and (c) of proposed new section 4312 would provide for a five-year limit on an individual's cumulative length of absence from a position of employment with the employer by reason of service in the uniformed services for the purposes of reemployment rights and benefits. This would include all types of service except (1) service required beyond five years to complete an initial period of obligated service; (2) service from which the individual, through no fault of his or her own, is unable to obtain a release from service within the five-year limit; (3) service for statutorily mandated training or to fulfill additional training requirements determined by the Secretary of Defense to be necessary for individual professional skill development; (4) service resulting from an order to, or retention on, active duty during a war or national emergency under a law or joint resolution related to a specific crisis situation; (5) service resulting from an order to active duty in support of an operational mission for which personnel have been ordered to active duty in section 673b of title 10, United States Code; (6) service resulting from an order to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or (7) service resulting from an order to active duty by the President of members of the National Guard to suppress an insurrection, repel an invasion by a foreign nation, suppress a rebellion, or execute laws of the United States that the President is unable to execute with the regular army.

Senate amendment: Subsections (a) and (c) of proposed new section 4312 are substantively identical to the House provision, but with additional coverage of Coast Guard personnel ordered to or retained on active duty under circumstances excepted for other uniformed service personnel.

Compromise agreement: Subsections (a) and (c) of section 4312 contain the Senate provision.

APPLICATIONS FOR REEMPLOYMENT

Current law: Section 4301(a) requires that an individual who is inducted into the Armed Forces generally must make application for reemployment within 90 days after separation. Section 4304(a) requires the same application obligation of an individual who enlists in the Armed Forces. Subsections (c) and (g) of section 4304 require that a member of a Reserve component who is ordered to an initial period of active duty for training of not less than 12 consecutive weeks or who is ordered to active duty other than for training under section 673b of title 10, generally must make application for reemployment within 31 days after separation; section 4304(d) provides that all other individuals required to perform active duty for training or inactive duty training must report to work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following the employee's release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control.

Under current law, if an individual is hospitalized incident to active duty, the application for reemployment generally must be made within the foregoing timeframes determined by the individual's type or category of military training or service. However, the application period begins upon discharge from hospitalization of not more than one year instead of beginning on the date of discharge from service.

House bill: Proposed new section 4312(e)(1) would require that (1) if the service was for less than 31 days or for the purpose of an examination to determine fitness to enter service, an individual entitled to reemployment must report to the employer for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following the completion of service and the expiration of eight hours after a time for safe transportation back to his or her residence or as soon as possible after the expiration of the eight-hour period if reporting within that period is impossible or unreasonable through no fault of the individual; (2) if the period of service was 31 days or more but less than 181 days, an individual entitled to reemployment must submit an application to the employer no later than 14

days following completion of service or as soon as possible thereafter if submitting an application within the period is impossible or unreasonable through no fault of the individual; (3) if the period of service was 181 days or more, an individual entitled to reemployment must submit an application no later than 90 days following completion of service or as soon as possible thereafter if submitting an application within the period is impossible or unreasonable through no fault of the individual.

Proposed new section 4312(e)(2) would provide for an extension of the time limits specified in subsection (e)(1) by up to two years if an individual is hospitalized for, or convalescing from, an injury or illness incurred or aggravated by military service. The two-year period would be extended by the minimum time required to accommodate the circumstance beyond the individual's control which makes reporting within the time limit impossible or unreasonable.

Senate amendment: Proposed new section 4312(e)(1) is substantively identical to the House provision, but without possible extension for events beyond the individual's control if the period of service was 31 days or more.

Proposed new section 4312(e)(2) is substantively identical to the House provision.

Compromise agreement: Section 4312(e)(1) contains the House provision regarding service of less than 31 days or for the purpose of an examination to determine fitness to enter service; the House provision regarding service of 31 days or more but less than 181 days, modified to make specific the time beyond 14 days within which the returning employee must make application for reemployment; and the Senate provision regarding service of more than 180 days.

Section 4312(e)(2) includes the provision relating to an extension of time in the case of an illness or injury.

Section 4312(e)(3) provides that a failure to report or apply within the time limits does not automatically forfeit the person's reemployment rights, but subjects the person to the employer's rules, policies, or practices pertaining to absence from work.

DOCUMENTATION UPON RETURN

Current law: No provision.

House bill: Proposed new section 4312(g) would provide that: (1) when reporting for reemployment, an individual, upon request, must provide to the employer documentation to establish the timeliness of the application for reemployment, that the individual did not exceed the applicable time-in-service limitation, and that the character of service was satisfactory; (2) notwithstanding a failure to provide documentation, an employer must reemploy an individual if the failure occurs because such documentation does not exist or is not readily available at the time of the request, with the condition that if, after reemployment, documentation becomes available that establishes that one or more of the eligibility requirements was not met, the employer may terminate the individual's employment and the provision of any rights or benefits afforded the individual prospectively; and (3) it is unlawful for an employer to delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

Senate amendment: Proposed new section 4312(f) contains documentation requirements substantively identical to those in the House bill except that, if an individual is absent from employment for more than 90 days, the employer may require documentation before making retroactive pension contributions.

Compromise agreement: Section 4312(f) contains the Senate provision.

ENTITLEMENT LIMITATIONS

Current law: No provision.

House bill: Proposed new section 4312(i) would provide that entitlement to protection under the reemployment law does not depend on the timing, frequency, duration of an individual's training or service or the nature of that service if the service does not exceed the service limitations and the applicable notice requirements are met.

Senate amendment: Proposed new section 4312(h) is substantively identical to the House provision.

Compromise agreement: Section 4312(h) contains this provision.

POSITION TO WHICH ENTITLED UPON REEMPLOYMENT

Current law: Section 4301(a) provides that a returning servicemember who was absent from an employment position (other than a temporary position) for service in the Armed Forces is generally entitled (1) if still qualified to perform the duties of that position, to be restored to that position or a position of like seniority, status, and pay; or (2) if not qualified to perform the duties of that position by reason of a disability sustained during service, to be offered and employed in a position the duties of which he or she is qualified to perform that will provide like seniority, status, and pay, or the nearest approximation consistent with the circumstances of the individual's case.

Section 4301(b)(2) provides that it is the sense of Congress that an individual must be so restored as to give the individual the status that he or she would have enjoyed but for the absence for service in the Armed Forces.

House bill: Proposed new section 4313(a)(1) would provide that an individual whose period of service was for fewer than 91 days must be reemployed promptly (1) in a position that he or she would have attained by remaining continuously employed, unless the employer can prove that the individual is not qualified or capable of becoming qualified with reasonable efforts by the employer, or (2) if not qualified or capable of becoming qualified for the new position, in the same position that he or she left. Proposed new section 4313(a)(2) would provide for a similar pattern of position offerings for an individual whose period of service was for 91 days or more, with the additional option that the employer may offer a position of like seniority, status, and pay to the new position or, as determined by whether the individual is qualified or capable of becoming qualified, the position that the individual left. Proposed new section 4313(a)(4) would provide that a returning servicemember who is not qualified to be employed in the position that he or she would have attained by remaining continuously employed or in the position that he or she left, for any reason other than disability incurred during the period of service, and who cannot become qualified with reasonable efforts by the employer, must be employed promptly in any other position of lesser status and pay the duties of which he or she is qualified to perform, with full seniority.

Senate amendment: Proposed new sections 4313(a) (1), (2), and (4) are similar to the House provisions but would provide that the employer may offer a position of like status and pay if the period of service was for more than 30 days.

Compromise agreement: Section 4313 generally follows the House bill.

POSITION TO WHICH ENTITLED IF DISABLED

Current law: Section 4307 requires an employer to make reasonable accommodations to the known physical or mental limitations incurred in the military service of an individual to enable him or her to perform the essential functions of a position, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business. The terms "reasonable accommodation" and "undue hardship" have the same meanings as are provided in the Americans with Disabilities Act of 1990 (ADA) (Public Law 101-336; 42 U.S.C. 12101 et seq.).

House bill: Proposed new section 4313(a)(3) would provide that if an individual is disabled because of a disability incurred during, or as a result of, a period of service in the uniformed services and is not qualified to be employed in the position that he or she would have attained if continuously employed or in the position that he or she left for service (even after reasonable efforts by the employer to accommodate the disability), the individual must be reemployed promptly (1) in any other position of similar seniority, status, and pay for which he or she is qualified or would become qualified with reasonable efforts by the employer; or (2) in a position which is the nearest approximation consistent with the circumstances of the individual's case.

Senate amendment: Proposed new section 4313(a)(3) is substantively identical to the House provision.

Compromise agreement: Section 4313(a)(3) contains this provision.

TWO OR MORE PERSONS ENTITLED TO REEMPLOYMENT IN THE SAME POSITION

Current law: Section 4306 provides that in any case in which two or more individuals are entitled to reemployment in the same position, the individual who left first has the prior right to be reemployed in that position, without prejudice to the reemployment rights of the other individual or individuals.

House bill: Proposed new section 4313(b) would provide that in any case in which two or more individuals are entitled to reemployment in the same position and more than one of them has reported for reemployment, (1) the individual who left the position first has the prior right to be reemployed in that position and (2) any individual not reemployed is entitled to be employed promptly in any other position which is equivalent in seniority, status, and pay for which the individual is qualified or would become qualified with reasonable efforts by the employer or in a position which is the nearest approximation consistent with the circumstances of the individual's case.

Senate amendment: Proposed new section 4313(b) is substantively identical to the House provision.

Compromise agreement: Section 4313(b) contains this provision.

REEMPLOYMENT BY THE FEDERAL GOVERNMENT

Current law: Section 4303 provides that any individual who is entitled to reemployment and who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Federal government or by the District of Columbia, must be reemployed by that agency or the successor to its functions, or by the District of Columbia. In cases in which the Director of the Office of Personnel Management (OPM) finds that (1) the agency is no longer in existence and its functions have not been transferred to any other agency, or (2) for any reason it is not feasible for the individual to be reemployed by the agency or the District of Columbia, the Director must determine whether or not there is another position in any

other agency in the executive branch or in the government of the District of Columbia for which the individual is qualified and which is either vacant or held by an individual having a temporary appointment, and, if such a position exists, the individual must be offered the position and, if the individual so requests, be employed in the position.

In cases in which it is not possible for an individual who is entitled to reemployment rights to be restored to a position that he or she left in the legislative branch and who is otherwise eligible to acquire a status for a transfer to a position in the competitive service, the Director of the OPM is required to search for a comparable position in the executive branch for which the individual having a temporary appointment, and, if such a position exists, it must be offered to the individual. An individual who was employed in the judicial branch must be restored to the position that the individual held immediately before entering the Armed Forces.

House bill: Proposed new section 4314 is similar to current law but would provide that (1) an individual is entitled to be reemployed according to the priorities set out in new section 4313; (2) the District of Columbia government is not considered part of the executive branch; and (3) in a case in which an employer in the legislative or judicial branch, or the adjutant general of a State in the case of a National Guard technician, determines that it is impossible or unreasonable to reemploy an individual who left to serve in the uniformed services and the individual is otherwise eligible to acquire a status for a transfer to a position in the competitive service, the Director of OPM must identify and offer an alternative position in the executive branch.

Senate amendment: Proposed new section 4314 is similar to the House provision but would require the Director of OPM to ensure that an individual whose reemployment in a Federal Government position—to include the legislative or judicial branch—or as a National Guard technician is impossible or unreasonable is offered an alternative position of employment in the executive branch.

Compromise agreement: Section 4314 contains the Senate provision.

REEMPLOYMENT BY CERTAIN FEDERAL AGENCIES

Current law: Although current Chapter 43 does not exempt federal intelligence community agencies—those listed in section 2302(a)(2)(C)(ii) of title 5, United States Code (the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and any Executive agency or unit the function of which is determined by the President to be the conduct of foreign intelligence or counterintelligence activities), section 403(c) of title 50, United States Code, provides that the Director of Central Intelligence may, in his or her discretion, terminate the employment of any officer or employee of the Agency whenever he or she deems such a termination necessary or advisable in the interests of the United States. Other intelligence community agencies have similar authority to make employment determinations with outside review.

House bill: No provision.

Senate amendment: Proposed new section 4315 would provide that the head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 must (1) prescribe procedures for ensuring that veterans' reemployment rights apply to the employees of that agency, and ensure, to the maximum extent practicable, that the procedures for reemployment in that agency are similar to those that apply to other executive branch employees; (2) upon making a determination that the reemployment of an individual is impossible or unreasonable, notify the individual and the Director of OPM of the determination; and (3) on an annual basis, submit to the Senate Select Committee on Intelligence and the Permanent Select Committee on Intelligence of the House of Representatives a report of the number of individuals whose reemployment with the agency was determined to be impossible or unreasonable during the year preceding the report and the reason for each determination.

Compromise agreement: Section 4315 contains the Senate provision, modified to require the heads of each agency to submit annual reports to the House and Senate Committees on Veterans' Affairs.

GENERAL RIGHTS AND BENEFITS

Current law: Section 4301(b)(1) provides that an individual reemployed under the veterans' reemployment rights law (1) shall be considered as having been on furlough or leave of absence during the period of service, (2) must be reemployed without loss of seniority, and (3) is entitled to participate in insurance or other benefits offered by the employer according to rules and practices relating to employees on furlough or leave of absence in effect with the employer at the beginning of the period of service. Section 4301(b)(2) provides that it is the sense of Congress that the reemployed individual should be so reemployed as to give the individual the status that he or she would have enjoyed if employed continuously during the period of active service.

House bill: Proposed new section 4315(a) would, as in current law, provide that upon reemployment under the veterans' reemployment rights law, a person would be entitled to the seniority and other rights and benefits determined by seniority that the individual had on the date of the beginning of uniformed service plus the additional seniority and rights and benefits the individual would have attained if the individual had remained continuously employed.

Proposed new section 4315(b) would provide that (1) an individual who performs service in the uniformed services would be considered to be on a furlough or leave of absence while in the uniformed services and would be entitled, while away, to rights and benefits, not determined by seniority, relating to other employees on furlough or leave of absence which were established, by contract, practice, policy, agreement, or plan effective at the beginning of the period of service or implemented while the individual is performing service; and (2) the individual may be required to pay the employee cost, if any, of any funded benefit continued to the extent other employees on furlough or leave of absence are required to pay.

Senate amendment: Subsections (a) and (b) of proposed new section 4316 are substantively identical to the House provision, except that subsection (b) would (1) provide that in the case of a multiemployer pension plan, liability will be allocated by the plan or if the plan does not provide, liability would be allocated to the last employer before the period of uniformed service; (2) clarify that the servicemember deemed to be on furlough or leave of absence because of uniformed service would not be entitled to any benefits which he or she would not otherwise be entitled if the individual were not on a furlough or leave of absence; (3) exempt entitlement for health insurance to care and treatment to the extent the individual would be entitled to the same care and treatment from the Federal Government during uniformed service; (4) preserve policy exclusion of disability insurance for persons in service in excess of 31 days; (5) preserve policy war-clause exclusions; and (6) limit the right of continued insurance coverages to the lesser of (a) 18 months from date of absence, or (b) the period of service plus period of notice of intent to return.

Compromise agreement: The compromise agreement addresses the seniority and non-seniority benefits in three sections—proposed new sections 4316 (Rights, benefits, and obligations of persons absent from employment for service in a uniformed service), 4317 (Health plans), and 4318 (Employee pension benefit plans).

Subsection (a) of section 4316 contains the general provisions relating to seniority benefits as set forth in both the House bill and the Senate amendment.

Subsection (b) of section 4316 contains the general provisions relating to non-seniority benefits with a provision, in new subsection 4316(b)(2)(A), that provides that a person otherwise entitled to rights and benefits accorded to other employees on furlough or leave of absence may waive those rights and benefits if the person knowingly provides written notice of intent not to return to employment after military service. Basic waiver law would be applicable to such a knowing waiver.

Subsection 4316(b) contains the Senate provision relating to multiemployee plans, modified to provide that, in the event the last employer is not functioning, liability would be allocated to the plan. Subsection (b) also contains the Senate provision clarifying that a servicemember deemed to be on a leave of absence because of uniformed service is not entitled to any benefits which a person would not be entitled if he or she was not on a leave of absence.

Although the compromise agreement for subsection 4316(b) does not contain the Senate exemptions relating to duplicate federal coverage, disability insurance, or war-clauses, nothing in this law is intended to overrule contract rights of coverage in the area of health, disability, and life insurance.

RETENTION RIGHTS

Current law: Section 4301(b)(1)(A) provides that an individual who was inducted into the Armed Forces and who is then reemployed cannot be discharged from his or her position without cause for one year following reemployment. Subsections (c) and (g) of section 4304 provide that reservists who were ordered to an initial period of active duty for training of not less than twelve consecutive weeks or who were ordered voluntarily or involuntarily to active duty under section 673B of title 10 cannot be discharged from their positions without cause for six months after reemployment.

House bill: Proposed new section 4315(d) would provide that an individual reemployed under this chapter may not be discharged from employment, except for cause (1) if the period of service was more than 180 days, within one year; (2) if the period of service was more than 30 days but less than 181 days, within six months; or (3) if the period of service was less than 31 days, within a period of time equal to the period of service concerned.

Senate amendment: Proposed new section 4316(e) is similar to the House provision except that retention rights would not be provided to individuals serving for less than 31 days.

Compromise agreement: Section 4316(c) contains the Senate provision.

ACCRUED LEAVE

Current law: No provision.

House bill: Proposed new section 4315(e) would provide that any individual who is absent from a position (other than a temporary position) for voluntary or involuntary service in the uniformed services may use, during the period of service, accrued or other leave which the individual could have used if employment had not been interrupted for service.

Senate amendment: Proposed new section 4316(f) is similar to the House provision, except (1) temporary positions are not excluded, and (2) application would be limited to accumulated vacation or annual leave with pay.

Compromise agreement: Section 4316(d) contains the Senate provision, modified to add "similar leave" with pay to the types of leave that could be used.

HEALTH PLANS

Current Law: Section 4301(b)(1)(A) provides, among other things, that any reemployed person "shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into" the Armed Forces.

Section 4301(b)(1)(B) provides that, in the case of employer-offered health insurance, an exclusion or waiting period may not be imposed in connection with coverage of a health or physical condition of a servicemember entitled to participate in that insurance, or a health or physical condition of any other individual who is covered by the insurance by reason of the coverage of the servicemember, if (1) the condition arose before or during the individual's period of training or service in the Armed Forces; (2) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by the individual in the insurance; and (3) the condition of the individual has not been determined by the Secretary of Veterans Affairs to be service-connected.

House bill: Proposed new section 4313(c)(1) would provide that, notwithstanding the general provision that persons in military service are considered to be on furlough or leave of absence and are entitled to non-seniority rights and benefits which other employees on furlough or leave are entitled to, a person would be entitled to continuation of any insurance provided by the employer, including health insurance, for up to 18 months. The person could be required to pay the entire cost of any insurance benefit, except the person would only be responsible for the employee share of any insurance premium when the person was ordered to service of less than 31 days.

Proposed new section 4315(c)(2) is substantively identical to existing section 4301(b)(1)(B) (dealing with reinstatement of health coverage without exclusions or waiting periods).

Senate amendment: Proposed new section 4316(d)(1), dealing with an employee's right to continue health-plan coverage, would apply if the person's health-plan coverage "would otherwise terminate due to an extended absence from employment for purposes of performing service in the uniformed services." A person who elects continuation coverage could be required to pay 102 percent of the full premium associated with such coverage except, in the case of service of less than 31 days, the person could not be required to pay more than the employee share. A person who elected continuation coverage would not be entitled to such coverage (1) to the extent that the person is entitled to care or treatment from the Federal Government, or (2) if the person failed to notify the employer of the person's intent to return to employment within the periods prescribed in section 4312(e) of the Senate bill.

Proposed new section 4316(d) would provide that, if an individual's coverage under an employer-sponsored health plan is terminated by reason of uniformed service, an exclusion or waiting period may not be imposed in connection with coverage of the servicemember or any other individual covered by the health plan upon reemployment by the employer, if an exclusion or waiting period would not have been imposed had coverage not been terminated. An exception would apply to disabilities that the Secretary of Veterans Affairs has determined to be service-connected.

Compromise agreement: Section 4317 requires the health plan to offer continuation coverage for up to 18 months to persons who have coverage in connection with employment and who are absent from such employment due to military service. The health plan may not require the person to pay more than the employee share for that coverage if the period of military service does not exceed 31 days. If the period of service exceeds 31 days, the employee may be required to pay not more than 102 percent of the full premium under the plan.

The compromise also includes provisions pertaining to allocation of liability in the case of a multiemployer plan and limiting the obligation to continue coverage to the day after the date on which the person fails to apply for or return to a position of employment.

With respect to reinstatement of health plan coverage following a period of service, the compromise generally follows the Senate provision, with a clarification that all persons who are covered by the plan by reason of the reinstatement of the coverage of the person who is reemployed would also have coverage reinstated without the imposition of an exclusion or waiting period.

EMPLOYEE PENSION BENEFIT PLANS

Current law: Section 4321(b)(1)(A) provides that upon reemployment after military service, a person shall be restored without loss of seniority. In *Alabama Power* Co. v. *Davis*, 431 U.S. 581 (1977), the Supreme Court held that pension benefits were protected under the Act as "perquisites of seniority" because the real nature of the benefit is a reward for length of service.

House bill: Proposed new section 4316 would clarify the protection provided pension benefits under the Act. Section 4316 (a)(1)(A) would define the pension plans entitled to protection under the Act as any plan which falls within the definition of an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. s 1002(2), as well as any federal, state or local government plan.

This definition would include profit-sharing plans to the extent that such plans provide retirement benefits to participants.

Sections 4316(a)(2)(A) and (B) would make explicit the rights of reemployed servicemembers in their pension plans, such as no break in employment service would be considered to have occurred, no forfeiture of benefits already accrued would be allowed, and there would be no necessity to requalify for participation in the pension plan by reason of absence for military service.

Section 4316(b)(1)(A) would provide a pension plan with a claim against the employer for amounts that may be required to fund obligations arising under this section. In the case of a multiemployer plan, this provision would enable the plan to pursue its existing remedies under section 515 of the Employee Retirement Income Security Act, 29 U.S.C. 1145, for failure to make the required contributions, in the event that neither the plan nor the collective bargaining agreement pursuant to which the plan is maintained provides for any such funding obligations.

Section 4316(b)(1)(B) would provide that a returning veteran is entitled to have earnings and any employer contribution which is determined without reference to the number of, or compensation of, plan participants credited to such person's pension account to the same extent as they would have been credited had such person remained continuously employed instead of serving in the uniformed service. With regard to forfeitures, this section would permit, but not require, the allocation of forfeitures to such person's pension account.

Section 4316(b)(2) would provide that, if the plan is contributory (i.e., provides for employee contributions as well as employer contributions), the portion of such accrued benefit that is derivable from employee contributions would be required to be calculated only to the extent that the reemployed serviceperson makes the required employee contribution to the plan. No interest or penalty would be charged on the employee contribution, nor would the employee be credited with interest that would have been earned on such contribution. However, if a reemployed serviceperson has withdrawn his or her pension plan monies, in whole or in part, prior to entering military service, such person must be allowed to voluntarily repay the withdrawn amount (together with the interest that would have been earned had the monies not been withdrawn) and receive the appropriate credit in the pension plan. The period of repayment would be subject to negotiation between the employer and employee.

Section 4316(b)(3) would provide that if there is a need to use imputed earnings of an employee to calculate pension benefits during a period when in fact there were no earnings because of the absence in military service, the employee's preservice rate of pay will be used or if no fixed rate was in effect, the average earnings of the 12 months immediately preceding military service shall be used.

Section 4316(c) would require that, where military service might result in additional pension liability, the administrator of a multiemployer pension plan be notified that a contributing employer has reemployed a veteran under chapter 43. Such a notification would provide the plan the opportunity to take whatever steps may be required to protect its interests. Unlike administrators of single-employer pension plans, administrators of multiemployer plans are generally not in a position to be aware of the fact that a contributing employer has reemployed a person who may have a pension claim arising from a period of military service.

Senate amendment: Proposed new section 4317 is similar to the House provisions with some changes (described below).

Section 4317(b)(1) would provide, in the case of a multiemployer pension plan, if the plan does not have a method of allocating liability for a returning servicemember, the

last employer employing the person prior to military service shall be liable.

Section 4317(b)(2) would provide, with reference to the repayment of employee contributions, for the repayment period to be no shorter than the length of absence.

Section 4317(b)(4) would not allow earnings on contributions to a plan until the contributions are made and would not allow the reallocation of already allocated forfeitures to a returning servicemember's account.

Section 4317(d) would provide that no action need be taken which would cause the plan, participants, or the employer to suffer adverse tax or other consequences under the Internal Revenue Code.

Compromise Agreement: Section 4318 generally follows the House bill with several modifications.

The first modification is that, in a multiemployer context, section 4318(b)(1)(A) requires allocation of liability first to the plan in whatever manner the plan provides. If there is no provision made, the last employer of such person before military service would be responsible and, if there is no longer a functional last employer, the liability would revert to the plan.

The next modification is that section 4318(b)(2) now provides that repayment of employee contributions can be made over a period of three times the period of military service, not to exceed five years.

Under section 4318(b)(3), for purposes of computing an employer's liability or an employee's contributions, to the extent that they are based on an employee's earnings, the same "reasonable certainty" analysis as is applicable to pay rate cases would be applicable here.

It is the Committees' intent that earnings or losses on contributions made after return from military service not be credited until after the contributions are made and only prospectively and there is no requirement to reallocate already allocated forfeitures to a returning servicemember's account.

The Committees also intend that no pension rights accrue for a period of military service if the servicemember elects not to be reemployed, but the person's vested interest prior to entering military service would remain intact.

ASSISTANCE IN ASSERTING CLAIMS

Current law: Under section 4305, the Secretary of Labor, through the Office of Veterans' Reemployment Rights, is required (1) to render aid in the replacement in their former positions or reemployment of individuals who have satisfactorily completed a period of active duty in the Armed Forces or the Public Health Service and (2) to use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

House bill: Proposed new section 4321 is similar to current law, except that the Secretary would be authorized, rather than required, to use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

Proposed new section 4322 would specify (1) procedures for individuals to file reemployment complaints with the Secretary and (2) that the Secretary is authorized to conduct investigations and make efforts to obtain voluntary compliance from employers.

Senate amendment: Proposed new section 4321 is similar to the House provisions and in addition, would require that in cases in which the efforts of the Secretary to obtain voluntary compliance are unsuccessful, the Secretary must notify the individual who submitted the complaint of (1) the results of the investigation, and (2) the complainant's entitlement to request referral of the claim to the Office of the Special Counsel or the United States Attorney, depending on whether the employer is the Federal government or a State or private employer.

Compromise agreement: Sections 4321 and 4322 contain the Senate provisions.

ENFORCEMENT

State or Private Employer

Current law: Under section 4302, in the case of a private or State employer who fails or refuses to comply with the reemployment laws, (1) the district court of the United States for the district in which the employer maintains a place of business, exercises authority, or carries out its function, has the power, upon the filing of a motion, petition, or other appropriate pleading by the individual entitled to the benefits of the reemployment laws, to require the employer to comply with the reemployment law and to compensate the individual for any loss of wages or benefits suffered by reason of the employer's unlawful action; (2) the United States attorney or comparable official, if reasonably satisfied that an individual who applies for representation is entitled to the reemployment benefits, must appear and act as an attorney for the individual in the amicable adjustment of the claim or in the filing and prosecution of a complaint; (3) no fees or court costs may be taxed against an individual who applies for such benefits; (4) only the employer may be deemed a necessary party respondent; and (5) no State statute of limitations may apply to any proceedings.

House bill: Proposed new section 4322 is similar to current law except that it would provide that (1) if the Secretary of Labor, after investigation, is reasonably satisfied that a violation has occurred and efforts to obtain voluntary compliance are not successful, and if the claimant requests referral for litigation, the Secretary must refer the case to the Attorney General; (2) the Attorney General, if reasonably satisfied that the individual requesting representation is entitled to the rights or benefits sought, may appear and act as attorney for the claimant in the filing and prosecution of a complaint; (3) an individual may be represented before the District Court by a counsel of choice; (4) the court may award an individual who prevails a reasonable attorney's fee, expert witness fee, and other litigation expenses; (5) the court may use its full equity powers to vindicate rights under the Act; (6) a reemployment rights claim may only be initiated by an individual claiming such rights or benefits, not by an employer, prospective employer, or other entity with obligations under the reemployment law; (7) a State will be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer; and (8) if the District Court determines that the employer's failure to comply with the provisions of chapter 43 were willful, the court may require the State or private employer to pay, in addition to the compensation determined to be paid the person, an amount equal to that compensation as liquidated damages.

Senate amendment: Proposed new section 4322 is substantively identical to the House provision.

Compromise agreement: Section 4323 contains these provisions.

Federal Government as Employer

Current law: Section 4303(a) provides that the Director of the Office of Personnel Management is authorized and directed when the Director finds, upon appeal of the individual concerned, that any agency in the executive branch or the government of the District of Columbia has failed or refuses to comply with the provisions of the law relating to reemployment by the executive branch or the government of the District of Columbia, to issue an order requiring compliance and to compensate the individual for any loss of salary or wages suffered by reason of failure to comply, less any amounts received by the individual through other employment, unemployment compensation, or readjustment allowances.

House bill: Proposed new section 4322(e), which applies with respect to the Federal Government as employer, would provide that (1) if the Secretary, after investigation, is reasonably satisfied that a violation has occurred with respect to the Federal Government as employer and efforts to obtain voluntary compliance are not successful, and if the claimant requests that the claim be referred for litigation before the Merit Systems Protection Board (MSPB), the Secretary would be required to refer the case to the Office of the Special Counsel; (2) if the Special Counsel is reasonably satisfied that the individual requesting representation is entitled to the rights or benefits sought, the Special Counsel would be required to appear and act as an attorney for the claimant in filing and pursuing an appeal to the MSPB; (3) if the Special Counsel were to decline to represent an individual after receiving a referral from the Secretary or if an individual were to decide not to apply to the Secretary for assistance or to use the Special Counsel for representation, the individual may be represented before the MSPB by counsel of the individual's choice; (4) if the MSPB concludes that a Federal Government employer has failed or refused to comply with the reemployment laws or that the Director of OPM has not met his or her obligation under the reemployment law, it would require the employing agency or the Director to comply with the law and to compensate the individual for any loss of wages or benefits suffered by reason of the unlawful action; and (5) a claimant would be able to petition the United States Court of Appeals for the Federal Circuit to review a decision of the MSPB in which the claimant is denied the relief sought, but would not be represented by the Secretary or the Special Counsel before the Court of Appeals or the Supreme Court.

Senate bill: Proposed new section 4323 is substantively identical to the House provision but would provide that (1) the individual would be able to be represented before the MSPB by a representative of choice; (2) the MSPB would be able to award the individual reasonable attorney fees, expert witness fees, and other litigation expenses; and (3) an individual would be able to be represented by the Special Counsel in an action for a review of a decision issued by the MSPB, unless the individual was not represented by the Special Counsel before the MSPB regarding this decision.

Compromise agreement: Section 4324 contains the Senate provision.

Federal Intelligence Agency as Employer

Current law: No provision.

House bill: No provision.

Senate amendment: Proposed new section 4324 would provide that any individual employed prior to service in the uniformed services by a federal intelligence agency—those listed in section 2302(a)(2)(C)(ii) of Title 5 (the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit the

function of which is determined by the President to be the conduct of foreign intelligence or counterintelligence activities)—would be able to submit a complaint regarding reemployment to the Inspector General of the agency in question, who would be required to investigate and resolve the claim pursuant to procedures prescribed by the head of the agency, which must be, to the maximum extent practicable, similar to the provisions relating to the investigation and resolution of a claim by the Secretary of Labor.

Compromise agreement: Section 4325 contains the Senate provision.

SUBPOENAS

Current law: No provision.

House bill: Subsections (b) and (c) of proposed new section 4323 would provide that the Secretary may (1) require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation and (2) in the case disobedience of a subpoena, may request that the Attorney General apply to a district court of jurisdiction for an order enforcing the subpoena. Subpoena authority would not apply in the case where the employer is the Federal Government.

Senate amendment: Subsections (b) and (c) of proposed new section 4325 are substantively identical to the House provisions, but would not apply the subpoena authority to the legislative and judicial branches of the United States.

Compromise agreement: Section 4326 contains the Senate provision.

REGULATIONS

Current law: Under Section 4303(a), the Director of the Office of Personnel Management (OPM) is authorized and directed to issue regulations relating to the reemployment in the executive branch or in the government of the District of Columbia.

House bill: Proposed new section 4331 would provide that (1) the Secretary of Labor, in consultation with the Secretary of Defense, would be authorized to prescribe regulations with regard to States, local governments, and private employers; (2) the Director of OPM, in consultation with the Secretaries of Labor and Defense, would be authorized to prescribe regulations with regard to the Federal Government as employer, and any such regulations would have to be consistent with regulations pertaining to States and private employers, except that employees of the Federal government may be given greater or additional rights; and (3) may be prescribed by the Merit Systems Protection Board and by the Office of Special Counsel to carry out their responsibilities.

Senate amendment: Proposed new section 4331 is substantively identical to the House provision but (1) would not authorize the Director of OPM to prescribe regulations giving Federal employees greater rights than employees of States and private employers, and (2) would authorize intelligence community agencies to prescribe regulations.

Compromise agreement: Section 4331 contains the House provision, modified to authorize intelligence community agencies to prescribe regulations.

REPORTS

Current law: No provision.

House bill: Proposed new section 4332 would require the Secretary of Labor, after consultation with the Attorney General and Special Counsel, to provide Congress no later than February 1, 1995, and each February 1 annually thereafter, a report concerning actions taken under chapter 43 during the prior fiscal year, including (1) the number of cases reviewed by the Department Labor; (2) the number of cases referred to the Attorney General or the Special Counsel; (3) the number of complaints filed by the Attorney General; (4) the nature and status of each case; (5) an indication of whether there are any apparent patterns of violation of the provisions of this chapter; and (6) recommendations for administrative or legislative action that the Secretary, Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter.

Senate amendment: Section 2(c) would require the Secretary of Labor, the Attorney General, and the Special Counsel to submit a report to Congress, not later than one year after the date of enactment, relating to the implementation of chapter 43.

Compromise agreement: Section 4332 contains the House provision, modified to provide that Congress be provided with an annual report on February 1 of each year for five years, beginning with 1996.

OUTREACH

Current law: No provision.

House bill: No provision.

Senate amendment: Proposed new section 4332 would require that the Secretaries of Labor, Defense, and Veterans Affairs to take appropriate actions to inform individuals entitled to reemployment rights and benefits and employers of the reemployment rights, benefits, and obligations.

Compromise agreement: Section 4333 contains the Senate provision.

EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS

Current law: Section 5303A(b)(1) of title 38 generally provides that an individual who is discharged or released from active duty before completing the shorter of 24 months of continuous active duty or the full period for which called or ordered to active duty is not eligible by reason of that period of active duty for any benefit under title 38 or any other law administered by the VA.

House bill: Section 3 would exclude reemployment benefits under chapter 43 of title 38 from the minimum service requirements.

Senate amendment: Section 3 is identical to the House provision.

Compromise agreement: Section 3 contains this provision.

THRIFT SAVINGS PLAN

Current law: Under current law, Federal and Postal employees who return from active military service have certain reemployment and restoration rights, including the rights to obtain retirement credit under the Civil Service Retirement System (CSRS) or under the basic annuity provisions of the Federal Employees' Retirement System (FERS) for the period of military service. However, Federal and Postal employees who separate from service or who enter leave-without-pay status to perform military service cease to be eligible to make contributions to the Thrift Savings Plan (TSP) or to have their employing agencies contribute to their accounts during their period of military service. The TSP is a deferred compensation arrangement similar to private sector 401(k) plans. The structure of the TSP is based on the premise that contributions by employees must be deferred from current civilian pay in order for an employee to enjoy the tax benefits of deferred income, which are an integral part of the TSP.

House bill: Section 4 would amend title 5, United States Code, principally by adding a proposed new section 8432b, so as to allow Federal and Postal employees who separate or enter leave-without-pay status to perform military service to make up contributions to the Thrift Savings Plan (TSP) missed because of military service. The maximum amount an employee would be allowed to contribute would be equal to the amount an employee would have been eligible to contribute, subject to the applicable statutory maximums, reduced by any contributions actually made during period of military service (since these employees may use military or annual leave to cover periods of military service and since employees on military and annual leave continue to receive civilian basic pay, contributions continue to be made to the Thrift Savings Fund for such periods).

For purposes of any computation under this section, an employee would be, with respect to the period of military service, considered to have been paid at the rate which the employing agency determines would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

An employing agency would be required to give an employee up to two times, and may give an employee up to four times, the length of his or her military service to make up TSP contributions, although an employee may choose to make up contributions sooner. Make-up contributions would have to be made at the same time, in the same manner, and in addition to, contributions the employee is otherwise eligible to make.

If an employee is entitled to agency matching contributions based on make-up contributions, the agency would be required to make such contributions in the same manner as regular matching contributions. Agency matching contributions attributable to employee make-up contributions would be in addition to any matching contributions to which the employee is already entitled.

Upon reemployment or restoration, the employing agency would be required to pay lost earnings on contributions made by the employee as well as any agency automatic contributions to which the employee would have been entitled during the make-up period.

The period of military service would be counted towards service required for vesting in TSP agency automatic contributions, and any separation to perform military service would not cause forfeiture of such contributions if the employee is subsequently reemployed or restored pursuant to chapter 43 of title 38. Persons who received involuntary TSP payments as a result of their separation to perform military service would have the right to restore those payments to the plan.

Employees who have been restored or reemployed before the date of enactment of this Act would be entitled to make up contributions for the period beginning with their absence from civilian service and continuing through either the date of enactment or the first TSP open season from which the employee is eligible, whichever occurs first.

An employee would be allowed to elect, for purposes of transferring TSP account balances to eligible retirement plans or establishing nonforfeitability of account balances of less than $3,500, to have the employee's separation treated as if it had never occurred. An election for these purposes would have to be made within such period of time after restoration or reemployment, as the case may be, and otherwise in such manner as the Executive Director of the Federal Retirement Thrift Investment Board prescribes.

Senate amendment: Section 6 is substantively identical to the House provisions but does not include require the employing agency to pay lost earnings on retroactive contributions.

Compromise agreement: Section 4 follows the House bill with a modification giving the employing agency the discretion to pay lost earnings on retroactive contributions.

REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS

Current law: Some Federal workers—those enrolled in Federal Employees' Retirement System (FERS)—who interrupt their civilian employment to serve on active duty in the military may be required to pay more to receive Federal civilian retirement credit for that service than they would have had to pay had they not gone on active duty.

In order to receive Federal civilian retirement credit for military service, Federal employees who are enrolled in FERS are required to pay 3 percent of their military pay. However, these employees pay only 0.8 percent of the civilian wages to receive retirement credit for their civilian Federal employment. As a result, when 3 percent of such an individual's military pay exceeds 0.8 percent of that individual's civilian pay, the individual would pay a larger dollar amount to receive retirement credit for military time than the individual would have paid had he or she remained in the civilian jobs.

House bill: No provision.

Senate amendment: Section 5 would amend sections 8334(j)(1) and 8422(e)(1) of title 5, United States Code, to provide that in the case of individuals enrolled in FERS (or in the Civil Service Retirement System, which does not have this anomaly) who have their Federal civilian service interrupted by military service and who are reemployed under chapter 43 of title 38 on or after August 1, 1990, the deposit into their retirement benefit program may not exceed the amount that would have been deducted and withheld from basic pay during civilian service if the employee had remained in continuous civilian service.

Section 5 also would amend sections 8331(13) and 8401(31) of title 5, to expand the definition of "military service" for both CSRS and FERS, respectively, by adding to the meaning full-time National Guard duty (as that term is defined in section 101(d) of title 10) if that service interrupts creditable civilian service and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990.

Compromise agreement: Section 5 includes this provision.

INCREASE IN AMOUNT OF LOAN GUARANTY FOR THE PURCHASE OR CONSTRUCTION OF HOMES

Current law: Section 3703(a)(1) of title 38 sets the maximum amount of a VA loan guaranty for loans for the purchase or construction of homes at $46.000, an amount that would support a no-downpayment, VA-guaranteed home loan of $184,000.

House bill: No provision in H.R. 995. Section 1 of H.R. 949, as passed by the House on September 21, 1993, would amend section 3703(a)(1) to increase the maximum loan guaranty to $50,750 and thus increase the no-downpayment VA-guaranteed home loans to $203,000.

Senate amendment: Section 10 is substantially identical to section 1 of H.R. 949.

Compromise agreement: Section 7 includes this provision.

TRANSITION RULES AND EFFECTIVE DATES

Current law: No provision.

House bill: Section 6 of H.R. 995 would provide that (1) except as provided elsewhere, the amendments made by this Act would be effective with respect to reemployment initiated on or after the first day after the 60-day period beginning on the date of enactment; (2) the reemployment provisions contained in chapter 43 in effect on the day before the date of enactment would continue to apply to reemployment initiated before the end of the 60-day period; (3) for the purposes of the five-year service limitation, military service performed prior to the date of enactment would be considered only to the extent that period of military service would have counted toward the service limitations under current law; (4) the anti-discrimination provisions that are added by amendments to this Act would be effective on the date of enactment; (5) the insurance provision would be effective on the date of enactment, except that an individual on active duty on the date of enactment would be able to elect to reinstate or continue insurance coverage for the remaining portion of the 18 months that began on the date of separation from civilian employment; and (6) the disability provisions would be effective with respect to reemployments initiated on or after August 1, 1990.

The provisions of section 4311(a) defining the actions protected from discrimination or reprisal and the standard and burden of proof set forth in section 4311(b) are not additions to the Act but are a codification of existing law.

Senate amendment: Section 9 is substantively identical to the House provision with the additional provision that the provisions of proposed section 4325 regarding investigations and subpoenas would become effective on the date of enactment and apply to any matter pending with the Secretary of Labor.

Compromise agreement: Section 8 contains the Senate provision. It also contains a provision that the notice of intent not to return found in section 4316(b)(2) applies only to furlough or leave of absence rights and benefits under that section and does not apply to or waive any other right or benefit under the Act.

The compromise also provides that nothing in this Act would relieve an employer of an obligation to provide contributions to a pension plan (or provide pension benefits) which is required by the provisions of the existing chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect. Any plan which is not in compliance with the requirements of the law would have two years from the date of enactment to come into compliance with the law.

□ 1610

Mr. STUMP. Mr. Speaker, continuing my reservation of objection, the Uniformed Services Employment and Reemployment Rights Act of 1994 has been several years in the making. It is bipartisan legislation we can be proud of. I particularly want to commend my good friend, the gentleman from Mississippi, Chairman SONNY MONTGOMERY, for his consistent and tireless leadership on veterans' reemployment rights. He has maintained the focus on this legislative effort until we were able to reach a satisfactory compromise with the Senate.

Also, I want to commend the ranking minority member of the Subcommittee on Education, Training, and Employment, Mr. HUTCHINSON, for his efforts and support on this vital legislation.

Mr. Speaker, I urge my colleagues to support the House amendment to the Senate amendment to H.R. 995.

Mr. Speaker, of course, the compromise with the chairman of the Senate Veterans' Affairs Committee, Senator ROCKEFELLER, and the ranking minority member, Senator MURKOWSKI, enables us to bring this amendment to the floor today. I commend them as well for their willingness to resolve with us the differences between the House and Senate legislation.

Mr. Speaker, Chairman MONTGOMERY has explained the basic legal rights provided by this measure, and I associate myself with his remarks. The careful and clear definition of the rights and obligations between veterans and their employers has never been more important. The current law defining veterans' employment and reemployment rights would be simplified, clarified, and improved. Among other things, enforcement mechanisms would also be strengthened.

It is important for the individual men and women who willingly serve their country in uniform to know their rights to employment are fully protected and will be enforced. It is important for employers to know what is expected of them so that they can conduct their businesses accordingly and without undue burdens. And it is important for the nation to attract high quality people into our armed services, in part through assurances that they will be able to return to their civilian jobs after they have served.

This is a measure which I believe is fair to employees and employers alike because it takes a balanced approach in recognizing their respective needs.

Finally, Mr. Speaker, as Chairman MONTGOMERY observed, H.R. 995 would raise the maximum amount of the VA home loan guarantee from $46,000 to $50,750. This would recognize the current realities of the marketplace and enable more veterans to meet their housing needs.

Mr. Speaker, continuing my reservation of objection, I am glad to yield to the gentleman from Illinois [Mr. SANGMEISTER].

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

Mr. Speaker, I rise in support of H.R. 995, a bill to improve veterans reemployment rights.

In particular, I wish to express my support for the provision in the conference bill which increases the VA loan guaranty from $46,000 to $50,750. This would increase VA no-downpayment loan limits from $184,000 to $203,000 and would keep VA up to date with market changes since Fannie Mae and Freddie Mac now purchase loans up to $203,150 on the secondary market.

Housing prices in certain parts of the country prevent many veterans from buying a home without a downpayment. For example, according to data

compiled by the National Association of Realtors, the median sales price of an existing single-family home during calendar year 1993 was $213,000 in Los Angeles, $254,800 in San Francisco, and $349,000 in Honolulu. Thus home loan guaranty purchasers in areas such as these must make significant downpayments in order to acquire a median-priced home.

The increased guaranty would enable many veterans to purchase a home of their choice without a downpayment, which would otherwise be unavailable to them. The higher loan amounts will also produce greater revenues to VA through the loan fee.

H.R. 949, which passed the House last fall contained a similar provision, and I am glad to see that it was incorporated in this bill. Mr. Speaker, I urge favorable consideration of this compromise measure.

Mr. STUMP. Mr. Speaker, I urge the House to support the House amendment to the Senate amendment to H.R. 995, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ANDREWS of Texas). Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

ETHICS POLICY AT THE WHITE HOUSE

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

Mr. WOLF. Mr. Speaker, given that President Bill Clinton committed to running the most ethical administration ever, I am continually surprised at the lack of attention to potential ethical problems presented by those with regular White House access with no accountability.

We now have reports coming from the Brazilian press that James Carville is down in Brazil working on the presidential election, a client that he did not disclose on his financial disclosure form filed in July. Is Mr. Carville going to be asked to account for this situation?

The lack of financial disclosure by Tony Coelho is another situation where the White House is apparently allowing broad influence and policy involvement by an individual who retains extensive, lucrative outside business. Mr. Coelho's financial, legal, and business ties to unions, corporations, and pension funds with billions of dollars at stake, make his access to the White House and involvement in personnel and policy matters an area ripe with potential conflicts.

Last month, the New York Times reported on Mr. Coelho's involvement with personnel and policy at the Agriculture Department. As Fred Wertheimer of Common Cause has pointed out, Mr. Coelho is in a "quasi-public, quasi-private" position that could allow his banking company to take advantage of inside information about Government policy.

Is the White House that is now talking about morality and values going to run a values-free ethics policy at the White House?

The American people deserve a full accounting of the interests represented by those who profess to represent the "public interest."

HOUSE OF REPRESENTATIVES,
Washington, DC, September 8, 1994.

Hon. LEON E. PANETTA,
Chief of Staff,
The White House,
Washington, DC.

DEAR MR. PANETTA: Given that as a candidate Bill Clinton committed to running "the most ethical Administration ever," I am again concerned about the stunning lack of attention to potential ethical problems presented by those with regular White House access and no accountability.

The lack of financial disclosure by Tony Coelho is the latest situation where the White House is apparently allowing broad influence and policy involvement by an individual who retains extensive, lucrative outside business. Mr. Coelho's financial, legal and business ties to unions, corporations, pension funds and the like, make his access to the White House and involvement in personnel and policy matters such as are detailed in The New York Times (attached) an area ripe with potential conflicts. As The New York Times described, Tony Coelho is "everybody's Mr. Inside." Given this status and his current role as the lead Democrat spokesman isn't it appropriate that the American people know what outside interests he represents?

While Mr. Coelho says he does not lobby (rather he "consults" or "advises"), his actions in contacting the Agriculture Department last year certainly raise the appearance that he is using his contacts to maximum benefit. As Fred Wertheimer of Common Cause has pointed out Mr. Coelho is in a "quasi-public, quasi-private" position that could allow his banking company to take advantage of inside information about government policy.

I understand from the White House Counsel's office that this matter is under review. I would hope that in an effort to avoid the appearance of conflicts that the new apparent spokesman for the Democrat Party would be open with the public regarding the multitude of business and financial interests that he promotes and represents.

I look forward to hearing from you on this matter.

Sincerely,

FRANK R. WOLF,
Member of Congress.

[From the New York Times, Aug. 19, 1994]

DEMOCRATS' NEW OVERSEER IS EVERYBODY'S MR. INSIDE

(By Stephen Engelberg)

WASHINGTON.—When Congress last year was blocking final Government approval of a genetically engineered hormone that had cost hundreds of millions of dollars to develop, the drug's maker, the giant chemical concern Monsanto, turned for advice to a man renowned for his skills as a legislative strategist.

When Sun Diamond Growers, the California agribusiness, organized a dinner earlier this year to retire the Congressional campaign debt of Henry Espy, brother of Agriculture Secretary Mike Espy, it called on one of the most prolific fund-raisers in the history of the Democratic Party.

And last week, when President Clinton was looking for a gifted political pro who could rebuild the President's popularity and rescue sagging Democratic prospects for the November elections, he chose a man with an encyclopedic knowledge of the nation's Congressional districts.

The man whose expertise is so prized by so many disparate groups? Tony L. Coelho, who left Congress as House majority whip in 1989 for a lucrative career as a New York investment banker amid accusations that he had improperly used his political contacts to arrange and finance a $100,000 junk-bond investment for himself.

Since leaving the House, Mr. Coelho has commuted to New York, where he has learned the intricacies of money management. At the same time, he has kept his hand very much in the Washington game, and the announcement last week that he was accepting a three-month unpaid stint as chief strategist and spokesman at the Democratic National Committee brought mixed responses.

While the coterie of Democratic campaign consultants and career politicians embraced it as a savvy move by a miscue-prone White House, others worried that Mr. Coelho was once again blurring the lines among business, politics and personal interest.

"I'm never happy unless I have several balls in the air," Mr. Coelho said in a recent interview. And that he has.

Since Mr. Clinton's election almost two years ago, Mr. Coelho has served as an informal adviser to the White House, attending several high-level strategy meetings a month. He is raising money for the legal defense fund that will help the President fight whitewater accusations and a former Arkansas employee's sex harassment charges. And his former aides hold important posts in the Clinton Administration.

What Mr. Coelho calls his "extended family" includes Thomas R. Nides, chief of staff to Mickey Kantor, the United States Trade Representative; Marcia L. Hale head of the White House office that deals with governors and state legislators, and Kim Schnoor, senior aide to Agriculture Secretary Espy. Leon E. Panetta, his former colleague in the California Congressional delegation, is now the White House chief of staff and was instrumental in the selection of Mr. Coelho as the new party overseer.

At the same time, Mr. Coelho earns more than $1 million a year as president of a subsidiary of Wertheim Schroder & Company, a New York investment bank that manages nearly $4 billion for pension funds, corporations and well-heeled individuals. Mr. Coelho's contacts, and the investment bank's impressive track record, have made it one of the fastest-growing such companies on Wall Street.

Fred Wertheimer, president of the public-interest lobbying group Common Cause, says Mr. Coelho's roles at the White House and in the Democratic Party put him in a "quasi-public, quasi-private" position that could allow his banking company to take advantage of inside information about government policy. "That's not an argument that he's going to do it," Mr. Wertheimer said. "But it's a dangerous situation."

Mr. Coelho says he gains no business advantages from his ties to the Clinton Administration and never lobbies for companies or friends who need help from the Government, although he acknowledges that clients frequently seek his counsel on the ways of Washington.

"It happens all the time," Mr. Coelho said. "I will give people advice. People will say to me, 'Tony, I'm having this problem with Joe Schmo or X bill or agency.' I will give them my best advice, based on 25 years in government. But if they want something done, I say, 'Go see this law firm or that lobbyist.'"

Mr. Coelho said he saw no reason to disclose a list of his clients, as Mr. Wertheimer of Common Cause has suggested. He agreed that it would be improper for him to remain on Wall Street if he held a paid position in the Democratic Party, saying, "I would have to make a complete break."

Lloyd N. Cutler, who accepted a temporary stint as White House counsel, took a leave of absence from his law firm to do so. And several of the political consultants who advise Mr. Clinton, including James Carville and Paul Begala, have publicly disclosed their client lists.

HELP FOR MONSANTO: "I LOVE NETWORKING"

But both Mr. Carville and Mr. Begala are paid for their work, under contract with the Democratic National Committee. In contrast, Mr. Coelho said, "I don't get a cent."

"I'm an adviser," said Mr. Coelho, who, unlike some of Mr. Clinton's other informal advisers, has never held the permanent pass that grants unfettered access to the White House. "I don't have an office, I don't have hours. I'm a citizen of this country who is advising the people who run my party."

New citizens, however, have his connections or cachet.

Consider how Mr. Coelho advised Monsanto on its struggle to win approval for the genetically engineered hormone, bovine somatotropin, which enhances the milk production of cows. It is a case study of the interlocking relationships that Mr. Coelho can call on. As he put it, "I've lived in this town for 30 years, and I love networking."

At a House hearing in June 1986, Mr. Coelho, then a subcommittee chairman, seemed opposed to the hormone, repeatedly asking why the Agriculture Department had helped develop it when the American dairy industry faced a milk glut. (Mr. Coelho says now that he did not really oppose the hormone and that he held the hearing only to placate a Wisconsin Republican whose vote he needed on his own dairy bill.)

Seven years later, Monsanto's president, Robert B. Shapiro, called Mr. Coelho at the suggestion of a friend. Congress, which Mr. Coelho had long since left, had just imposed a 90-day moratorium on the sale of the hormone and was demanding further study of its economic impact on small dairy farmers. When he called Mr. Coelho, Mr. Shapiro said in an interview, the company was "eager to find people who could give us advice and perhaps be helpful."

Mr. Coelho, who has epilepsy, says he saw the drug as the vanguard of a biotechnology revolution that could bring cures for many diseases. "We need to have breakthroughs," he said, "and, well, here was the first breakthrough, and these people were trying to stop it." Mr. Coelho says he never had business dealings with Monsanto or Mr. Shapiro. His investment bank, a spokesman said, holds stock in neither Monsanto nor any biotechnology company.

After receiving that call from Mr. Shapiro, Mr. Coelho called the Agriculture Department to find out where things stood. Mr. Coelho has some of his strongest ties at Agriculture. Secretary Espy won his first race for Congress, in 1986, with substantial financial help from the Democratic Congressional Campaign Committee, which was then headed by Mr. Coelho. Further, Mr. Espy's selection by Mr. Clinton as Agriculture Secretary came on Mr. Coelho's recommendation. And before the new Secretary picked his staff, Mr Coelho proposed several choices to him; one, Kim Schnoor, a former Congressional aide of Mr. Coelho, became Mr. Espy's domestic counselor.

It was Ms. Schnoor who received the call that Mr. Coelho made to the Agriculture Department to see whether anyone there was blocking approval of the hormone. According to an internal Monsanto memo, Mr. Coelho stood ready to hammer home the company's concerns at a dinner he was planning with Mr. Espy.

The Monsanto memo, dated Sept. 21, 1993, expressed hope that Mr. Coelho would enlist Mr. Espy to persuade Mr. Panetta, then the head of the White House Office of Management and Budget, to "duck" a request from Congress for a study of the hormone's economic effects.

Within a few days, a copy of the internal Monsanto memo was obtained and made public by the Washington-based Foundation on Economic Trends, a group that questions the hormone's safety. The dinner meeting between Mr. Espy and Mr. Coelho never took place.

Nonetheless the hormone received final approval from Congress a few months after the Office of Management and Budget, in completing its study, had concluded that the economic effects of the hormone would be minimal.

Jeremy Rifkin, president of the Foundation on Economic Trends, says the conversation between Ms. Schnoor and Mr. Coelho was inappropriate. The Monsanto memo, he says, is proof that Ms. Schnoor provided "sensitive information to give Coelho ammunition to make Monsanto's case with the Secretary."

Tom Amontree, deputy press secretary at the Agriculture Department, disagrees. He says Ms. Schnoor engaged in a brief conversation with Mr. Coelho in which she explained only that the Office of Management and Budget was handling the study.

In a letter hand-delivered to the Agriculture Department, Mr. Rifkin demanded at the time that the department investigate the incident. But no inquiry was ever undertaken, and Mr. Amontree says the letter from Mr. Rifkin was lost. Mr. Rifkin says he plans to renew his protest this week, this time to Attorney General Janet Reno.

AID FOR THE BROTHER OF AN OLD COLLEAGUE

Six months after the tussle over Monsanto, Mr. Coelho lent a helping hand to a politician in need. This time the beneficiary was Mr. Espy's brother Henry, who had unsuccessfully run for the Secretary's old Congressional seat in Mississippi.

The campaign had left Henry Espy saddled with a $75,000 debt, and his campaign treasurer wrote to Federal election officials that "an enormous amount of individual pledges, against which checks were issued, were not honored subsequent to Mr. Henry Espy's defeat."

Into the breach stepped Mr. Coelho and Richard Douglas, senior vice president of Sun Diamond Growers. Mr. Coelho had many contacts with the company in his years representing a California agricultural district in Congress, and his investment bank now manages about $12 million of Sun Diamond's pension money.

Mr. Douglas, a lifelong friend of Secretary Espy, sent letters on Sun Diamond's stationery inviting prospective contributors to a dinner last March 31. At the dinner, Mr. Coelho says, he gave a 20-minute presentation that reminded the audience that Henry Espy was a "good investment" who would be heard from again in politics. Secretary Espy, Mr. Coelho says, did not attend.

After the dinner, Mr. Douglas wrote to those who had attended. He thanked them for their help with "a most difficult task" and noted that Mr. Coelho stood ready to call other prospective contributors. Mr. Coelho says no one ever asked him to make any such calls, however.

EVERYBODY WANTS TO KNOW A STAR

Mr. Coelho's own return to prominence was not a sure thing in 1989, when he resigned from the House over his purchase of $100,000 in junk bonds from Drexel Burnham Lambert, financed in part with a loan from a troubled California savings and loan association.

After two years of investigation, Mr. Coelho says, he received a letter from the Justice Department informing him that the case had been closed. The Justice Department confirms that it declined prosecution in the matter.

After leaving Congress, Mr. Coelho ruled out the choice of many other former lawmakers: Washington lobbying. Instead, he joined a Wertheim Schroder subsidiary, Wertheim Schroder Investment Services, which had fallen on hard times.

Wertheim Schroder Investment Services manages money for large investors, union-management pension funds, corporations and individuals. Its investment performance has dramatically improved since 1989, and Mr. Coelho's contacts and persuasiveness have helped increase the amount of money it manages to nearly $4 billion, from $700 million.

Steve Kotler, president of Wertheim Schroder & Company, says an investment banking company that performed similarly but without Mr. Coelho's contacts or skills as a manager would need 10 years to achieve that much growth.

Jack Marco, president of a Chicago-based company that is a consultant to 118 union-management pension plans, notes that many firms boast flashy performance numbers. But it is personality, he says, that opens doors.

"Certainly people love to be around a star," Mr. Marco said. "Our clients say it: 'That's somebody that's in the press. I know him. He comes to our meetings. I could call him up today.'"

Mr. Coelho, Mr. Marco said, can get his company's name on a pension fund's short list more easily than many. "But if he didn't have the numbers," Mr. Marco said, "he wouldn't get the money."

HOUSE OF REPRESENTATIVES,
Washington, DC, September 8, 1994.

Hon. LEON E. PANETTA,
Chief of Staff,
The White House,
Washington, DC.

DEAR MR. PANETTA: I am writing regarding the recent news stories regarding the involvement of White House political consultants James Carville and Mandy Grunwald in the ongoing Brazilian presidential election.

From the White House Counsel's office I understand that Mr. Carville has declined to comment on whether or not he is involved in the Brazilian election, but only says that his financial disclosure filing in July was accurate "at that time." In addition, I understand that Mandy Grunwald says she is not

involved in the Brazilian election but says others in her firm may be involved. I hope you will look further into this matter. I understand it is of great interest and speculation in the Brazilian press (copy of an article from the Brazilian press is attached) which reports Mr. Carville negotiated this contract in April.

If these individuals or their firms are involved in this election, what kind of payment are they receiving for their services and by what means are they receiving it? If, as reported, a third party is paying them and how has this arrangement been conducted? When were the arrangements made? If others in their firms are receiving any financial compensation in connection with this account, do any of the proceeds go into partnership income? When were negotiations or contracts regarding this matter conducted?

As you know, the White House "Directive" issued by Mack McLarty requiring these political consultants to file financial disclosure has no legal consequence anyway according to the White House Counsel's office. In addition, the crafting of the "Directive" only required that the consultants disclose clients they work "directly" for rather than clients that might produce partnership income from which they draw their income. Thus, as I pointed out in my earlier letter to you on this matter (July 27, 1994 attached) the consultants have not been required to follow the same rules as apply to everyone else required to file financial disclosure forms. Why does the White House continue to play fast and loose with these ethical issues?

Again, I would hope that you would reconsider the wisdom of giving these consultants special treatment and apply the same rules to them as apply to you and all other White House pass holders.

I hope you will also require further clarification on the matter of the involvement of these consultants in the Brazilian election. Having White House inner circle advisers intimately involved in foreign elections seems to be a situation ripe for political problems and conflicts. The American people at least have a right to know about these matters in an upfront and honest manner. Requiring the consultants to file the same forms as you and all other White House pass holders filed and assuring their accuracy would be a start.

I look forward to hearing from you on these matters.

Sincerely,

FRANK R. WOLF,
Member of Congress.

WASHINGTON.—The PSDB [Brazilian Socialist Party] presidential candidate, Fernando Henrique Cardoso, followed closely the selection of the James Carville firm—Carville is an advisor to President Bill Clinton—as campaign advisors. Sergio Motta and Sergio Machado, members of Fernando Henrique's team, Eduardo Jorge Caldas, his ex-cabinet chief, and ex-governor Tasso Jereissati took the bidding in the United States and swore participating foreign companies to absolute secrecy. The [following] information was given to the Jornal do Brasil by a public relations source on condition that we preserve his anonymity.

Carville, introduced to Cardoso by a mutual friend, also a Clinton advisor, won the competition and has already been to Brazil at least three times. Clinton's favorite consultant has two assistants in Brasilia, but another analyst flies to Brazil every other week. Carville's advice could cost a million U.S. dollars.

In July, Carville sent the American Congress a list of his clients, both domestic and foreign, but he did not mention the PSDB. This omission could cause some complications with the Congress. Following is the exchange we had with the public relations person.

"How many companies participated?"

"At least ten were invited to bid. But eight would be a better number. The bulk of the contracts went to Brazilian public relations firms

"Did Brazilian and foreign companies take part in the same bidding?"

"There was no separate bidding for international consultancies."

"When did this take place?"

"In April."

"How long did it take to get an answer?"

"It was decided quickly. Within two weeks."

"Who took care of the bidding for the PSDB?"

"Several people. Sergio Motta, from São Paulo, and Sergio Machado, from Ceará.

Also Eduardo Jorge, Fernando Henrique's cabinet chief. Tasso Jereissati and Fernando Henrique were directly involved in the process and followed the whole bidding."

"Did you request secrecy?"

"And how!" The PSDB asked the bidders to maintain absolute discretion."

"Why did they call on outside companies?"

"The technology developed abroad is more advanced. It revolves more around fine-tuned messages to the voter and is based much more on the results of polls. They do not yet have this analytic capability in Brazil. It is one thing to take polls and enter the date; it is quite another to develop strategies based on these data.

"How many American companies were involved?"

"As far as I know, two. James Carville's company won."

"Is Carville working now?

"Yes."

"How big is his staff in Brazil?"

"From what they tell me, Carville has two assistants in Brasilia. He has been to Brazil three times and should be on his fourth trip right now, as the elections are a month away. If he isn't in Brazil right now, he will be in the coming week."

"How much do consultants get paid?"

"That's hard to say, it depends on the degree of follow-up they do, but for this kind of consulting for five or six months. I would say that the minimum would be $150,000 and the maximum one million dollars, U.S. That amount would be for the whole job."

HOUSE OF REPRESENTATIVES,
Washington, DC, July 27, 1994.

Hon. LEON E. PANETTA,
Chief of Staff,
The White House,
Washington, DC.

DEAR MR. PANETTA: I am writing regarding the recent financial disclosure papers filed by political consultants pursuant to the "Directive" issued by the former Chief of Staff Mack McLarty.

Because of the clever crafting of the "Directive" the papers filed by the political consultants are not even close to those you yourself and other White House staffers filed as an employee of the White House and holder of a 24-hour-a-day access pass. My office has been informed by the White House Counsel's office that these papers don't even have any legal consequence as do those filed by all other staff. Furthermore, the consultants were not required to file any dollar ranges of their assets, list gifts and travel accommodations, or identify accounts on which they work indirectly as well as directly. Once again, the White House has made up unique rules for these consultants.

What is wrong with applying the same rules to the political consultants with White House access passes as apply to all other pass holders? Why do they continue to get special treatment?

The credibility of the White House is at an all-time low. The filings submitted in response to the "Directive" only add to the cynicism and distrust of the White House. I would hope you would fix this situation or stop the charade of "openness."

Sincerely,

FRANK R. WOLF,
Member of Congress.

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 will be recognized for 5 minutes each.

THE RIGHT OF CONGRESS TO DEBATE AND VOTE ON POTENTIAL INVASION OF 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, I think Americans need to know what has been going on here today that may not have been quite so evident by following C-SPAN and some of the remarks in the corridors. A concerted effort has been being made to try and get to the floor of the people's House debate on whether we should invade Haiti or not.

Mr. Speaker, trying to get that debate going has been frustrated at every turn by the Democratic leadership of this House, who do not want that debate to come forward, apparently. We have seen in our 1 minutes, our special orders, in our morning business, a domination of the theme of "Why are we talking about invading Haiti?" Even in the Committee on Foreign Affairs meeting this morning, there was an amendment tacked onto a piece of legislation to try and bring the issue forward through that committee process, which was, by our House rules, properly ruled out of order, but nevertheless, part of the desperation, in a sense, that we need to find a way to get this topic right here on the front row, in the front seat, because that is what we are talking about in America today. That is what is happening right now.

Mr. Speaker, I think it is very important that we understand that the gentleman from California [Mr. COX] has asked for special orders, and others have asked that we provide special types of instructions in conference reports today, and in every turn so far we have been unable to get the main issue to the floor, which I think most Members of Congress want to see, and that is a debate on whether it is a good idea to invade Haiti or not.

Mr. Speaker, there will be people on both sides of that issue, undoubtedly, but most people, I would hope, would favor the idea that the debates should come now, in the House of the people, because that is one of the main reasons we are here. It is one of the reasons we pick up a paycheck, and it seems to me there is no justification for not letting that debate come forward.

□ 1620

Here we are talking about getting ready to launch this invasion, pictures of aircraft carriers, troops loading up, kissing their loved ones goodbye. We are talking even today about calling up the reserves perhaps. We have editorials in the major newspapers in the country speaking on this, all of this going on, despite the fact that the polls, as recently as yesterday, show that three-fourths of Americans do not want to invade Haiti and three-fourths or more do not even understand and are asking us, please take up the issue in Congress before anything happens.

So with that kind of lopsided support to have a debate and to not have an invasion, it strikes me as very curious that the democratic leadership is not letting that issue come forward to the well of the House.

Why would that happen? I do not want to get into the motivation of why President Clinton feels that he has to invade Haiti when there are clearly other choices. But I would suggest that one of the reasons perhaps why the Democratic leadership does not want this to come forward might be found in today's edition of USA Today which I will quote very briefly. I am quoting the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Indiana [Mr. HAMILTON]. He says:

> Suppose you have a resolution and it's defeated in either House. That just sends a terrible signal to the world about the conduct of American foreign policy.

I think it is important to say that this debate is no longer about sending signals. This debate is about sending America's men and women into harm's way where they could get killed in a military action. That is a very different thing than talking about whether our foreign policy is working well or not. In some places it is and in some places it is not.

I think that it is very clear we have another course besides invasion to solve the problems of Haiti. It is ironic that the Parliament in Haiti just yesterday voted to extend its session so they could continue to negotiate with us. We have an invitation from the parliamentarians from the Chamber of Deputies in Haiti that want to talk with the legislators here, that want to talk with the Government here and work out a solution to this problem. They are not interested in an invasion, either. These were duly elected, democratically elected in free, fair elections, parliamentarians we are talking about. These are not stooges of the military. These are people just like myself and the other Representatives here who were elected in a free democratic election trying to find a solution to help build democracy in that country other than at the barrel of a gun which is what the Clinton administration tells us we now must do.

When we come to the justification of why are we doing that, there is no reasonable answer. It is because Haiti is close, it is because they have a drug problem, it is because this or that. There is no justification.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Weinberger a few years ago in a speech that I keep referring to said five basic things before you used U.S. force:

First, is it in the national interest? The President has not demonstrated that Haiti is in the national interest, for going.

Second, is there a plan, an achievable goal if we intervene? The President has clearly not demonstrated it.

Third, is there an exit strategy, can we get in and can we get out? The President has not even begun to think about the exit strategy.

Fourth, does he have the support of the American people and the U.S. Congress? He clearly does not.

Without meeting those requirements, I would say to the gentleman from Florida, committing military forces without meeting the points that Weinberger so brilliantly stated several years ago will get us into quicksand, not just here but all over the world. It would be a terrible mistake for us to go without forcing a vote here and forcing the President to lay his plans out.

Mr. Speaker, I compliment the gentleman for taking this special order.

Mr. GOSS. I thank the gentleman and am happy to yield to the distinguished gentleman from Minnesota.

Mr. PENNY. I thank the gentleman for yielding and I especially appreciate his willingness to yield on short notice to me so that I might add some thoughts regarding this issue of potential military action in Haiti.

A CALL FOR CONGRESSIONAL APPROVAL OF PROPOSED MILITARY ACTION IN HAITI

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

Mr. ROYCE. Mr. Speaker, over the weekend, U.N. Ambassador Madeleine Albright explained on the talk shows that the administration's proposed action in Haiti was merely a police action and directly implied that there was no need to consult the Congress or otherwise seek the support of the American people before going into Haiti.

Mr. Speaker, I resent the implication, and I think the American people reject the suggestion, that the United Nations approval supersedes that of the American people.

Indeed, on August 3, 3 days after the administration received U.N. approval, the Senate unanimously passed a resolution asserting that U.N. approval "does not constitute authorization for the deployment of U.S. Armed Forces in Haiti under the Constitution of the United States or pursuant to the War Powers Resolution."

The latest ABC News poll indicates nearly 75 percent of Americans oppose an invasion of Haiti; Americans oppose an invasion by two-to-one even if it's done in conjunction with a multinational force.

The basic question is: What compelling United States national interest is served by an invasion and occupation of Haiti? This question must be answered by the President to the satisfaction of the American people and this body.

Any attempt by the President to answer this question must fully address both the risks in terms of American lives, and the costs in terms of our Nation's credibility.

Any answer by the President must also address the question of an exit strategy. It must be clear to the American people that this is not another fool's errand which will end only when we are forced out in some ignominious manner.

Having threatened repeatedly to use force, the President has backed himself into a position where his foreign policy credibility—already sorely strained by flip-flops on Bosnia, China and Vietnam, and Haiti—is on the line, and sadly, along with it, the very credibility of the United States is increasingly questioned around the world.

This is not an argument for invading Haiti, but rather for clearly stating the goals of an invasion and limiting them to the concrete and attainable so that the action—however avoidable and regrettable it may be judged—is at least accomplished with the minimum loss of life and national credibility.

Mr. Speaker, the American people will remain opposed, as will I, until President Clinton makes his best case to the Nation that the invasion of Haiti—and the attendant likelihood of American casualties—is vital to the national security and will advance America's interests.

That case has not been made. It will be a very hard case to make. But it must be made if the President is to proceed with the support of the American people.

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

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

Mr. GEKAS. I want to commend the gentleman for bringing this timely subject again to the podium of the House of Representatives. It is the most current of all issues. Is it not ironic, I ask the gentleman, that the United Nations would approve our action and the Organization of American States would approve our action but the action would be taken without the approval of the U.S. Congress? That is a supreme irony which the gentleman has borne out in his statements.

Mr. ROYCE. It is more than just an irony. It is also quite improper in terms of the Constitution.

HONORING COMMAND SGT. MAJ. JACK WALTERS ON HIS RETIREMENT FROM THE MISSISSIPPI NATIONAL GUARD

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

Mr. MONTGOMERY. Mr. Speaker, I rise to pay tribute to Command Sgt. Maj. Wilbur Jack Walters, who will retire from the Mississippi National Guard this month.

When he leaves headquarters and Headquarters Company, 298th Maintenance Battalion in Philadelphia on September 28, 1994, Jack will have completed one of the longest and most distinguished careers in the history of the Mississippi National Guard. His service has spanned 42 years and 9 months.

During that career, Jack was awarded the Army Commendation Medal on four separate occasions, the Mississippi Magnoia Medal twice and the Meritorious Service Medal twice. He was also honored by the National Guard Bureau in Washington for Meritorious Service earned during 8 months of active duty with the Bureau.

I know firsthand about Jack Walters' abilities and his devotion to duty, having served with him in the Mississippi National Guard. His vast knowledge and experience will be greatly missed, but Jack has earned his retirement and I salute him for a job very well done.

HEALTH CARE IN GRIDLOCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, several weeks ago I took this podium to exclaim to the American people that gridlock has come to the aid of the American people. Unlike some of the definitions of gridlock, the paralysis that has set foot in the House of Representatives, the gridlock I am talking about that is beneficial is the one that has set upon us in the health care issue. That gridlock came about because the American people were not ready to accept the bizarre notions that were offered by the administration for a total reform of the health care system by throwing out the current system and bringing in some weird entanglement of benefits and other kinds of connections of health care with which we were not familiar and could not be familiar if we studied them for years. So gridlock came in, stopped us in our tracks, and it is now time to stop, look and listen. It is for that reason that I am introducing today a bill that would create a bipartisan health care reform commission. This would be a commission of 13 members, 11 or 13 members, who would, appointed by the majority leader and by the President and by the minority leader, by the legislative portion of our Government, create a bipartisan commission much like the blue ribbon commission, Mr. Speaker, that saved the Social Security system not too long ago. If Members will recall, that blue ribbon commission, bipartisan in nature, just like I am proposing here, looked at all the problems that were impacting upon the Social Security system, and after a tremendous amount of analysis and taking of testimony and all that goes into preparing documents for the use of the Congress, they came forth with recommendations to the Congress to make the Social Security system actuarially sound way into the next century. The Congress accepted those recommendations from this blue ribbon, bipartisan commission. I would like to see us do the same for the health care issue.

□ 1630

Bring in the experts and have them analyze all that has already been done, not just to debate, the proper debate and very illuminating debate that we have had so far in the Rules Committee in the House, over in the Senate, elsewhere, on the floor here in resolutions and proposals, in the Republican task force and the Democrat working group. All of these things, bring them all to play in a final analysis and examination that will be made by our experts, the ones that we would have a hand in selecting in this blue-ribbon bipartisan commission.

They would also look at, Mr. Speaker, and this is extremely important, they would look at all of the advances that have already been made in health care reform, not by us, not by the legislators sitting here in Washington, but by the folks who are doing the job of health care back in our home communities, back in our districts. I am talking about the doctors, the nurses, the technicians in medicine, the hospitals, the insurance companies, the HMO's that are springing up, the private industry groups that are getting together for helping draft new kinds of methodologies to bring health benefits to their workers and their own constituencies. All of these things which have happened which are far ahead of the curve which we have created in the problem of health care reform ought to be examined and reexamined, and take the best from that and see what can be umbrellaed into a national health care reform system for the year 1995 and thereafter.

But one thing is clear. We cannot do it now, nor should we. Seventy percent of the American people say do not do anything now; wait until 1995. Columnists like Samuelson say the same thing. The National Manufacturers Association and other spokesmen reiterate the same thing. We cannot do anything now.

I talked to Ross Perot last week who is very much interested in some kind of mechanism to allow the experts to analyze our health care system. Here is the opportunity. We do not sacrifice anything. What we do is bring all that we have accumulated in our own individual knowledges and experiences together with those of our constituents and the so-called special interests in the health care issue, which are legion, to be able to in one fell swoop with an overriding examination by this panel of experts, be able to guide us in the future of the health care debate.

Some would say, and I was asked this in the Rules Committee when I appeared before them, "We had a task force. Do you want to do that over again?"

A task force? That administration task force was a secret society that produced secret testimony and produced a secret document that is now the subject of litigation in Federal court. We are not talking about that. We are talking about a blue-ribbon bipartisan commission.

IMMINENT INVASION OF HAITI

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

Mr. COX. Mr. Speaker, President Bill Clinton, Secretary of State Warren Christopher, U.N. Ambassador Madeleine Albright have all announced that they intend to invade Haiti upon the authorization not of the U.S. Congress but of the United Nations, without the authorization of Congress. Why? Why is it that Bill Clinton is willing to seek a vote to invade Haiti from the United Nations but not from the U.S. Congress?

It is because while he claims that the purpose is to safeguard democracy, to defend democracy, the actual stated objective of this military mission is to install a Marxist demagog, Jean-Bertrand Aristide. Just before the erratic Mr. Aristide was ousted from Haiti he made a remarkable speech about necklacing. That is the habit of his own supporters of burning their opponents, their political opponents to death by putting a necklace comprising a tire filled with gasoline around the head of the victims. This is what Jean-

Bertrand Aristide said about necklacing:

What a nice tool, what a nice instrument, what a nice device. It is a pretty one. It is elegant, attractive, splendorous, graceful and dazzling. It smells good. Wherever you go you feel like smelling it.

If put to a vote, the U.S. Congress would not support a policy built around Jean-Bertrand Aristide. We would support a policy built around freedom and democracy, but not around this erratic Marxist.

We are led to believe that politics has nothing to do with the planned invasion. Notwithstanding the views of Democrats and Republicans in this House, notwithstanding the views as recorded by ABC overnight of 73 percent I believe it was of the American people in opposition to such an invasion, we were led to believe that politics has nothing to do with this. Yet I have here a confidential memorandum, attention the Secretary General of the United Nations from Dante Caputo, U.N. Special Envoy for Haiti, dated May 23.

He says and I quote now from his confidential memorandum:

Over the past 15 days I had the pleasure of meeting several times with Strobe Talbott and other officials of the American State Department. The conclusions that I am drawing today are as follows: One, the U.S. administration considers that an invasion of Haiti is its best option.

This memo is dated May 23 and reads confidential, and it is based on meetings that this U.N. Special Envoy had with our highest officials in the State Department.

The memo goes on, "In the same fashion the President of the United States' main advisers are of the opinion that not only does this option," the invasion, military invasion of Haiti, "constitute the lesser evil, but that it is politically desirable." Politically desirable. This is on May 23, and we have heard much since then about the desirability of negotiations, not invasion. This memorandum gives the lie to that.

It goes on, "The Americans see in this type of action," the invasion of Haiti, "the 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."

These are terrible reasons to commit U.S. soldiers to combat. We ought not to be thwarting the wishes of this Congress, thwarting the wishes of the American people in order to vindicate a political strategy built around showing the Presidents decisiveness and leadership in international political matters.

The fact is that the verdict is already in on these things. The international community is not willing to participate in an invasion force. Only are they willing to participate afterward, possibly, as members of a peacekeeping organization once the United States unilaterally invades. But if the U.S. is unilaterally going to invade, then why is it that this House, the House of Representatives, will not debate and vote upon the wisdom of an invasion of Haiti?

Today, this House was presented with a proposal for a privileged resolution by one of my Democratic colleagues. Several of my Democratic colleagues, some of them who consider themselves liberals, came in support of the notion that we debate and vote upon the wisdom of an invasion of Haiti. I myself offered my own privileged resolution which under our rules should come up on Monday.

There is no reason, not surprise, not secrecy, not imminent threats of harm to U.S. citizens that would prevent us from debating this question here in the House of Representatives. We must do so at once. It is the duty of every Member of this House to live up to his or her constitutional responsibility under article 1, section 8. It is the Congress of the United States that should make this decision whether to invade Haiti or not.

ADMINISTRATION PLANS FOR INVASION OF HAITI

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

Mr. MICA. Mr. Speaker, we cannot ignore the lessons of our time, nor can this Congress and this President ignore the lessons of just the past 20 months.

Remember, my colleagues, just Somalia. We spent nearly $2 billion in Somalia on military assistance. I am not talking about humanitarian assistance, but $2 billion of taxpayer money in Somalia.

Not only did we spend money, we wasted nearly 36 American lives. I ask how now as we face a President who is bent on sending troops to Haiti, how can we face the parents of the men and women who will serve there and die there, and how will we explain to them that it was in our national interest?

□ 1640

If you look at Somalia, the reports just in the last few weeks are so grim; we spent that money and those American lives, and the situation is just as grim and as sad as it was the day our troops arrived there.

We cannot reverse the clock for the sake of restoring the credibility of President Clinton. We cannot now expend American lives and we cannot really expend hard-earned taxpayer dollars.

Any invasion of Haiti should be an invasion that is led by United Nations forces without United States troops. This Congress and this country spend billions of dollars paying the bill for the United Nations. What we need to do is be paying and providing the leadership for international peace and for international justice, not with U.S. troops.

I believe that it is highly offensive to this Congress, I believe it is highly offensive to the American people for our President to seek the United Nations approval of his action and not allow that question to be debated here on the floor of the people's House.

If we leave questions of sending our troops to the United Nations, what have we done to the U.S. Congress?

Now, let us look at the lessons again of this particular situation and this President and this administration. We must learn from what we have done.

First, when I was a Congressman-elect and it was President-elect Clinton, he said right after the election he would reverse his policy on Haitian immigration into the United States. Look at what that did to my State of Florida. I knew what it would do. I was there in the 1980's and saw what happened with the Mariel boatlift. I telegrammed the President-elect, and you did not have to be a rocket scientist to figure out that we would have thousands of people come in, and I warned him that people would come and people would die, and people came and people died.

We had 42,000 leave Haiti. Our State is not without a heart. We took in 12,000 of those, and the remainder were sent back to Haiti in a disaster created by this President. Even before he had taken office, he began this history of this disaster.

Next we have left in Guantanamo Bay the HIV-infected Haitians. Thirty-three of my colleagues signed with me a request asking the President to override a Department of Justice decision contrary to the law of this Congress and that we passed, and send those HIV-infected back to Haiti. Instead, he ignored our plea, and he sent them into the United States.

What was the result of this failed policy? Those people are dying in my State. I have received letters asking for donations to bury the babies of the Haitian immigrants, another failed policy of this administration.

When will we learn? No State has suffered more than my State of Florida. We are paying the bills for the education, for the hospitalization, and for the welfare of these people when we have people in our own State that we cannot provide for.

Remember, if you will, the further course of history of Haitian policy with this administration. We negotiated an agreement in Governors Island, and we ignored that agreement at Governors Island. It goes on and on, and it is such a sad chapter.

We sailed into Port-au-Prince harbor, and then we sailed away.

Now, I am asking you, Mr. Speaker and my colleagues, we have an opportunity not to make another mistake here. We have an opportunity not to cause another human tragedy, not to cause another financial tragedy to the people of this country.

So I urge you to learn from the lessons of history and not make another mistake in Haiti.

FRUSTRATION WITH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

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

Mr. BEREUTER. Mr. Speaker, my colleagues, I want to share with you a frustration I am having with the National Highway Traffic Safety Administration.

On June 16 of this year I wrote to Mr. Christopher Hart, the acting administrator of the NHTSA, and I followed it up with a letter of July 14, 1994, since I received no response. At the time I wrote that June letter, I had been working with that agency for well over a year in behalf of a business in my district.

I asked the National Highway Traffic Safety Administration for an update on their rulemaking concerning compressed natural gas fuel containers. I asked them to provide me any evidence that this proposed rule is moving forward and not simply gathering dust on NHTSA shelves.

Now, why is that important? Well, it is important because some American companies, like Brunswick Corp., are developing space age technology for the 21st century. Their efforts are being frustrated in this instance by the National Highway Traffic Safety Administration, which seems to be struck in a bureaucratic Stone Age.

Although the legislation requiring safety standards for compressed natural gas vehicle systems was signed into law in 1990, 1990, the National Highway Traffic Safety Administration has yet to issue its final rule on the CNG fuel containers. This Member certainly understands and supports the need to protect public safety at levels at least equal to that required for currently approved fuel tanks. However, the National Highway Traffic Safety Administration's inaction and callous delays over the past several years have seriously hindered attempts to market natural gas vehicle fuel tanks made with carbon fiber, which appears to be an entirely safe product, better probably than the existing alternative. The Brunswick Corp., of course, developed their technology for a space program, where it was used to great advantage.

But without a Federal safety standard, potential customers are often reluctant to purchase this new product. If the United States is to compete successfully in the global marketplace and if we are to help our defense-related industries to move into civilian sectors for their business, our businesses cannot continue to run into this kind of bureaucracy and red tape.

Unresponsive agencies, such as the National Highway Traffic Safety Administration, in this instance, had better wake up and realize that people's jobs are at stake. They have cost many a job already on this existing example, and yet there seems to be no urgency on the part of the administration of this agency to look and proceed with a rule. I think there is no excuse for it.

I have been working on this issue with the corporation doing business in my State for well over 2 years, probably 3 years by now, and we have no action. So I believe the only opportunity this Member of Congress has is to embarrass them in the public domain, and I intend to be up on my feet doing just that periodically until we get some action.

I am not asking them to do anything unsafe at all. It is just to move something or give reasons why they are not moving something, to see if, in fact, they can take that paper from the bottom of the stack and actually look at it and proceed.

Mr. Speaker, my colleagues, I thank you for your indulgence and this time.

"ONGI ETORRI" FOR THE BASQUE PRESIDENT

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

Mr. LAROCCO. Mr. Speaker, on Tuesday, September 20, I will have the pleasure of welcoming José Antonio Ardanza, the President of the Basque Government in Spain, when he visits Washington, DC. This is a special honor for me because of the close relationship between the Basque country and my home State of Idaho, which has one of the largest concentrations of Basques outside of Spain.

This relationship began a century ago, when the first Basque immigrants trickled into Idaho shortly after statehood in 1890. At that time, the poor economic conditions in Spain compelled them to look for outside opportunities. Many young Basque men came to the Western United States, especially Idaho and Nevada, first to herd sheep.

Through a combination of hard work, education, and strong family values, Basques in the United States have become a classic success story. Today, Americans of Basque descent are in all walks of life from banking to agriculture to law and education. Basques have become an invaluable addition to the makeup of our State.

At the same time, Basque cultural traditions remain alive and well. Idahoans appreciate Basque restaurants, Basque dancing, and Basque cultural festivals. I, myself, have been fortunate to participate in some of these traditions because my wife, Chris, is of Basque ancestry.

In many ways, Idaho's ties with the Basque country are stronger than ever, and therefore the United States' ties with the Basque country are growing stronger. We in Idaho are working to expand cultural, economic and educational exchanges with the Basque country and to continue this relationship into the next century.

President Ardanza's visit next week will mark an important milestone in the development of these exchanges. Since he assumed office in 1985, President Ardanza has made it a priority to open doors of the Basque country, to rejuvenate the Basque economy, and to deal firmly with terrorism in the Basque provinces.

Since President Ardanza's first visit to the United States in 1988, Idaho Governor Cecil Andrus and I have visited the Basque country.

Mr. Speaker, Idahoans are proud of our Basque community. And I will be proud to represent the State of Idaho in welcoming President Ardanza to our Nation's Capital.

□ 1650

CONSIDERATION OF THE DEFENSE APPROPRIATIONS CONFERENCE REPORT

The SPEAKER pro tempore (Mr. SANGMEISTER). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California, [Mr. BROWN] is recognized for 60 minutes as the designee of the majority leader.

Mr. BROWN of California. Mr. Speaker, if we stick to our calendar, Mr. Speaker, this distinguished legislative body has just three more working weeks in which to handle some of the most important legislative items of this session. Hopefully, these items will include six appropriations bills, campaign finance reform, GATT implementation legislation, telecommunications legislation, health care reform, and superfund reauthorization as well as our own House reform initiative.

We can anticipate that these issues will be debated at great length and with some passion. That is as it should be. For all the pundits' criticisms of this body for its endless disputation, the fact is that we are charged with helping write the laws and set the direction for the governance of this great Nation. That is important work and its success should not be measured by how much legislation we pass or how quickly we can move a bill off the floor or how little discussion there is about the contents of a bill.

All of us know this, and many of us spend a great deal of our time back in

our districts trying to explain to our bosses—the citizens of this Nation—that when we debate and argue and disagree and, ultimately, compromise our differences, we are doing precisely what the drafters of the Constitution expected us to do and precisely what we are sent here to do. It is good and proper work, if slow and laborious.

The alternative to lengthy debates would be to spend almost no time in passing legislation that spends our taxpayers' dollars, regulates our Nation's industries and sets new policy directions.

Do any of us really believe that the Nation really wants us to make decisions about spending billions and billions of their dollars in just a few minutes and without complete information about the contents of the legislation that we endorse?

This is supposed to be a deliberative body—which implies both that we should deliberate—consider, debate, discuss—and be deliberate—act with purpose, with intent. I believe our constituents would be justifiably outraged if they learned we were moving hundreds of billions of dollars in spending out the door of the House without meaningful debate or careful discussion.

Yet that is just what we did almost a year ago in passing the conference report making fiscal year 1994 appropriations for the Department of Defense. That bill came back from conference to the Rules Committee at 5 p.m. on the evening of November 9 and was on the floor at 9 a.m. of November 10. Note that the House had been scheduled to come in at 9:30 a.m. and there was little notice of the earlier starting time.

That bill contained 220 amendments and the statement of managers and conference report stretched across 312 typed pages. However, neither the amendments nor the statement of managers was made widely available to Members prior to passage—the CONGRESSIONAL RECORD containing the conference report was not available until noon—almost 3 hours after we had already passed the legislation.

And the rule that came with the conference report waived all points of order against the bill. Such points of order are the best tool authorizers have to keep appropriations bills free of attempts to legislate. I believe that points of order should never be waived on appropriations bills and I hope that my colleagues will endorse this position as we move toward reforming the rules of the House in the next Congress.

How much time was spent on the rule and conference report? About 15 minutes and both the rule and conference report passed on a voice vote. As I said at the time, "it is difficult to claim that we engage in informed legislative deliberation when we move legislation before Members have even had a chance to see its contents."

That DOD appropriation spent $240 billion in taxpayer dollars. It was the single largest appropriation bill we considered and represents 48 percent of Federal discretionary spending. But we moved it in 15 minutes. That works out to about $16 billion for every minute of consideration.

Some observers might ask whether last year's debate on the DOD appropriation wasn't just a fluke driven by the rush of Members to finish up business and get out of town. That is a reasonable question and I can provide a reasonable answer: No, it was not a fluke. Earlier this year we spent just 30 minutes considering the House DOD appropriation, 15 minutes of which were on a roll call vote on passage, for a bill which again contained $240 billion in spending.

Some of our colleagues who happened to be on the floor at the time can testify that every effort was made to prevent a more extensive debate, block opposition, and slip the bill through before anyone noticed. That effort was bipartisan, with leaders from the majority and minority—normally sticklers for demanding roll call votes and open rules—telling their colleagues to sit down while Mrs. MALONEY attempted to get a roll call vote on her amendment.

In contrast, earlier this year we spent 10 hours over 2 days considering the Commerce, Justice, State, and Judiciary appropriation bill—I remember it vividly because I was in the Chair during consideration. That bill contained just $26.5 billion in spending—just one-tenth the size of the DOD bill. That debate worked out to a mere $44 million per minute.

At that rate, calculated by dollars per minute of debate, it would have taken us over 90 hours to dispense with the Defense bill, 360 times as long as we actually spent. That is probably much longer than is truly necessary, but it does indicate that the Defense bill gets nowhere near the scrutiny of our other appropriations bills.

There is a disturbing pattern emerging here. The Defense appropriation bill, which effectively sets funding and policy on everything from new weapons systems to pay raises for our troops to research initiatives at our Nation's labs and universities, has been slipped through this body in a way that is specifically designed to avoid discussion, deliberation, debate, and amendment.

Both the conference report last year and this year's House bill came up at an unexpected time, outside of the announced schedule, and when Members were unprepared to be on the floor for the bill. As I note above, such activities require the cooperation from the leadership on both sides of the aisle.

This has got to change. All of us are saddened at the declining respect our citizens have for this, the greatest legislative institution in the history of the world. All of us have friends in this body—good, dedicated legislators—who have announced their retirement during the last few years. Candidly, they confess that one of the strongest reasons for leaving is that they are simply tired of the abuse heaped on them by angry constituents and the general disrespect for them and the work they do as Members of Congress.

The loss of these experienced Members is a tragedy for this body and the Nation. For all the shallow popularity of term limits, the fact is that it takes some years here to learn how to legislate, to learn the complexity of the Federal Government, to begin to grasp the connection between actions this body takes and the impact of those actions on the Nation at large, and to learn how to conduct oversight of the executive branch. New Members are wonderful for their enthusiasm, but experienced Members bring hard-earned wisdom; it is the balance between these forces that helps ensure that this body remains effective and relevant.

When we take just a few moments to commit the Nation to spending and policy decisions of enormous, lasting importance, as we did last year with the Defense appropriations bill, we create a situation ripe for exploitation by those pundits and critics who trade on deriding this great institution. What may seem like a necessary expedient to avoid the appearance of disruptive debate actually convinces our critics that we are careless, reckless, and irresponsible in our spending decisions. I do not like that one bit.

I love this institution and am proud of my service in it. I ask, out of respect and affection, the leadership of this great House, to ensure that this year Members are given sufficient time to study appropriations bills, especially that largest of appropriations bills, the Department of Defense appropriation.

I ask for at least 3 days time to elapse between delivery of the statement of managers and conference report and the consideration of that report on the floor of the House, as House rules require.

I ask that the rule accompanying that bill not waive all points of order against the bill. In short, I ask that Members be given a chance to do what our constituents send us here to do: to carefully consider and weigh the implications of the legislation that we pass. For that we must have time—not a lot of time—72 hours provided for in the House rules ought to be adequate.

If that bill comes back to this body for a vote, as it did last year, without the report having been available for three days, without sufficient time for Members to consider the implications of the bill, and with a rule that closes off points of order, I will ask my colleagues to defeat that rule.

As much as we respect and cherish our distinguished friends on the Appropriations Committee, their assurances

that we can trust them and don't need to see or review what they have done with our money, are not good enough. Accepting such sweet words would be a dereliction of duty.

I hope that those who desire to reform this institution and those who care—as I do—for the public's perception of this body, and that is a solid majority of my colleagues, will join me in sending a signal that neither we nor our constituents are willing to blindly endorse hundreds of billions of dollars in spending. We demand the right to know what we are voting for.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEARS 1995–1999

(Mr. SABO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

This report is to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218), for legislation having spending or revenue effects in fiscal years 1995 through 1999. I am also submitting today a separate report dealing with the current levels of spending and revenues for fiscal year 1994, to be used in applying the fiscal year 1994 budget resolution (H. Con. Res. 64).

COMMITTEE ON THE BUDGET
HOUSE OF REPRESENTATIVES,
Washington, DC, September 13, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of August 26, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 218, the concurrent resolution on the budget for fiscal year 1995. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1995 because appropriations for those years will not be considered this session.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 218 for fiscal year 1995 and for fiscal years 1995 through 1999. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations are printed in the conference report on H. Con. Res. 218 (H. Rept. 103–490).

The third table compares the current levels of discretionary appropriations for fiscal year 1995 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on August 4, 1994 (H.Rept. 103–655).

The aggregate appropriate levels and allocations reflect the adjustments required by section 25 of H. Con. Res. 218 relating to additional funding for the Internal Revenue Service compliance initiative.

Sincerely,

MARTIN OLAV SABO,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1995 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 218 (REFLECTING ACTION COMPLETED AS OF AUGUST 26, 1994)

[On-budget amounts, in millions of dollars]

	Fiscal year 1995	Fiscal years 1995–99
Appropriate level (as set by H. Con. Res. 218):		
Budget authority	1,238,705	6,892,705
Outlays	1,217,605	6,767,805
Revenues	977,700	5,415,200
Current level:		
Budget authority	801,474	(1)
Outlays	954,642	(1)
Revenues	977,699	5,393,061
Current Level over (+)/under(−) appropriate level:		
Budget authority	−437,231	(1)
Outlays	−262,963	(1)
Revenues	−1	−22,139

[1] Not applicable because annual appropriations Acts for Fiscal Years 1996 through 1999 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $437.231 billion in new budget authority for FY 1995 (if not already included in the current level estimate) would cause FY 1995 budget authority to exceed the appropriate level set by H. Con. Res. 218.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase FY 1995 outlays by more than $262.963 billion (if not already included in the current level estimate) would cause FY 1995 outlays to exceed the appropriate level set by H. Con. Res. 218.

REVENUES

Enactment of any measure producing any net revenue loss in FY 1995 (if not already included in the current level estimate) would cause FY 1995 revenues to fall further below the appropriate level set by H. Con. Res. 218.

Enactment of any measure producing any net revenue loss for the period FY 1995 through FY 1999 (if not already included in the current level estimate) would cause revenues for that period to fall further below the appropriate level set by H. Con. Res. 218.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal years, in millions of dollars]

	1995			1995–99		
	Budget authority	Outlays	NEA[1]	Budget authority	Outlays	NEA[1]
House committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,861
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	−4,861
Armed Services:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Banking, Finance and Urban Affairs:						
Allocation	0	0	0	0	0	0
Current level	−25	−25	0	−75	−75	0
Difference	−25	−25	0	−75	−75	0
District of Columbia:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Allocation	0	0	309	0	0	5,943
Current level	0	0	0	0	0	0
Difference	0	0	−309	0	0	−5,943
Energy and Commerce:						
Allocation	0	0	0	0	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal years, in millions of dollars]

	1995			1995–99		
	Budget authority	Outlays	NEA[1]	Budget authority	Outlays	NEA[1]
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Allocation	0	0	0	0	0	0
Current level	−4	−4	0	2	2	0
Difference	−4	−4	0	2	2	0
Government Operations:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Judiciary:						
Allocation	0	0	0	0	0	0
Current level	2	2	0	10	10	0
Difference	2	2	0	10	10	0
Merchant Marine and Fisheries:						
Allocation	0	0	0	0	0	0
Current level	0	3	0	0	−2	0
Difference	0	3	0	0	−2	0
Natural Resources:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Post Office and Civil Service:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Public Works and Transportation:						
Allocation	2,161	0	0	64,741	0	0
Current level	2,161	0	0	6,545	0	0
Difference	0	0	0	−58,196	0	0
Science, Space, and Technology:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	0	0	340	0	0	5,743
Current level	0	0	0	0	0	0
Difference	0	0	−340	0	0	−5,743
Ways and Means:						
Allocation	0	0	0	0	0	214
Current level	0	0	−13	−10	−10	−884
Difference	0	0	−13	−10	−10	−1,098
Permanent Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0

[1] New Entitlement Authority.

DISCRETIONARY APPROPRIATION FOR FISCAL YEAR 1995—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (August 4, 1994)		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Rural Development	13,357	13,945	0	4,197	−13,357	−9,748
Commerce, Justice, State	26,454	24,949	26,346	24,914	−108	−35
Defense	243,432	250,515	0	86,480	−243,432	−164,035
District of Columbia	720	722	0	2	−720	−720
Energy and Water Development	20,493	20,888	20,493	20,884	0	−4
Foreign Operations	13,785	13,735	13,634	13,735	−151	−0
Interior	13,521	13,916	375	5,063	−13,146	−8,853
Labor, Health and Human Services, and Education	69,978	69,819	1,771	41,702	−68,207	−28,117
Legislative branch	2,368	2,380	2,367	2,380	−1	0
Military construction	8,837	8,554	8,836	8,525	−1	−29
Transportation	13,704	36,513	0	24,562	−13,704	−11,951
Treasury-Postal Service	11,741	12,256	0	2,953	−11,741	−9,303
VA–HUD–Independent Agencies	70,418	72,781	813	43,270	−69,605	−29,511
Reserve	2,351	6	0	0	−2,351	−6
Grand total	511,159	540,979	74,635	278,667	−436,524	−262,312

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 12, 1994.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1995 in comparison with the appropriate levels for those items contained in the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218), and is current through August 26, 1994. A summary of this tabulation follows:

[In Millions of Dollars]

	House current level	Budget resolution (H. Con. Res. 218)	Current level +/− resolution
Budget	801,474	1,238,705	−437,231
Outlays	954,642	1,217,605	−262,963
Revenues:			
1995	977,699	977,700	−1
1995–1999	5,393,061	5,415,200	−22,139

Since my last report, dated August 1, 1994, Congress has cleared and the President has signed the Independent Agency Act (P.L. 103-296) and the following appropriation bills: Commerce, Justice, State (P.L. 103-317), Energy and Water (P.L. 103-316), Foreign Assistance (P.L. 103-306), and Military Construction (P.L. 103-307). Congress has also approved the Crime Control Act of 1994 (H.R. 3355) and the Community Development Act of 1994 (H.R. 3474). These actions changed the current level of budget authority, outlays, and revenues.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

PARLIAMENTARIAN STATUS REPORT, 103D CONGRESS, 2D SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS AUGUST 26, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			977,700
Permanents and other spending legislation	747,135	705,985	
Appropriation legislation		242,066	
Offsetting receipts	(203,682)	(203,682)	
Total previously enacted	543,453	744,370	977,700
ENACTED THIS SESSION			
Appropriation bills:			
Emergency supplemental appropriations, FY 1994 (P.L. 103-211)	18	(832)	
1994 FHA supplemental (P.L. 103-275)	(2)		
Commerce, Justice, State Appropriations (P.L. 103-317)	26,832	19,052	
Offsetting receipts	(158)	(158)	
Energy and water appropriations (P.L. 103-316)	20,687	12,277	
Offsetting receipts	(194)	(194)	
Foreign assistance appropriations (P.L. 103-306)	13,679	5,614	
Offsetting receipts	(45)	(45)	
Legislative branch appropriations (P.L. 103-283)	2,367	2,174	
Military construction appropriations (P.L. 103-307)	8,836	2,182	
Authorization bills:			
Federal Workforce Restructuring Act ((P.L. 103-226)	443	443	
Offsetting receipts	(269)	(269)	
Foreign Relations Authorization Act (P.L. 103-236)	(4)	(4)	
Marine Mammal Protection Act Amendments (P.L. 103-238)		3	
Independent Counsel Reauthorization Act (P.L. 103-270)	2	2	
Independent Agency Act ((P.L. 103-296)			(2)
Aviation Infrastructure Investment Act (P.L. 103-305)	2,161		
Total enacted this session	74,353	40,244	(2)
PENDING SIGNATURE			
Community Development Act of 1994 (H.R. 3474)	(25)	(25)	
Crime Control Act of 1994 (H.R. 3355)			1
Total pending signature	(25)	(25)	1
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [1]	183,693	170,053	
Total current level [2,3]	801,474	954,642	977,699
Total budget resolution	1,238,705	1,217,605	977,700
Amount remaining:			
Under budget resolution	437,231	262,963	1
Over budget resolution			

[1] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103-296.
[2] In accordance with the Budget Enforcement Act, the total does not include $4,893 million in outlays for funding of emergencies that have been designated as such by the President and the Congress, and $125 million in budget authority and $259 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.
[3] At the request of Committee staff, current level does not include scoring of section 601 of P.L. 102-391.

Note.—Numbers in parentheses are negative. Detail may not add due to rounding.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEAR 1994

(Mr. SABO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1994.

This report is to be used in applying the fiscal year 1994 budget resolution (H. Con. Res. 64), for legislation having spending or revenue effects in fiscal year 1994. I am also submitting today a separate report dealing with the current levels of spending and revenues for fiscal years 1995 through 1999, to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218).

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, September 13, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of Sections 302 and 311 of the Congressional Budget Act, I am transmitting an updated status report on the current levels of on-budget spending and revenues for fiscal year 1994.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of August 26, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 64, the concurrent resolution on the budget for fiscal year 1994. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 64 for fiscal year 1994. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations were printed in the Congressional Record for March 31, 1993, on pages H. 1784-87.

The third table compares the current levels of discretionary appropriations for fiscal year 1994 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b)

suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on August 4, 1994 (H. Rept. 103–664).

Sincerely,

MARTIN OLAV SABO,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1994 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 64 REFLECTING ACTION COMPLETED AS OF AUGUST 26, 1994

[On-budget amounts, in millions of dollars]

	Fiscal year 1994
Appropriate level (as set by H. Con. Res. 64):	
Budget authority	1,223,400
Outlays	1,218,300
Revenues	905,500
Current level:	
Budget authority	1,221,272
Outlays	1,217,426
Revenues	905,429
Current level over(+)/under(−) appropriate level:	
Budget authority	−2,128
Outlays	−874
Revenues	−71

BUDGET AUTHORITY

Enactment of measures providing more than $2.128 billion in new budget authority for FY 1994 (if not already included in the current level estimate) would cause FY 1994 budget authority to exceed the appropriate level set by H. Con. Res. 64.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase FY 1994 outlays by more than $874 million (if not already included in the current level estimate) would cause FY 1994 outlays to exceed the appropriate level set by H. Con. Res. 64.

REVENUES

Enactment of any measure producing any net revenue loss in FY 1994 (if not already included in the current level estimate) would cause FY 1994 revenues to fall further below the appropriate level set by H. Con. Res. 64.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal year, in millions of dollars]

House committee	1994 BA	1994 Outlays	1994 NEA[1]
Agriculture:			
Allocation	−65	−66	−60
Current level	−99	−106	−402
Difference	−34	−40	−342
Armed Services:			
Allocation	−128	−128	−128
Current level	−153	−163	−167
Difference	−25	−35	−39
Banking, Finance and Urban Affairs:			
Allocation	0	−338	0
Current level	−417	−915	0
Difference	−417	−577	0
District of Columbia:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Education and Labor:			
Allocation	0	0	118
Current level	−142	−155	−787
Difference	−142	−155	−905
Energy and Commerce:			
Allocation	0	−1,700	−180
Current level	2	−2,398	42
Difference	2	−698	222
Foreign Affairs:			
Allocation	0	0	0
Current level	−35	−35	−3
Difference	−35	−35	−3
Government Operations:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
House Administration:			
Allocation	0	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal year, in millions of dollars]

House committee	1994 BA	1994 Outlays	1994 NEA[1]
Current level	1	1	0
Difference	1	1	0
Judiciary:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Merchant Marine and Fisheries:			
Allocation	0	0	0
Current level	−1	3	0
Difference	−1	3	0
Natural Resources:			
Allocation	−117	−112	0
Current level	−74	−78	0
Difference	43	34	0
Post Office and Civil Service:			
Allocation	−66	−66	−77
Current level	−256	−256	−218
Difference	−190	−190	−141
Public Works and Transportation:			
Allocation	2,092	−13	0
Current level	2,092	−13	0
Difference	0	0	0
Science, Space, and Technology:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Small Business:			
Allocation	0	0	0
Current level	0	0	0
Difference	0	0	0
Veterans' Affairs:			
Allocation	−11	−11	70
Current level	−11	−11	28
Difference	0	0	−42
Ways and Means:			
Allocation	−2,876	−2,054	−2,036
Current level	−1,216	−824	261
Difference	1,660	1,230	2,297
Perm. Select Committee on Intelligence:			
Allocation	0	0	0
Current level	7	7	7
Difference	7	7	7

[1] New Entitlement Authority.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1994—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (August 4, 1994)		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Rural Development	14,598	14,207	14,595	14,205	−3	−2
Commerce, Justice, State	23,470	23,887	23,470	23,552	0	−335
Defense	240,316	255,151	239,897	255,151	−419	0
District of Columbia	700	698	700	698	0	0
Energy and Water Development	22,017	21,585	21,689	21,585	−328	0
Foreign Operations	13,444	13,977	12,789	13,977	−655	0
Interior	13,736	13,726	13,727	13,726	−9	0
Labor, Health and Human Services, and Education	68,012	−94	0			
Legislative Branch	2,270	2,262	2,264	2,262	−6	0
Military Construction	10,066	8,759	9,464	8,759	−602	0
Transportation	13,284	34,878	12,435	34,878	−849	0
Treasury-Postal Service	11,469	11,639	11,312	11,639	−157	0
VA-HUD Independent Agencies	68,311	69,976	68,053	69,976	−258	0
Grand total	500,964	538,757	497,584	538,420	−3,380	−337

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 12, 1994.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1994 in comparison with the appropriate levels for those items contained in the 1994 Concurrent Resolution on the Budget (H. Con. Res. 64), and is current through August 26, 1994. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 64)	Current level +/− resolution
Budget authority	1,221,272	1,223,400	−2,128
Outlays	1,217,426	1,218,300	−874
Revenues:			
1994	905,429	905,500	−71
1994–1998	5,105,868	5,153,000	−47,532

Since my last report, dated August 1, 1994, Congress has cleared and the President has signed the Foreign Operations appropriation bill (P.L. 103–306), the Commerce, Justice, State appropriation bill (P.L. 103–317), and the Aviation Infrastructure Act (P.L. 103–305). These actions changed the current level of budget authority and outlays.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

PARLIAMENTARIAN STATUS REPORT 103D CONGRESS, 2D SESSION—HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1994 (AS OF CLOSE OF BUSINESS AUGUST 26, 1994)

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation [1]	721,126	695,196	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,648	1,216,855	905,429
ENACTED THIS SESSION			
Appropriation bills:			
Emergency Disaster Supplemental (P.L. 103–211)	(2,286)	(248)	
1994 FHA Supplemental (P.L. 103–275)	[5]	(2)	
Foreign Operations (P.L. 103–306)	99	99	
Commerce, Justice, State (P.L. 103–317)	670	335	
Authorization bills:			
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Certain Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Aviation Infrastructure Act (P.L. 103–305)	2,170		
Total enacted this session	192	(211)	
ENTITLEMENTS AND MANDATORIES			
Budget resolution estimates of appropriated entitlements and other mandatory programs not yet enacted [2]	(5,567)	781	
Total current level [3 4]	1,221,272	1,217,426	905,429
Total budget resolution	1,223,400	1,218,300	905,500
Amount remaining:			
Under budget resolution	2,128	874	71
Over budget resolution			

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.
[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66 and P.L. 103–140.
[3] In accordance with the Budget Enforcement Act, the total does not include $14,735 million in budget authority and $9,215 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $800 million in budget authority and $285 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.
[4] At the request of Committee staff, current level does not include scoring of sec. 601 of P.L. 102–391.
[5] Less than $500 thousands.

Notes.—Numbers in parentheses are negative. Detail may not add due to rounding.

COMMUNICATION FROM THE CHAIRMAN, COMMITTEE ON THE BUDGET, REGARDING ADJUSTMENT OF BUDGET RESOLUTION SPENDING ALLOCATIONS TO REFLECT CREATION OF VIOLENT CRIME REDUCTION TRUST FUND

(Mr. SABO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SABO. Mr. Speaker, the Violent Crime Control and Law Enforcement Act of 1994, which the President signed into law today, establishes a Violent Crime Reduction Trust Fund. Section 310001(f) of that act requires budget authority and outlays from the trust fund to be separated from all other budget authority and outlays in the allocations of spending authority to the Appropriations Committees made under section 602(a) of the Congressional Budget Act.

In order to implement the new procedures in fiscal year 1995, section 310001(f)(2) of the Violent Crime Control and Law Enforcement Act directs the chairmen of the House and Senate Budget Committees to submit revised allocations to the Appropriations Committees under section 602(a) of the Budget Act, reflecting creation of the Violent Crime Reduction Trust Fund.

Accordingly, I hereby submit the following revised spending allocations to the House Appropriations Committee for fiscal year 1995. These allocations are identical to the allocations now in effect, except that the amounts specified by the Crime Control Act have been moved from the general allocations to the new special allocations of budget authority and outlays from the Violent Crime Reduction Trust Fund.

Discretionary appropriations action, fiscal year 1995 (in millions):

	Budget authority	Outlays
General purposes	508,736	540,276
Violent Crime Reduction Trust Fund	2,423	703
Total	511,159	540,979

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, on account of illness.

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. GEKAS) to revise and extend their remarks and include extraneous material:)

Mr. GEKAS, for 5 minutes, today.
Mr. COX, for 5 minutes, today.
Mr. MICA, for 5 minutes, today.
Mr. WALKER, for 5 minutes, today.
Mr. KASICH, for 5 minutes, today.
Mr. BEREUTER, for 5 minutes, today.

(The following Members (at the request of Mr. BROWN of California) to revise and extend their remarks and include extraneous material:)

Mr. LAROCCO, for 5 minutes, today.
Mrs. MINK of Hawaii, for 5 minutes, today.
Mr. MONTGOMERY, for 5 minutes, today.

(The following Member (at the request of Mr. BROWN of California) to revise and extend his remarks and include extraneous material:)

Mr. SABO, 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. GEKAS) and to include extraneous matter:)

Mr. CALLAHAN.
Mr. BURTON of Indiana.
Mr. GILMAN in three instances.
Mr. HUNTER.
Mr. SMITH of New Jersey.
Mr. PORTMAN.

(The following Members (at the request of Mr. BROWN of California) and to include extraneous matter:)

Mr. MONTGOMERY.
Mr. FRANK of Massachusetts.
Mrs. THURMAN.
Mr. BONIOR.
Ms. MARGOLIES-MEZVINSKY.
Mr. GEJDENSON.
Mr. BERMAN in two instances.
Mr. DIXON in two instances.
Mr. VISCLOSKY.
Mr. SCHUMER in three instances.
Mr. GORDON.
Mr. KILDEE in four instances.

Mr. STARK.
Mr. REED.
Mr. FINGERHUT.
Mr. STUDDS.
Mr. PALLONE.
Mr. MANN.
Mr. CONYERS.
Mrs. MINK of Hawaii.
Ms. ENGLISH of Arizona.
Mr. POSHARD.

(The following Members (at the request of Mr. BROWN of California) and to include extraneous matter:)

Mr. PACKARD.
Mr. BREWSTER.
Mr. ROSTENKOWSKI.
Mr. DE LUGO.
Mr. SARPALIUS.
Mr. KLEIN.
Mr. KREIDLER.
Mr. BARLOW.
Mr. SOLOMON.
Mr. SKELTON.

□ 1700

ADJOURNMENT

Mr. BROWN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Friday, September 16, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3804. A letter from the Acting Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of September 1, 1994, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 103-306); to the Committee on Appropriations and ordered to be printed.

3805. A letter from the Assistant to the President for Economic Policy, transmitting a report entitled, "Report on Whether Foreign Governments or Companies Have a Coordinated Strategy to Acquire U.S. Critical Technology Companies and Whether Foreign Governments Use Espionage Activities to Obtain Commercial U.S. Critical Technology Secrets," pursuant to Public Law 102-558, section 163 (106 Stat. 4219); to the Committee on Banking, Finance and Urban Affairs.

3806. A letter from the Acting Chairman, Federal Deposit Insurance Corporation, transmitting the 19th annual report for the year 1993, pursuant to 15 U.S.C. 57a(f)(6); to the Committee on Banking, Finance and Urban Affairs.

3807. A letter from the Secretary of Health and Human Services, transmitting the annual report on the status and accomplishment of the Youth Gang Drug Prevention Program; to the Committee on Education and Labor.

3808. A letter from the Secretary of Health and Human Services, transmitting the biennial report of the Agency for Toxic Substances and Disease Registry covering the period January 1, 1991, through December 31, 1992, pursuant to Public Law 99-499, section 110(10) (100 Stat. 1641); to the Committee on Energy and Commerce.

3809. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94-48), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3810. A letter from the Director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Sweden for defense articles and services (Transmittal No. 94-52), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3811. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North American Affairs [CCNAA] for defense articles and services (Transmittal No. 94-49), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3812. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94-53), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3813. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94-54), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3814. A letter from the Administrator, U.S. Agency for International Development, transmitting notice that the President has determined that it is important to the security interests of the United States to provide Housing Guaranty loans to South Africa (Presidential Determination No. 94-45), pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

3815. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Peter Jon de Vos, of Florida, to be Ambassador to the Republic of Costa Rica, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3816. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Thailand for defense articles and services (Transmittal No. 94-51), pursuant to 22 U.S.C. 2776(B); to the Committee on Foreign Affairs.

3817. A letter from the Environmental Protection Agency, transmitting the Agency's annual report for the calendar year 1993 under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3818. A letter from the Acting Director, Office of Management and Budget, transmitting a report on the activities of Federal agencies in implementing the Computer Matching and Privacy Protection Act for calendar year 1991, pursuant to 5 U.S.C. 552a(r); to the Committee on Government Operations.

3819. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the Board's report titled, "Temporary Federal Employment: In Search of Flexibility and Fairness"; to the Committee on Post Office and Civil Service.

3820. A letter from the Secretary, Department of Energy, transmitting Steel Initiative Management Plan research and development activities report for fiscal year 1993, pursuant to 15 U.S.C. 5107; to the Committee on Science, Space, and Technology.

3821. A letter from the Administrator, Small Business Administration, transmitting a report on developing a secondary market for loans to small businesses; to the Committee on Small Business.

3822. A letter from the Commissioner of Social Security, transmitting a copy of a plan for a new disability claim process; to the Committee on Ways and Means.

3823. A letter from the Secretary, Department of Labor, transmitting the Department's annual report on the fiscal year 1993 program operations of the Office of Workers' Compensation Programs for the period October 1, 1992, through September 30, 1993, pursuant to 30 U.S.C. 936(b); jointly, to the Committee on Education and Labor and Post Office and Civil Service.

3824. A letter from the Deputy Secretary of Defense, transmitting notification that the Department intends to obligate funds in support of joint research and development programs with the former Soviet Union, pursuant to 22 U.S.C. 5955; jointly, to the Committees on Armed Services and Science, Space, and Technology.

3825. A letter from the Acting Administrator, U.S. Agency for International Development, transmitting the Agency's quarterly report for development assistance including the Development Fund for Africa, Special Assistance Initiatives and New Independent States as of June 30, 1994, pursuant to 22 U.S.C. 2413(a); jointly, to the Committees on Foreign Affairs and Appropriations.

3826. A letter from the Architect of the Capitol, transmitting a copy of the 1993 annual report on solid waste management in the Capitol complex; jointly, to the Committees on House Administration and Appropriations.

3827. A letter from the Board Members, Railroad Retirement Board, transmitting the Board's budget requests for fiscal year 1996, pursuant to 49 U.S.C. 10387; jointly, to the Committees on Appropriations, Ways and Means, and Energy and Commerce.

3828. A letter from the Railroad Retirement Board, transmitting the budget request for the Office of Inspector General, Railroad Retirement Board, for fiscal year 1996, pursuant to 45 U.S.C. 231f; jointly, to the Committees on Appropriations, Energy and Commerce, and Ways and Means.

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. DINGELL: Committee on Energy and Commerce. H.R. 2919. A bill to amend the Public Health Service Act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; with an amendment (Rept. 103-719). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HAMILTON:

H.R. 5030. A bill to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes; to the Committee on Foreign Affairs.

By Mr. SAWYER:

H.R. 5031. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio; to the Committee on Energy and Commerce.

By Mr. BREWSTER (for himself and Mr. MCCRERY):

H.R. 5032. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of the estate tax imposed on family-owned business interests; to the Committee on Ways and Means.

By Mr. BAKER of Louisiana (for himself, Mr. SARPALIUS, Mr. BARTLETT of Maryland, Mr. HAMILTON, Mr. MCCLOSKEY, Mr. COMBEST, Mr. RAMSTAD, Mr. KYL, Mr. STUMP, Mr. FIELDS of Texas, Mr. BARCIA of Michigan, Mr. HANCOCK, Mr. POSHARD, Mr. GRAMS, Mr. CRANE, Mr. MYERS of Indiana, Mr. KOLBE, Mr. GENE GREEN of Texas, Mr. CALLAHAN, Mr. ROBERTS, Mr. THOMAS of Wyoming, and Mr. GOODLATTE):

H.R. 5033. A bill to eliminate the administrative authority to prohibit the possession or transfer of particular assault weapons; to the Committee on the Judiciary.

By Mr. BERMAN (for himself and Ms. SNOWE):

H.R. 5034. A bill to make certain technical amendments relating to the State Department Basic Authorities Act of 1956, the United States Information and Educational Exchange Act of 1948, and other provisions of law; to the Committee on Foreign Affairs.

By Ms. ENGLISH of Arizona:

H.R. 5035. A bill to authorize the Secretary of Agriculture to establish and collect recreation use fees on a temporary basis in connection with the recreational use of the Roosevelt Lake Recreation Area in the Tonto National Forest in the State of Arizona; to the Committee on Natural Resources.

By Mr. GEJDENSON:

H.R. 5036. A bill to enhance access to the benefits of the earned income tax credit by expanding the electronic filing of income tax returns by nonprofit organizations on behalf of individuals eligible for such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. GEKAS:

H.R. 5037. A bill to establish a Bipartisan Health Care Reform Commission to analyze and make recommendations concerning health care reform; jointly, to the Committee on Energy and Commerce, Ways and Means, Armed Services, Post Office and Civil Service, Education and Labor, Veterans' Affairs, and Rules.

By Mr. GREENWOOD (for himself and Mrs. MEYERS of Kansas):

H.R. 5038. A bill to amend the United States Housing Act of 1937 to require certain legal aliens to reside in the United States for a period of 5 consecutive years to be eligible for a preference for occupancy in public housing or for the provision of rental housing assistance; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GREENWOOD:

H.R. 5039. A bill to require unmarried minors who are parents or pregnant to live under adult supervision as a condition of receiving certain welfare benefits, to provide incentives for the establishment by the private sector of homes for such minors, and to provide for rehabilitation grants for housing and services facilities; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, Education and Labor, Energy and Commerce, and Agriculture.

By Mr. KLINK:

H.R. 5040. A bill to authorize a program of grants to improve the quality of technical education in manufacturing and other vocational technologies; to the Committee on Education and Labor.

By Mr. MCCOLLUM (for himself, Mr. MACHTLEY, Mr. FRANK of Massachusetts, Mr. MCCLOSKEY, and Mr. SCHUMER):

H.R. 5041. A bill to amend the Immigration and Nationality Act to continue the visa waiver pilot program and to authorize, under certain conditions, the creation of a probationary status for certain participants in the visa waiver pilot program; to the Committee on the Judiciary.

By Mr. MILLER of Florida:

H.R. 5042. A bill to limit the accrual of pension benefits for Members of Congress to 12 years of service, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. MURPHY:

H.R. 5043. A bill to amend title 10, United States Code, to establish procedures for determining that status of certain missing members of the Armed Forces and certain other civilians, and for other purposes; to the Committee on Armed Services.

By Mr. VENTO (for himself, Mr. NEAL of Massachusetts, Mr. BOUCHER, Mr. MOLLOHAN, Mr. TORKILDSEN, Mr. DERRICK, Mr. HINCHEY, Mr. GILMAN, Mr. BARLOW, Mr. BLUTE, Mr. MCNULTY, Mr. FISH, Mr. HAMILTON, Mr. MCCLOSKEY, Mr. COYNE, Mr. REED, Mr. JOHNSON of Georgia, Mr. REGULA, Mr. SAWYER, Mr. WOLF, Mr. BROWN of Ohio, Mr. TRAFICANT, Mr. HOKE, Mr. FINGERHUT, Mr. STRICKLAND, Mr. GILLMOR, Mr. HALL of Ohio, Mrs. UNSOELD, Mr. STOKES, and Mr. RAHALL):

H.R. 5044. A bill to establish the American Heritage Areas Partnership Program, and for other purposes; to the Committee on Natural Resources.

By Mr. TALENT:

H.J. Res. 409. Joint resolution designating October 23, 1994, through October 31, 1994, as "National Red Ribbon Week for a Drug-Free America"; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Florida:

H. Res. 530. Resolution providing that the House should not consider health care legislation in violation of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 or any health care legislation that amends or supersedes that section; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

478. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to Medicaid funds; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HOEKSTRA introduced a bill (H.R. 5045) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Andrew J.*; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 250: Mr. BAKER of California.

H.R. 417: Mr. LEVY, Mr. ROHRABACHER, Mr. LIGHTFOOT, and Mr. ANDREWS of New Jersey.

H.R. 507: Mr. QUINN.

H.R. 539: Mr. LIVINGSTON.

H.R. 702: Mr. PACKARD.

H.R. 780: Mr. MCCLOSKEY.

H.R. 1110: Mr. CANADY, Mr. DORNAN, and Mr. BACHUS of Alabama.

H.R. 1172: Mr. STUPAK.

H.R. 1304: Mr. HINCHEY.

H.R. 1500: Ms. CANTWELL, Mr. COLEMAN, Ms. DELAURO, Mr. JACOBS, Mr. KENNEDY, Mr. LEWIS of Georgia, and Mr. RANGEL.

H.R. 1551: Mrs. MEYERS of Kansas.

H.R. 1793: Mr. ROMERO-BARCELÓ.

H.R. 2088: Mr. MOORHEAD, Mr. PAYNE of Virginia, Mr. SARPALIUS, and Mr. WATT.

H.R. 2467: Mr. ANDREWS of Texas, Mr. BRYANT, Mr. MINETA, and Mr. JEFFERSON.

H.R. 2717: Mr. MCCRERY.

H.R. 3488: Mr. COMBEST, Mr. QUINN, Mr. MCINNIS, Mr. Rohrabacher, Mr. SUNDQUIST, Mr. BLUTE, and Mr. LEVY.

H.R. 3835: Mr. MCCRERY.

H.R. 3871: Mr. MILLER of Florida.

H.R. 3971: Mr. HOLDEN, Mr. WILSON, Mr. LEVY, and Mr. RICHARDSON.

H.R. 4132: Mr. HASTINGS.

H.R. 4142: Mr. ENGEL, Mr. ACKERMAN, Mr. DORNAN, and Mr. COX.

H.R. 4198: Mr. INHOFE and Mr. POMBO.

H.R. 4210: Mr. PAYNE of New Jersey, Ms. NORTON, Mr. MICA, Mr. Hoke, Mr. FROST, Mr. LIPINSKI, Mr. CALVERT, Mr. HASTINGS, Mr. FRANK of Massachusetts, Mr. KOPETSKI, Mr. NEAL of North Carolina, Mr. SCHIFF, Mrs. BYRNE, Mrs. JOHNSON of Connecticut, and Mr. MCNULTY.

H.R. 4225: Mr. FROST and Mr. LEVY.

H.R. 4326: Mr. CARDIN and Mr. LEWIS of Georgia.

H.R. 4411: Mr. THOMPSON.

H.R. 4497: Mr. GUNDERSON, Mr. ABERCROMBIE, Mrs. CLAYTON, Mr. GOSS, Ms. ROYBAL-ALLARD, Ms. LONG, Mr. GILCHREST, Mr. BROWN of Ohio, Mr. BAKER of Louisiana, Mr. KILDEE, Mr. MCHUGH, Mr. HOUGHTON, Mr. QUINN, Mr. LAFALCE, Ms. PRYCE of Ohio, and Mr. SHAW.

H.R. 4517: Mr. GENE GREEN of Texas.

H.R. 4548: Mrs. MINK of Hawaii and Ms. WATERS.

H.R. 4557: Mr. WILSON.

H.R. 4570: Mr. COPPERSMITH and Mr. STUDDS.

H.R. 4646: Mr. DARDEN.

H.R. 4698: Mr. DEFAZIO.

H.R. 4708: Mr. THOMPSON.

H.R. 4779: Mr. GREENWOOD, Mr. HOLDEN, Mr. MCHALE, AND Mr. ROGERS.

H.R. 4792: Mr. ZELIFF.

H.R. 4810: Mr. LAFALCE.

H.R. 4826: Mr. COMBEST and Mr. PACKARD.

H.R. 4830: Mr. HEFLEY.

H.R. 4831: Mr. MCCOLLUM and Mr. EVERETT.

H.R. 4891: Mr. COLEMAN.

H.R. 4912: Mr. DELLUMS, Mr. FLAKE, Mr. PAYNE of New Jersey, Mr. EDWARDS of Texas, Mr. POSHARD, Mr. WISE, and Mr. ROGERS.

H.R. 4936: Mr. THOMAS of Wyoming, Mr. PASTOR, and Mr. GALLEGLY.

H.R. 4953: Mr. GALLEGLY, Mr. PACKARD, Mr. CALVERT, Mr. ROYCE, Mr. DOOLITTLE, and Mr. CUNNINGHAM.

H.R. 4955: Mr. FROST.

H.R. 4964: Mr. HILLIARD.

H.R. 4971: Mr. SCHUMER.

H.R. 4977: Mrs. MORELLA.

H.R. 4978: Mrs. MORELLA.

H.R. 4979: Mrs. MORELLA.

H.R. 4997: Mrs. SCHROEDER, Mr. MINETA, Mr. BECERRA, Mr. DIXON, Mr. SHAYS, Mr. RAVENEL, and Mr. YATES.

H.R. 4998: Mr. HERGER, Mr. HAMILTON, and Mr. BAESLER.

H.J. Res. 113: Mr. SHUSTER.

H.J. Res. 324: Mr. HAYES.

H.J. Res. 332: Mr. GOODLATTE, Mr. FARR, and Mr. GUNDERSON.

H.J. Res. 384: Mr. MCDADE, Mr. BORSKI, Mr. KASICH, Mr. NEAL of Massachusetts, Mr. MEEHAM, Mr. EMERSON, Mr. HUGHES, and Mr. LEACH.

H.J. Res. 397: Mr. MINETA, Mr. FLAKE, Mr. PALLONE, Ms. MCKINNEY, Mr. TEJEDA, Mr. LEWIS of California, Mr. WAXMAN, Mr. BILBRAY, Mr. EVANS, Mr. RAVENEL, Mr. MARTINEZ, Mr. OLVER, Mr. QUILLEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OWENS, Mr. INSLEE, Mr. FALEOMAVAEGA, Mr. MEEHAM, Mr. DEUTSCH, Mr. ENGEL, Mr. BAKER of California, Mr. BECERRA, Mr. KENNEDY, and Mr. SCHUMER.

H.J. Res. 398: Mrs. BENTLEY, Mr. BARTLETT of Maryland, Mr. HAYES, Mr. PARKER, Mr. KASICH, Mr. BACCHUS of Florida, Mr. MARTINEZ, Mr. UNDERWOOD, Mr. THOMAS of Wyoming, Mr. DICKEY, and Mr. EVERETT.

H.J. Res. 403: Mr. FISH, Mr. BOEHLERT, Mr. SCHIFF, Mr. MCCLOSKEY, Mr. RAMSTAD, Mr. GINGRICH, Mr. ENGEL, Mr. HINCHEY, and Mr. LEWIS of California.

H. Con. Res. 35: Mr. GORDON, Mr. LEHMAN, Mr. BACCHUS of Florida, Mr. BROWDER, Mr. HILLIARD, Mr. BROWN of California, Ms. ESHOO, Mr. FARR, Mr. MATSUI, Mr. MINETA, Mr. WAXMAN, Mrs. MEEK of Florida, Mr. DARDEN, Mr. DEAL, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. BARLOW, Mr. MARKEY, Mr. MEEHAN, Mr. OLVER, Mr. MINGE, Mr. PENNY, Mr. SABO, Mr. PARKER, Mr. THOMPSON, Mr. CLYBURN, Mr. SPRATT, Mr. FROST, Mr. GONZALEZ, Mr. GENE GREEN of Texas, Ms. CANTWELL, Mr. TORRES, and Mr. BISHOP.

H. Con. Res. 212: Mr. CRAMER and Ms. SHEPHERD.

H. Con. Res. 223: Mr. DELLUMS, Mr. THOMPSON, and Mr. GENE GREEN of Texas.

H. Con. Res. 234: Mr. BROWN of Ohio, Mr. FAZIO, Mr. HINCHEY, Mr. SANDERS, and Mr. STOKES.

H. Con. Res. 243: Mr. MACHTLEY and Mr. DARDEN.

H. Con. Res. 269: Mr. GOODLING, Mr. HOEKSTRA, Mr. HASTERT, Mr. MCINNIS, Mr. BARRETT of Nebraska, Mrs. MORELLA, and Mr. EVERETT.

H. Con. Res. 280: Mr. TORRICELLI.

H. Con. Res. 281: Mr. MCNULTY, Mr. ANDREWS of New Jersey, and Mr. LEVY.

H. Res. 372: Mr. HOEKSTRA.

H. Res. 472: Ms. MOLINARI, Mr. BACHUS of Alabama, Mr. ROYCE, and Mr. MCCRERY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

128. By the SPEAKER: A petition of Attorney General of Washington, Olympia, WA, relative to health care; to the Committee on Energy and Commerce.

129. Also, petition of President, Parliament of the Republic of Croatia, relative to U.N. Protection Force in the territory of the Republic of Croatia; to the Committee on Foreign Affairs.

130. Also, petition of Asamblea Municipal, Aguadilla, PR, relative to election of the President and Vice President of the United States; to the Committee on Natural Resources.

SENATE—*Tuesday, September 13, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia.

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson.

PRAYER

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

Let us pray:

Commit thy way unto the Lord; trust also in him; and he shall bring it to pass.—Psalm 37:5.

Father in Heaven, we invoke Thy presence in this sanctuary this morning. Nothing here is hidden from Thee. Thou knowest us, individually and corporately, past, present, and future, in microscopic detail. The thoughts of our hearts, the words yet unspoken on our tongues, the desires which we dare not share with anyone—personal needs which we do not wish to admit, even to ourselves—are all known to Thee.

Thou knowest, Lord, the motives which rule our actions. Save us from unworthy motivation which would be dilatory or destructive. Thou knowest the human chemistry which influences this body, causing it to be explosive or peaceful, frustrating or freeing to legislation. May Thy love fill us with compassion for each other and the will to finish the tasks that must be done in these ensuing weeks.

To the glory of God and for the sake of the Nation. Amen.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the conference report accompanying S. 2182, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2182) 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.

The Senate resumed consideration of the conference report.

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. THURMOND] is recognized.

HAITI

Mr. THURMOND. Mr. President, I am very concerned with the current policy on Haiti and the events precipitated by that policy. While the situation in Haiti is of interest to the United States, there is no strategic necessity, no national emergency, no military or economic threat to the United States or to the world. Our interests focus on humanitarian treatment of the Haitian people and the promotion of democracy in this hemisphere. So why would the most powerful nation on Earth invade this small island nation?

Our foreign policy goal with reference to Haiti seems to be to restore Mr. Aristide to power. While a noble goal, it is misguided. I do not share the administration's view that restoring a person like President Aristide to power will lead to improvement in the humanitarian, economic, or political climate there.

Mr. President, there is much wrong in Haiti besides the overthrow of the freely elected Government. Every sovereign state must have a viable economy to survive and to provide for the welfare of its people. Haiti's economy is in ruin and, except for the elite, the Haitian people have an abysmal quality of life. Our embargo has only made the situation worse. The sanctions against Haiti have not brought General Cedras to a bargaining table. Instead, General Cedras and his friends have become richer while the Haitian people are suffering more than ever.

I do not understand the seemingly irresistible attraction to use military intervention in Haiti. I also do not understand the emphasis this unfortunate situation is being afforded. The foreign policy interests of the United States are complex and far reaching. Haiti should never have emerged as an imperative situation commanding a major portion of the attention and resources of our Nation.

What are our goals? How will we know when we have accomplished these goals? Can anyone in the administration describe what success will look like so that the American people, and the world, will know when we have achieved success? What is our plan for withdrawal?

Mr. President, we learned from our errors in the past that before we use military force we must have specific goals which can be explained to the American people. If we can define our goals, we will be better able to plan for them and we will know when we have achieved them. These tenets are being overlooked or minimized in respect to Haiti. I fear that American men and women will be killed and maimed for some foreign policy goals which are still undefined.

There is a better way. In my Senate floor speech on June 8, 1994, I called on President Clinton to modify our policy toward Haiti. I urged him to work with the Organization of American States to develop a plan for the humanitarian, economic, and political recovery in Haiti. The United States can exercise leadership and further the humanitarian, economic, and political recovery of Haiti. If the administration will tone down the rhetoric, lift the embargo, and enter into firm, meaningful negotiations with the ruling junta, I am confident the current situation can be brought to a bloodless, satisfactory end. The United States can invade a sovereign state and replace the government; or we can demonstrate our strength and humanitarian concern through leadership and diplomacy.

Democracy can be restored in Haiti without putting Mr. Aristide back in the Presidential suite in Port-au-Prince. I would support the administration in any efforts in this arena. I cannot, however, support an attempt to use military force to accomplish these ends.

Mr. President, I supported the Dole-Gregg amendment. I have written to the President urging him not to send our troops to Haiti without congressional approval. I am not suggesting prior approval is necessary under the Constitution. That is a different debate. The fact of the matter is that there is no emergency in Haiti and nation building is not what we should expect of our Armed Forces. We have the most powerful Armed Forces in the world. They are unmatched in their ability to project force and, if necessary, to fight and win. However, we can soon dissipate this fine force if it becomes a police force or is primarily used for, in the current vernacular of the Pentagon, "operation other than war." In order to keep a military force

prepared—ready to project force or to fight and win—is a full-time mission. In an already dangerously constrained defense budget, there may not be sufficient resources to maintain readiness now. Deploying forces to occupy Haiti as peacekeepers or police force will consume critical funds and rob units of training opportunities.

It will be a tragedy of the highest proportion if even one soldier, sailor, airman, or marine is killed during the invasion and subsequent occupation of Haiti. Even if the military leaders were to decide not to oppose an invasion by the United States, I expect there will be loyal, patriotic Haitians who will defend their country from a foreign invader. Certainly, we would protect our hearth and homes, why would we expect less of a proud Haitian people? It is unrealistic to assume we will not suffer casualties. Remember Somalia? The marine landing was unopposed militarily. The guerrilla actions came later. It took the events of October 3, 1993, when 18 young men gave their lives to shock us into realizing that we did not have clear objectives and no plan for completing our mission and withdrawing. I certainly remember Somalia. I do not want to remember a similar day in Haiti.

Mr. President, the sense of the Senate is clear—no military action in Haiti without congressional approval. I believe this represents the sense of the people as well. Since there is no emergency, the American people deserve the opportunity to listen to the full debate and, through their elected representatives, express their approval or disapproval of this policy. Once again, I urge President Clinton to lift the embargo, open sincere negotiations with the junta and, within the auspices of the United Nations and the Organization of American States, seek a peaceful solution which preserves the dignity of the Haitian people.

I am pleased to yield to the distinguished Senator from South Dakota.

The PRESIDENT pro tempore. Time is not to be yielded at this point. There is no controlled time.

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

The PRESIDENT pro tempore. Does the Senator seek recognition?

Mr. PRESSLER. Yes.

The PRESIDENT pro tempore. The Senator from South Dakota is recognized for what purpose?

Mr. PRESSLER. To proceed as if in morning business.

The PRESIDENT pro tempore. Is there objection to the Senator from South Dakota proceeding out of order for how much time?

Mr. PRESSLER. For 3 minutes.

The PRESIDENT pro tempore. For not to exceed 3 minutes and to conduct morning business therein for 3 minutes.

The Senator from South Dakota is recognized.

HAITI

Mr. PRESSLER. Mr. President, I join in the remarks of the Senator from South Carolina very strongly, and I commend him for his speech. I shall be very brief because he has spoken so eloquently.

Invading Haiti at this point would be a misuse of our military for political purposes. Invasion of Haiti at this point would be an attempt to control this body, the Senate of the United States, through political use of our military. I object to that as a former second lieutenant who served in the United States Army in Vietnam. That does not give me any more qualifications than any other citizen, but I feel very strongly that when you take all the arguments and the logic for invading Haiti, you could use those same arguments to station troops on every street in Washington, DC.

We have here more than a killing a day. The public interest is safety. Yet our citizens cannot come here and freely move about. There is poverty on our streets. We have such problems right here within a mile of the Capitol among our own people. We could use troops to control the crime here.

So if the President does want to show he can command the military and move them into combat, the same logic could call for stationing troops on every street in Washington, DC.

Taxpayers will pay for an invasion for years. It is not just the cost of an invasion. There will be lawsuits against the United States when trucks destroy bridges and roads. There will be other costs. Once we invade a country, too often we become obligated to support it.

We have plenty of places in our own country in every city, ranging from Indian reservations to inner cities, where there is poverty, crime, and other problems we need to deal with.

So, Mr. President, I hope we do not invade Haiti.

AVIATION TRAFFIC SAFETY

Mr. PRESSLER. Mr. President, in light of the recent plane crash yesterday, I contacted the appropriate committee to call for comprehensive hearings on aviation safety.

It is too early to conclude the specific cause of that tragic accident and I certainly point no finger of blame.

I think the Federal Aviation Administration [FAA] is working hard, but I would like for the Senate to hold, either now or in February or March, comprehensive hearings on Federal aviation safety policy, particularly as to how the National Transportation Safety Board [NTSB] works with the FAA.

There was a serious crash last year claiming the lives of several citizens from my home State of South Dakota, including our Governor. Then there was a deadly crash earlier this year, and now we have this crash of the USAir flight 427 in Pennsylvania. These are terrible tragedies.

Let me be clear. I point no finger of blame at anyone for this most recent crash. I do not know all the facts. Indeed, the NTSB and FAA are working hard to determine its cause. However, we should focus on this serious matter and work with our safety agencies to prevent future tragedies. In my view, we need congressional oversight to be sure that our congressional committees are doing what we are supposed to be doing to promote air safety in this country and protect the safety of the air-traveling public.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDENT pro tempore. The Senator from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. President, I rise in opposition to the pending conference report on the Defense Department authorization.

I intend to speak at length about shortfalls that exist in this conference report, despite the fact that some very hard work and excellent craftsmanship has been a part of this legislation.

But there is no better example of what we have done to emasculate our military capability than was carried this morning on the front page of the Washington Post entitled "Clinton May Request Reservists for Haiti."

President Clinton may have to ask "several hundred" military reservists to go on active duty to take part in any invasion of Haiti * * *.

Mr. President, when our defense establishment has reached such a stage that in order to invade a country like Haiti, which by last estimates has a force of some 7,000 men, which has no air force, which has no tanks, and which has no artillery, no air force, and we are now required in order to successfully carry out an invasion of Haiti to call up American reservists, men and women in the Reserves, there is a compelling argument that we have cut and cut and cut our defense budget to the degree where we are going hollow, where we are not ready. And in the memorandum of the Under Secretary of Defense, recently published, concerning the cuts that are being contemplated in next year's defense budget, virtually every new weapon system will be on the table for either severe curtailment or for being abolished. Mr. President, we are in serious, serious trouble.

Mr. President, if we have to call up several hundred reservists in order to

successfully carry out an invasion of what any military expert will tell you is a few hours' operation, what in the world would we do in the event of a conflict with Korea? What would we do in the event that the Balkan situation explodes and begins to spread into other countries in the area?

Mr. President, I think it is clear from all news reports, from all unofficial sources, that we are going to invade the nation of Haiti. The prediction that I hear is that it could take place as early as next week.

I am sure that that invasion initially will be a success. I have no doubt as to the efficacy and the capability of the men and women in our military to carry out this relatively easy military operation in a short period of time.

The question, however, is what happens after that invasion takes place? Who is going to occupy Haiti? Will Mr. Aristide, who will return as part and parcel of this invasion, receive the support of the people of Haiti? Will those who will seek vengeance on the brutal and oppressive military dictators and their friends be protected by American troops, or will wholesale slaughter take place as we stand by and watch those tragic events take place?

Will there be a repetition of the events of 1915 to 1934, when once before, the United States of America went to occupy Haiti for "a few months" and we stayed 19 years?

No one can argue that Haiti was better off for the experience, nor was the United States of America better off for the experience.

Mr. President, that argument is becoming almost academic, because it is clear again in the newspaper this morning, because the President's National Security Adviser, Mr. Lake, made the case for use of United States power in Haiti by saying that the Nation's "essential reliability" was at stake.

Mr. President, I almost do not argue with that. There is a question of the United States' reliability and credibility because there have been so many threats of invading Haiti.

But why is our credibility at stake? It is because we have threatened, because we continue to say that we are going to invade, that we are almost compelled to do so. And I say "almost" because I agree with the administration that there will be damage to the credibility of the United States if we do not invade after all the threats have been made and all the preparations have been made, and all the statements like "Their days are numbered," "They are going to go," et cetera, et cetera.

But what happens to our credibility if we find ourselves in a quagmire, if we find ourselves in a situation where there is civil unrest, as there was the last time we were there, when we find ourselves in a situation where a mob of people confronts a group of U.S. Marine or Army personnel and we are called upon to fire?

Mr. President, I would suggest to you that if you launch an invasion without the support of the American people, without the endorsement of the Congress of the United States, their elected representatives, and something bad happens, your credibility could not be worse if we have to leave in embarrassment and failure, as the United States ship a year or so ago had to leave the port of Port-au-Prince in disarray when threatened by an unruly mob.

Mr. President, there are many lessons that are learned from the Vietnam war; some of them valid, some of them invalid. Everybody has their different view of the lessons of the Vietnam war and what they were. And there are few lessons of the Vietnam war that the American people are generally in total agreement about.

There is one lesson that the American people are in agreement about, Mr. President, and that is you do not embark on a military exercise without the support of the American people.

Mr. President, an ABC poll last night said, and I quote, "Six out of 10 Americans see no vital national interest at stake in Haiti; 73 percent of the American people do not believe we should invade."

Mr. President, a lot of us give advice to the President of the United States. From those on this side of the aisle, it is usually, and understandably, disregarded.

But I think that the President pro tempore of this body, the senior Members on the Democratic side and one of the most experienced Members of this body, clearly not only now but in its history, the distinguished Senator from West Virginia, would agree with me that you must have the agreement of the American people.

What is the best way to do that? The best way for the President of the United States to do that is to go to the American people and tell them why he is going to send their young men and women into harm's way, and then come to the Congress of the United States and ask for approval.

Now, Mr. President, you and I may disagree as to the constitutionality of the President sending members of the Armed Forces into military involvement overseas. There is a valid constitutional argument about that issue. And I believe that it is a compelling reason why we should revisit the War Powers Act and have a clear and unequivocal provision on whether the President of the United States is required to receive the approval of Congress before he engages in military operations.

There are valid arguments on both sides. I have read extensively and talked extensively to scholars on both sides of this issue. I happen to come down on the side that the President of the United States is not constitutionally required to do so.

I respect and value the arguments of many of my colleagues on this side of the aisle who believe that the President is constitutionally required to do so. But that is not the argument here. The argument here is whether we expect any President of the United States to embark on a military enterprise without the approval of the American people. And I would strongly state that it is clearly in the President's interest, if this enterprise fails, to have done so with the endorsement of the Congress of the United States and the approval of the American people. Without that, his risks politically are dramatically increased, because his critics will correctly say that he embarked on this adventure—and it is an adventure—without the support of the American people and without the endorsement of Congress.

So, Mr. President, I hope that this week—I hope this week, because all reports are that the invasion starts next week—the Congress would act, at least the U.S. Senate, in some fashion. And I would suggest it would be a sense-of-the-Senate resolution.

I would point out that Congress has voted twice—voted twice—once by a vote of 98 to 2 in October of last year and once this past June by 93 to 4, that encourages and urges the President of the United States to come to Congress for approval. I believe the overwhelming majority of the American people, although not well versed on the constitutional aspects of this issue, also strongly believe that Congress should approve or disapprove.

Mr. President, I just want to talk for a second about Grenada and Panama. In both of those endeavors, the President of the United States did not come to the Congress of the United States for approval. I believe that the President of the United States should have, but he did not. But I would also point out that those military enterprises were somewhat different.

In Grenada, there was clearly a dramatically worsening situation. Three hundred American medical school students' lives were at stake. There was a compelling situation that called for U.S. military involvement.

In Panama, even there, the situation was worsening. There were American service personnel who were being harassed and mistreated by Noriega's people. We do have a special interest in Panama because the Panama Canal Treaty, passed through this body after a long and acrimonious debate, states that the United States must defend the security of the Panama Canal.

So, although I do not defend President Bush's failure to consult with Congress and receive the approval of Congress, I would say that those situations were significantly different, where basically this administration

can choose the time and place of this invasion. They could wait a week. They could wait a month.

The only problem with delay, from their point of view, obviously, is this harsh embargo is literally starving innocent Haitians to death. Mr. President, I have opposed that embargo strenuously because I do not think it hurts the rich people that live in the hills near Port-au-Prince. I think it hurts poor Haitians, people who really are innocent in this whole debacle.

I would also like to say another word about Mr. Aristide. Mr. Aristide was a freely elected leader of his country. It is clear that Mr. Aristide did not, while in office, exemplify the principles of democracy that we would expect in a freely elected leader.

Now, is Mr. Aristide a terrible person who should not be returned to office under any circumstances? No. But, Mr. President, I would strongly make the argument that Mr. Aristide should be willing to stand for new, free, and fair elections, and in that way I think we would remove one of the major impediments to the departure or at least the stepping down from power of the army militia.

Mr. President, I want to point this out one more time here. We are basing this invasion of Haiti on the premise that the United States reliability is at stake. That is not my version of events. That is the words of the President's National Security Adviser.

I agree that the United States credibility and reliability has been dramatically damaged not just by Haiti but by our actions not matching our rhetoric in places throughout the world.

At least 10 times the President of the United States said we are going to bomb Bosnia. I do not know how many times he has said that we will remove the dictators from Haiti. I do not know how many different statements were made concerning Korea. And I am very concerned about the way that we seem to be making concession after concession to the North Koreans as we speak on an issue that is of vital national security interests, and that is the North Korean nuclear capability.

We have said many things, and the President of the United States and this administration has said many things, and they have not carried through. They have viewed foreign policy statements the same way they view domestic policy statements, where we are basically free to make changes as we view the domestic political opinions shifting.

On foreign policy, this administration has failed to appreciate the fact that the world's superpower is listened to, the world's superpower must be believed, and that the world's superpower cannot be believed if the actions do not match the rhetoric.

So, Mr. President, I am not in the business of predicting. But I have read and studied enough history to predict the following: The invasion of Haiti will be a very efficient military operation. The men and women of our military and equipment that they have today—not in the future but today—is clearly so overwhelming and so superior that anything that ragtag mob of people the Haitians call an army do would be extremely brief. I believe the President will receive some increase in his popularity.

But I want to state clearly and unequivocally I do not believe the President of the United States is doing this for political reasons. I do not believe that. I do not believe any President of the United States would send our young men and women in harm's way for political reasons, and I refuse to accept that premise unless there is some evidence to the contrary.

At the same time, over time we will find ourselves involved in a country that basically has never known democratic traditions, has never had the foundations of a free and democratic society. We will try to put a layer of democracy on that country and start institutions which basically is an enterprise which will take many, many, many years. In the meantime, there will be unrest. How that unrest manifests itself in a worst-case scenario is confrontations between United States military people and Haitian civilians, semiarmed, semiguerrilla, semi-insurgent types of operations which will put us into a tar baby which would be most tragic in the result that American lives are lost.

I wish the President's national security adviser, who is concerned about American reliability, would also ask the following question: How many American lives should we put at risk to restore Mr. Aristide to the Presidency of Haiti?

The other question that needs to be asked by any Member of this body, and is being asked by the American citizens is: What vital national security interests are at stake besides American credibility?

Perhaps the other significant question that must be asked is what is the exit strategy? How do we get out? We restore Mr. Aristide to the presidency of his country and then what? Do we believe the rosy scenario that some paint, that some kind of multinational force of people from all different countries will come in and be able to maintain order in Haiti? I doubt it. On Sunday I was on a program with the Secretary of State and he admitted that American troops would have to be a significant part of any multinational peacekeeping force.

So far, except for the rather rosy scenario that there would be a multinational peacekeeping force, I do not see an exit strategy. I talked to many military people, both active duty and retired, and I have never detected such a level of nervousness about an enterprise as I do about this one. Again, not about our capability to invade but the way out.

Mr. President, I and 33 other Senators wrote a letter to the President on July 12, 1994, concerning the invasion of Haiti, with some serious questions.

The administration's response was, in my view, somewhat disingenuous. But one of the responses—and also a statement by Secretary Christopher on Sunday—has to be responded to. The President's letter says:

> My support for his [Aristide's] return is based on a review of his overall record while in office and is consistent with the policy developed by the Bush administration.

The Bush administration had foreign policy failures. I can make an argument as to whether the Bush administration should have intervened in Bosnia earlier, and to have prevented the situation that evolved there. But let us kid no one. The Bush administration never contemplated an invasion of Haiti. Yes, the overthrow of Aristide was totally unacceptable. Yes, the situation in Haiti was deplorable. Yes, it was condemned by the Bush administration. But no one in the Bush administration contemplated an invasion in order to rectify that situation any more than we contemplate an invasion in many other parts of the world where tragically we have dictatorial and oppressive governments. So let us not kid the American people. Do not take my word for it, ask former President Bush, former Secretary of State Jim Baker, or former national security adviser Brent Scowcroft.

It is with some sadness that I discuss this issue because I am afraid that the American people's wishes are going to be overridden next week. I am afraid there is going to be some family somewhere—perhaps in my State—somewhere in this country who is going to receive a knock on the door and the chaplain is going to be there to tell that family that their son or daughter or their husband or wife has sacrificed his or her life in the invasion of Haiti or perhaps in the effort to democratize that country that has known no democracy. And I suggest the situation in Haiti, as deplorable as it is, as distasteful and odious as those people who are running that country are, is not worth the sacrifice of any American lives.

Mr. President, I would also like to mention in the case of being required to call up reservists for this enterprise, there is also a significant expenditure that again will come out of the defense budget. Estimates are—and the estimates are always low, as the President knows—of some $500 million. We are again seeing the defense budget cut. We are seeing our commitments expanded. We are seeing them stretched thin. I believe we are cutting the defense budget too fast and too deeply. Since

1985 the defense budget has declined by nearly 35 percent with another 10 percent reduction planned by 1999. But that is only the surface aspects of it.

When you look at where the defense dollars are being spent, not only are the cuts in defense spending alarming but then where you look at where all the dollars are going that really have very little to do with the defense of this Nation, it is indeed alarming. I intend to talk about, in my statement, things like environmental cleanups, peacekeeping missions, maintenance of defense-industrial base. We are even going to spend money to keep an industrial base for combat boots. We are going to keep an industrial base for MRE's. We are going to keep an industrial base for submarines that so far has cost us at least $12 billion and it will probably cost us several billion dollars more.

I am seriously concerned that the decline in the defense budget reflected in this document that we are debating today will result in a hollow military force that will be unready to fight and win in future conflicts. The significant and continuing budget cuts have already resulted in the first signs of declining readiness. I am concerned about the deleterious impact of the rapidly declining defense budget on the readiness of our military forces as well as the daily lives of the men and women who serve in the Armed Forces and their families.

A report of the Defense Science Board Task Force on Readiness, which was appointed by former Secretary of Defense Aspin, which was dated June 1, 1994, makes some very cautious statements concerning how to avoid a future hollow Armed Forces. The report refers to pockets of unreadiness that exist today and states, "We observed enough concerns that we are convinced that unless the Department of Defense and the Congress focus on readiness, the Armed Forces could slip back into a hollow status."

Mr. President, I believe the Under Secretary of Defense and Secretary of Defense have taken those warnings to heart. And in response to that, Secretary Deutch wrote to the members of the Defense Resources Board directing that the services explore the idea of terminating the major procurement programs in their budgets. The memorandum directs the services to propose terminating the Comanche helicopter program and the advanced field artillery system for the Army, deferring JPATS, F-22, the TSSAM programs for the Air Force, canceling the V-22 and advanced amphibious assault vehicle programs and significantly slowing the DDG-51 and new attack submarine programs in the Navy.

Mr. President, for the benefit of my colleagues, translated from Pentagonese, that means basically terminating or contemplating terminating every new modernization program in our military—basically terminating them.

The same memorandum directs the Office of the Secretary of Defense to identify potential reductions in overhead and infrastructure, including personnel reductions and related support offices, of more than 4 percent a year. The reason given for these Draconian cuts is, and I quote, "The desire for the pay raise and for improvements in other areas, such as readiness, sustainability and quality of life may require us to shift resources from other POM priorities"—that is future priorities.

Mr. President, what we have done here is present the planners in the Pentagon with a Hobson's choice, the Hobson's choice of either maintaining the high-quality men and women in the military and their readiness by giving them pay raises, by providing them with decent housing, by providing them with quality of life, which is absolutely vital to maintaining an All-Volunteer Force, or cutting virtually every new program that is necessary for the future modernization of our military establishment.

Frankly, as one who has been a strong advocate of maintaining the pay raise and decent housing, et cetera, I find that an unacceptable choice because we can have the highest quality men and women in the world and as ready as they can be, but unless they have the equipment which gives them the overwhelming superiority, such as we saw in Operation Desert Storm, then those men and women are going to die needlessly.

So, I do not think we should be faced with an either/or situation. I think we should maintain readiness. I think we should maintain the quality of men and women, but we should also very carefully understand that, first, we cut out the unnecessary spending. With all due respect, we do not need to increase Milcon, we do not need to increase military construction by some $500 million and, at the same time, cut virtually every new weapon system that we are contemplating.

We cannot spend as much money on environmental cleanup as we have. We cannot spend so much money for peacekeeping that we have in the past. I know the President has stated his strong and deep concerns about continuing funding out of the defense budget of the peacekeeping operations that, frankly, should come from some other source. And also then we get to all this unnecessary spending, ranging in huge size from the B-2 bomber and the *Seawolf* submarine, which are unnecessary—I will not say unnecessary—which are less necessary in today's threat environment than they were during the cold war. And in a very serious setting of priorities, we have to understand that our first priority has to be readily deployable, capable forces that we can send anywhere in the world on short notice in order to fight a conventional conflict.

Mr. President, *Seawolf* submarines and B-2 bombers are nice to have. I was a strong supporter of both before the cold war ended. But we just simply cannot afford it. We have to set priorities. If there is any message in this bill, in this National Defense Authorization Act of 1995, it is that the administration and the Congress have failed to set priorities in keeping with the dramatic reductions of 35 percent reduction in 1985 and an additional 10 percent that is planned by 1999. We have to set priorities or we will end up with kind of a Third World military which has a lot of things to show but really cannot do the job.

Unfortunately, we as a Congress, and the administration as well, have failed to make those tough decisions. We can talk about all the reasons why—the power of different lobbyists, how, when a weapon system is finally adopted, there are subcontractors in basically every district and every State in America and how each of those create jobs and are important, et cetera. Many of those arguments were valid in the days of the early 1980's when we were basically spending whatever it took to fight and win the cold war. And I am very proud of that expenditure. Yes, we are paying the bill for it in the form of an over $4 trillion debt that we have given not only to ourselves but to future generations. But I think it was probably worth it in order to win the cold war, which we did.

But we cannot do it anymore. We have to stop. We have to set priorities. We have to go back and review and pay attention to the Bottom-Up Review, which was carried out by some of the most respected men and women in the military, including former Secretary of Defense Aspin, including former Chairman of the Joint Chiefs of Staff Colin Powell and many others, and stick to that. When the Bottom-Up Review was briefed to the Congress and the American people, I neither saw nor heard any objection to it. Maybe some people had slightly different priorities, but I believe for the first time in a long time it was a document that was well received and said, yes, this is what we need in the post-cold-war era. Why? Because it meets the threats of the post-cold-war era: Proliferation of weapons of mass destruction, the rise of Islamic fundamentalism, the spread of this kind of national strife that we see all over the world from the Balkans to Africa and many other places where it is incipient.

That Bottom-Up Review, unfortunately, if the memorandum of the Under Secretary of Defense is followed, cannot be achieved and, if achieved, which it cannot be, then there is no way it can be sustained.

So we have to go back, Mr. President, and do one of two things: Either re-

evaluate this Nation's vital national security interests and change them —and I do not see how you do that, but perhaps there may be some intelligent and well-versed and knowledgeable people who can do that—or we have to do away with the spending which is absolutely peripheral, or not necessary, in order to maintain the Bottom-Up Review, eliminate that spending and, at the same time, if necessary, come back to the Congress of the United States and do what President Clinton said in his last speech before the joint session of Congress. He said, "Do not allow Congress to cut defense spending any more." Let us just do what the President said and, if necessary—and if necessary—increase defense spending to maintain some certain level of capability and readiness.

In testimony before the Senate Armed Services Committee and other public fora, our highest ranking military officers have expressed concern about the serious declines in readiness now evident. Mr. President, the Air Force depot maintenance backlog is currently at $868 million. The Army's depot maintenance account is only funded at 62 percent of requirements. The Marine Corps is suffering severe cutbacks in combat training and in sustainability because funds and time are being redirected to support peacekeeping operations. The Navy afloat inventories have been reduced by 40 percent since 1989 as a result of a desire to save money on spare parts by centralizing storage ashore, but this means that a ship at sea requiring repairs will now have to sit idly while the necessary parts are transported to their location. Army aviator training is funded at only 76 percent of requirements, a level insufficient to make any progress in redressing the shortfall in skilled Army aviators identified in Operation Desert Storm. Cuts in base operations funding have reduced the standard of living of our troops, which translate quickly into lowered morale and reduced readiness.

Mr. President, I think the American people would be astounded to know that this bill, this very important document, represents the new acquisition of 4 ships—4; 1, 2, 3, 4—4 ships and 24 fixed-wing combat aircraft. A $260 billion authorization of expenditure of funds will now authorize 4 ships and 24 fixed-wing aircraft.

I should add that there are additional helicopters and there are additional systems, and so forth, but when we have reached the point where we are procuring a grand total of 4 ships and 24 fixed-wing aircraft, we are spending a lot of money on the wrong things.

Training and operational mistakes are becoming evident in the tragic shootdown of two Black Hawk helicopters by United States fighters over the Iraqi no-fly zone and in the C–130 training crash in Georgia.

September used to be known as the month where the services scrambled to spend funds which would expire if not obligated before the end of the fiscal year. This was known as the 11th hour spending spree.

Now, in the last month of fiscal year 1994, there is no spending spree. Rather, there is not even sufficient money to conduct normal training and maintenance operations.

On the issue again, Mr. President, of the 4 new ships and 24 fixed-wing combat aircraft, the U.S.S. *Inchon* was stationed off the coast of Somalia for approximately 6 months. Those men and women in the Marines on board steamed off the coast of Somalia for approximately 6 months.

Now, Mr. President, I do not know if many Americans know what it is like to sit on a ship, in the heat, off the coast of Africa for 6 months, and I hope that they never have to know. But I do know that it is a very unpleasant, and in some ways debilitating, experience.

Finally, their mission was finished. In Somalia, for all intents and purposes, the United States was gone. The United States was not going to be called upon to carry out any military operations in Somalia. And they came to their home port on the east coast of the United States.

Obviously, they had a very happy reunion with their families, and 12 days later—12 days, count them, 12 days—after they were at home with their wives and husbands and family and friends, guess what? Guess what? They had to go to sea again, Mr. President, and they sat for about 2 months off the coast of Haiti, again sitting there under very difficult conditions.

Mr. President, we cannot keep men and women in the military if you subject them to that. No one in their right mind would stay.

Mr. President, people will not stay in the military under those conditions.

Reports are now coming in that many units are, essentially, shutting down operations. Navy pilots at North Island Naval Air Station are being told they will have no flying time this month. Mission essential equipment is being mothballed to save on maintenance and training costs. Other equipment is being guarded against cannibalization because of a lack of spare parts. Twenty percent of the Army's spare parts bins are empty. Troops are being used at many bases across the Nation to cut the grass, because money is not available to hire civilians. These troops are foregoing training time to do base maintenance. The Army's training and doctrine command, known as TRADOC, has been directed to cut $20 million from its budget during these last few weeks of the fiscal year, funding which means a base operations cut of $1.5 to $2 million from nearly every Army base in America.

Essential base operations funding is being diverted to pay for peacekeeping in Somalia, humanitarian assistance to Rwanda and, of course, the impending invasion of Haiti. These cuts will create a readiness nightmare across the services, especially in the first part of next year.

Training loss cannot be regained. The Chairman of the Joint Chiefs of Staff has warned repeatedly in the past few weeks that we are cutting into readiness to fund nontraditional operations throughout the world. These warnings need to be taken very seriously before the damage to our military force is irreparable and before the first American life is lost.

I understand that the Army's 10th Mountain Group is preparing to deploy in support of the Haiti operation. This unit returned from Somalia in March and has been home less than 6 months. Further, the 10th Mountain Group, which is the only available unit for Haiti deployment, is trained for mountain terrain and not the terrain of either Somalia or Haiti.

Last week, the Secretary of Defense and the Chairman of the Joint Chiefs testified to Congress that a study had been undertaken in the Pentagon to review the possibility of decreasing normal 6-month deployments. This decrease in deployment time would be required in order to keep more assets on hand to react to the growing number of regional crises in the world. We are already looking at changing the way the United States military conducts business in order to accommodate a declining defense budget and escalating commitments. It is apparent that the Department of Defense does not have sufficient funding to maintain its current level of military capabilities.

Mr. President, the most immediate impact of defense budget cuts has been felt by the men and women in the military. They have already suffered a major drop in living standards as a result of past failures to provide pay increases for inflation, or to keep military pay comparable with increases in civilian pay.

For example, the services estimate annual military pay increases have already lagged 8 percent behind inflation in the last 10 years and 12 percent behind private sector pay increases. The military services estimate that some 20,000 enlisted service members and their families are now eligible for food stamps.

I want to repeat that, Mr. President. Twenty thousand enlisted service members and their families are now eligible for food stamps.

President Clinton's proposed budget called for a 1-year freeze on military pay and benefits in fiscal year 1994, and a 1-percent reduction in the annual pay raise based on the economic cost index. Fortunately, the Congress has corrected this authorization to provide a 2.6-percent pay raise in this conference report. In addition, the Congress acted

to provide funding to redress an inequity in retired pay COLA's between Federal civilian and military retirees. All retired pay COLA's will be calculated in April rather than putting military retirees at an unfair disadvantage by withholding their raise until October.

Many defense experts have concluded that the already reduced budget does not contain adequate funding for even those programs included in the 5-year plan.

Early this year I released a study prepared by Dr. Anthony Cordesman, which contained Dr. Cordesman's detailed analysis of the Bottom-Up Review force and the 5-year budget. The report concluded that the current future years' defense plan is underfunded by as much as $100 billion. In July, the General Accounting Office estimated that the Department of Defense future years' defense plan may be underfunded by about $150 billion. The General Accounting Office cites shortfalls in the administration's budget from inflation, overstated projected management savings, and potential cost increases for base closures, weapons systems cost, personnel pay, environmental remediation, and peacekeeping operations.

Mr. President, I wish to mention the base closure issue. There have been a couple of, fortunately, aborted efforts in this body to delay the 1995 base closings. I feel very strongly that unless we contemplate a significant increase in the defense budget, it does not make sense to delay the base closings.

We do have to look at the increasing costs associated with environmental remediation, which have been dramatically higher than originally estimated. But at the same time, no reasonable business person would run a business with overhead costs three or four times above the level of business actually being done. We have, for the size of the defense budget, too many bases, and the 1995 Base Closing Commission will probably propose the largest base closing in the history of this country.

I regret that. I regret the impact that may be felt in my own State or in other States. But it does not make sense for us to maintain a huge base infrastructure that does not match up with the level of our force structure.

Returning to the budget shortfall, in a recent response to the GAO report, Comptroller John Hamre noted:

> We do have a problem ranging from $26 billion to as much as $40 billion because of inflation and Congressionally-directed pay raises.

Mr. President, I have great respect and even affection for Mr. Hamre. I think he was one of the very outstanding members we had on the Armed Services Committee staff. I do not agree with Mr. Hamre's numbers. I think that the shortfall probably lies somewhere between the $150 billion that the General Accounting Office estimates and the $40 billion that Mr. Hamre points out. But it is a bit disingenuous to blame a shortfall on "congressionally directed pay raises."

Mr. President, Mr. Hamre and Mr. Deutch and Mr. Perry and everyone else over there in the Pentagon know that we cannot maintain an All-Volunteer Force of high quality unless we raise their pay at least to keep level with inflation.

So to put the blame on Congress for a $40 or $26 billion shortfall for directing pay raises is disingenuous at best, because the administration should have come over with a request for a pay raise as part of their budget. They know they should have. But instead, in the decisionmaking process, what they did in the Pentagon was to say, we will leave the pay raise out of the budget that we send over because we know full well that the Congress will add it on.

So do not blame Congress, I say to Mr. Hamre and others. By the way, I know he does not mean to do so. He is an outstanding individual. But let us not have the impression that we are blaming Congress for a $26 or a $40 billion shortfall because the Congress of the United States is going to raise the pay of the men and women in the military by 2.6 percent. Let us make sure we know how much that percentage is, 2.6 percent, which in the case of an enlisted person, Mr. President, is very little money. Yet, the Department of Defense has acknowledged its serious shortage in funding situation, as I pointed out.

Deputy Secretary of Defense John Deutch has directed the services to explore the idea of terminating virtually every major procurement program in their budgets. I am concerned about that, Mr. President, as I said. I think we are given a choice of two unacceptable options. And, clearly, we cannot take either course without paying a severe penalty for it over time.

(Mr. DASCHLE assumed the chair)

Mr. McCAIN. Mr. President, I fully support the administration's focus on military readiness as its number one defense priority. I do not believe it is their exclusive priority, however. I have been concerned for a number of years now that the funding and attention of readiness have been seriously neglected, and I am alarmed at the continuing downward trend in many readiness indicators. In my view, funding for readiness is still too low. I hope to work with the administration to restore these accounts to the appropriate level.

I believe that the Department of Defense, in recognizing its funding shortfall, is unfortunately focusing on the wrong remedy.

Our military services cannot afford to halt every major procurement program in the budget. Modernization and maintaining our technological edge are nearly as essential to future readiness as training and maintenance are to our near-term readiness. Terminating modernization programs puts in jeopardy the ability of our Armed Forces to fight and win in any future conflict.

Mr. President, the great advantage we have over any other nation is the technological advantage in our weapons system, which is a result of the best minds in the world and the finest defense industries. Despite the unceasing attacks that are made on them, our defense industries have produced the finest weapons systems that the world has ever seen. And an ample affirmation of that is the fact that everybody wants to buy them.

So you cannot just cut every major procurement program without paying a severe penalty. The most preferable option, in my view, would be to insist the President allocate additional resources to the defense budget to make up for shortfalls.

The issue here is one of strategic sufficiency.

Is this administration willing to pay the cost of being a superpower? Is this administration willing to pay the cost of ensuring our future national security? Is this administration willing to invest sufficient resources in national defense today in order to avoid the necessity of fighting to restore our security in the future?

I am a realist. I recognize that it is very unlikely that the administration and OMB will increase the defense budget top line. Therefore, I believe that a more feasible approach would be to look for savings in low priority programs in the defense budget.

I have often spoken on the many nonmilitary expenditures funded in the defense budget programs, such as support for international sporting events, defense conversion, and technology reinvestment projects, nonmilitary university research, environmental remediation, peacekeeping operations, humanitarian assistance, and the like.

Another area of the defense budget that could yield significant savings would be the military construction accounts. Again, I would recommend a temporary moratorium on all military construction. The 1995 base closure round is expected to close more bases than all the previous rounds combined—perhaps as many as 100 bases—and it is ridiculous to begin construction projects on bases which may be closed.

Mr. President, I guarantee you that as bases are in the process of being closed, we will see construction projects taking place on those bases. This is outrageous. It will be throwing defense budget money out the window.

In addition to saving the nearly $1 billion in Member add-ons for unrequested projects, the Department could also save approximately $2 billion in other projects if all construction were halted right now. These areas

of the defense budget are not essential to our current and future military readiness and effectiveness. Procurement of modern weapons systems is essential. The Department should look for savings in nonmilitary expenditures of scarce defense dollars.

Again, Mr. President, we should declare a temporary moratorium on all military construction until the 1995 Base Closing Commission makes its recommendations.

I congratulate the authorization conferees for retaining a Senate provision which requires the administration to review the assumptions and conclusions of the Bottom-Up Review and the FYDP to determine the adequacy of resources allocated to national defense. This provision of the bill also expresses the sense of Congress that the President should ensure that the defense budget he submits to Congress provides sufficient resources to support the forces necessary for our national security.

Republican members of the Armed Services Committee have asked for hearings on adequacy of defense funding. I urge the administration to conduct a full and complete review, especially in light of the GAO's estimate of a $150 billion shortfall in future year defense programs and the programmatic decisions that are facing the Department today.

Mr. President, Congress must share a large part of the blame for the skewed priorities in this bill. This year, this budget resolution cuts $500 million in expenditures from overall discretionary funding as a result of the Exon-Grassley amendment, which cut $5 billion over 5 years. Then, it was the decision of Congress to take all of those cuts out of defense; nowhere else. There was nowhere else in this $1.4 trillion budget where we could cut a single penny. We had to take it all out of defense. Mr. President, that was a decision which is almost reprehensible.

Then, to compound the problem, the Appropriations Committee cut the allocation for the Defense Subcommittee and increased the allocation to the Military Construction Subcommittee by $490 million. We increased military construction by nearly $500 million at the same time that we are going to close 100 bases. This transfer was made solely to accommodate congressional add-ons. Rather than protecting the future security of our Nation, we are protecting people's political futures.

We must exercise discipline in our spending habits to ensure that increasingly limited defense budget dollars are spent for high-priority military requirements necessary to our ability to fight and win any future conflict, and not for pork barrel projects.

At the same time, the Department of Defense must take a firm stand in opposing these congressional add-ons. I intend to continue working with Senator GLENN and other members of the Armed Services Committee to ensure that Congress' appetite is restrained.

I want to point out again, Senator GLENN and I set up criteria for military construction projects and also for Federal land transfers. And we had no support from the Department of Defense. I say to the Department of Defense, if they are concerned about things like $500 million cuts in outlays and $490 million being transferred from defense to military construction, they had better stand up.

Another disturbing trend over the past several years is the inclusion of billions of dollars of spending in the defense budget which is not directly related to military capabilities. The Congressional Research Service recently prepared a study of the costs of nondefense activities funded in the defense budget during the 6-year period of 1990 to 1995. The results are astonishing, including environmental remediation of nearly $24 billion. Nearly $24 billion has been spent on environmental remediation. That means environmental cleanups at bases around the country. For defense conversion and dual use programs, nearly $12 billion.

Mr. President, we have found a new word, a new phrase for "pork barrel." It is called "defense conversion." We are using defense dollars to keep companies in business that cannot stay in business and should not stay in business. There are a few that we are helping to really convert. But when I read a list of the money that has been spent on so-called defense conversion, it is nauseating.

In total, the Congressional Research Service reported $52 billion in spending for nondefense programs within the defense budget over the last 6 years—$52 billion. That is not the estimate of the Senator from Arizona, that is the Congressional Research Service's.

This conference agreement funds a number of programs which, in my view, should not take precedence over programs of critical importance to the ability of our military forces to fight and win in the event of a future conflict. For example, the conference agreement includes $400 million for the Nunn-Lugar Former Soviet Threat Reduction Program. This program has been funded at about this level for 4 years now, for a total of $1.4 billion, most of which has only recently been committed for any particular purpose, and most of which has not been spent in the past 3 years. The purpose of the Nunn-Lugar Former Soviet Threat Reduction Program is good. The fact is that very little money has been spent that has been appropriated and authorized in past years, and it is time we stopped until that money is spent.

This bill also contains $3.5 billion for defense conversion—a melting pot of programs designed to assist individuals and industries which have suffered as a result of the defense drawdown. Again, these programs have been funded at a significant level for many years. Let me tell you that the problem with defense conversion is that there are really no criteria or parameters under which we should be spending this money.

So it becomes rife with spending on unnecessary projects, industries, and individuals.

The bill also contains: $13 million—not a lot of money, Mr. President—for Department of Defense support for the Summer and Special Olympics, which was not requested, and I believe should be reimbursed if those games make a profit; $40 million for the Defense Women's Health Center, which was not requested, and which may take away from other ongoing research programs.

The cost of peacekeeping operations consumes billions of dollars every year. The administration requested $300 million in this year's budget to pay our U.N. assessment for peacekeeping operations, traditionally funded out of the State Department budget. Fortunately, it appears that saner heads have prevailed and these funds will not be provided from the Department of Defense.

These misplaced spending priorities must be corrected to ensure that funding is available for the modernization and maintenance of an effective fighting force.

Mr. President, this 1995 Defense Authorization Act authorizes only 24 fixed-wing aircraft and 4 combatant ships, and it is unclear whether the appropriators will set aside sufficient funding for these limited buys.

Procurement funding is at a historically low level. The General Accounting Office projects a $38 million shortfall in funding for the limited number of procurement programs in the defense budget for the next 5 years. The military of the future cannot operate effectively without modern, capable equipment. This budget does not provide for our future technological superiority.

The conference agreement sets aside $510 million for new aircraft and other equipment for the Guard and Reserves. These were not requested by the Guard and Reserves, and the funding for them was taken from other high-priority requirements included in the budget request.

About half of these individual funds are authorized for generic categories of miscellaneous equipment. But the bill specifically authorizes $240 million for the procurement of 10 tactical airlift aircraft for the Guard, for C–130 aircraft. Over the past 5 years, Congress added almost $1.7 billion for C–130 aircraft which were not requested by the President. When will this stop? I fully support the important contributions of the Guard and Reserves to our Nation's security. However, I believe it is unwise to spend money on new equipment

for the Guard and Reserves which is not requested by the Pentagon, especially when the Department of Defense is contemplating terminating every major weapons modernization program in the active duty forces, and when there is insufficient funding for training, quality of life, and other necessities.

As I have said, the 1995 base closure round will affect more facilities than all of the previous rounds combined. Some estimates are that the 1995 round will close as many as 100 bases. In addition, the GAO report states that DOD savings estimates from base closings may be vastly overestimated. If these savings are not realized, the Department of Defense will have to cut other programs in order to pay its bills.

Last month, the Senate passed the 1995 Military Construction Appropriations Act, which contained nearly $1 billion in Member add-ons for unrequested military construction projects. I voted against the bill because it is irresponsible to be spending $1 billion for unnecessary building on bases that may be closed during the 1995 base closure round. In fact, as I said earlier, we should institute a temporary moratorium on all military construction during this year pending the outcome of the base closure round.

I find it an interesting coincidence that most of the projects added in that bill just happen to be in the States of Members who sit on the Appropriations Committee. In the Senate, 66 percent of the additional military construction dollars fund projects in the States of the 24 Senators who sit on the Appropriations Committee. In the House, 72 percent of the add-ons were for projects in the States of the 60 Representatives who sit on the House Appropriations Committee. I am sure, Mr. President, that is a pure coincidence.

This 1995 defense authorization conference report before the Senate contains $974 million in Member add-ons for unrequested military construction projects. This is an appalling concession to pork barrel politics.

At the same time, the authorization conferees dropped language in the Senate bill which would have required an expedited screening process for conveyance of Federal lands to State or local entities. This good-Government approach was rejected by the conferees who preferred to put off until next year discussions on establishing some checks and balances in the process of legislating Federal land giveaways. I intend to work with Senator GLENN to develop and enact such a process as quickly as possible.

Mr. President, I want to talk about the defense industrial base for a minute. While there is a continuing decline in the defense budget, many defense firms are suffering financially. The Department of Defense and the Congress have a responsibility to ensure that the essential elements of our defense industrial base are preserved or can be regenerated in the future, if made necessary by issues of national security.

In 1990, the Congress included a provision requiring the Department of Defense to produce a comprehensive defense industrial base report which could be used to assess future industry requirements. Unfortunately, for almost 4 years, the Department of Defense has effectively ignored the law and has failed to produce a report. I am now told that the Department will provide a report to Congress on September 30, but I understand that the report will address only a portion of the issues required by the law. Apparently, the Department of Defense has decided that the report required by the law is not only too difficult to prepare, but they have identified an alternative methodology for addressing this issue.

What the Department must recognize is that the law is the law. A report required under the law must be filed unless the law is changed. I look forward to receiving the report on September 30. Many deadlines have been set and then ignored. This is one which I urge the Department to meet.

Further, while this report will not technically comply with the law, I urge the Department of Defense to provide its response to as much as possible of the requirements of the legally mandated report. Perhaps Congress will find that DOD's proposed methodology is better than that prescribed by law, and then the Congress can work with DOD to amend the law in order to produce the most useful analysis.

At present, in the absence of a recommendation from DOD, the Congress has taken action and has developed a proclivity to set aside slush funds to preserve so-called defense industrial bases. This practice started with the *Seawolf* submarine when Congress provided $540 million to preserve the submarine industrial base. Today the American taxpayers are burdened with paying for two $5.2 billion submarines, two $5.2 billion submarines, and possibly a third submarine in the future, all of which have no military utility in the post-cold-war world.

The defense authorization conference establishes the following defense industrial base set asides: $93 million for a small arms industrial base; $125 million to preserve the bomber industrial base for 1 year, just 1 year for $125 million.

Mr. President, need I point out a bomber is an airplane?

There is $35 million for the tank engine industrial base, and $2 million for the meals ready to eat industrial base. Now we need to spend $2 million to maintain a production base for food.

The Department of Defense has failed to provide any leadership in this area, and porkbarrel projects are filling the void created by that lack of leadership.

Nearly 4 years ago the Congress directed the Department of Defense to prepare a report on the defense industrial base. That report has never been completed. Congress must have the benefit of the Department of Defense views in order to make educated judgments about the need for proliferating numbers of industrial base funds that are being set up.

This bill does include a provision which prohibits expenditures of certain testing dollars until the legislatively mandated report is submitted to Congress. Let us hope this gets the attention of the Department of Defense.

Mr. President, unfortunately, it appears that the authorization conferees may be moving in the direction of earmarking funds for particular institutions or entities which enjoy the favor of some members of either Armed Services Committee. I refer particularly to language in the university research section, the defense conversion section, and in the Department of Energy division.

In each of these areas, institutions are either named specifically or are included by reference to the House report on the bill. This is a shameful move for a committee which has long been opposed to earmarking in the appropriations process.

The Department of Defense is forced repeatedly to seek supplemental funding or reprogramming authority to pay for day-to-day operation in support of peacekeeping commitments throughout the world. Additional funds for offsetting the costs to send to Rwanda, the no-fly zone over Bosnia, and the forming possibility of a Haiti invasion force. More important, additional funds are necessary for the troops in South Korea because of additional aggression from the north.

Many pressing military requirements lack funding. These requirements must be identified and resources must be provided to pay for them.

Rather than leave the impression that this bill is entirely without merit, let me note a few of the very many provisions which I fully support. I previously mentioned the conference report fully funds the 2.6 percent pay raise for military personnel addressing a serious shortfall in the President's budget submission. The full military pay increase is essential to maintain the high quality All-Volunteer Force we have today.

The conference report provides funds to redress the equity in COLA's for retired and civilian retirees. I commend Chairmen NUNN and DELLUMS after much debate for insisting on authorization for full funding to pay those costs.

The technology reinvestment project. Since the inception of the TRP Program, I was concerned it would be used as a slush fund to prop up failing businesses or reward politically connected organizations with defense grants and

contracts. Both this bill and the Senate version of the defense appropriations bill will establish controls on this kind of program by requiring the Department of Defense to certify that projects funded with technology reinvestment project dollars must have some military purposes.

The authorization conference additionally requires the General Accounting Office to preserve TRP requirements and identify the military utility or lack thereof for each project previously funded in this act. The conferees included the Senate language limiting the cost for two *Seawolf* submarines under construction to $4.76 billion. This instituted some measure of fiscal responsibility into a program where costs increased out of control since inception.

The conferees also included a sense-of-the-Senate language provision which establishes criteria concerning military construction projects not included in the budget request. These criteria constitute a fiscally responsible approach. The House has also informally agreed to consider these criteria during their deliberations next year.

The conference report fully funds the aircraft carrier. The conferees correctly characterized the ongoing debate over the issue of funding the peacekeeping operation out of the defense budget. This issue is and the larger issue of U.S. military participation in the U.N. peacekeeping operation are matters of great importance on which the Congress is deeply divided. I strongly oppose this administration's proposals and I congratulate the conferees for refusing to authorize defense dollars for peacekeeping.

There are many good programs funded in this bill. I cannot support the bill, however.

First, I cannot endorse the inadequate funding level provided for national security programs.

Second, the spending priorities reflected in this bill are unacceptable. Unnecessary spending for industrial based set asides, questionable grant programs, military construction pork, and other nondefense programs is a waste of scarce defense resources and an embarrassment for the Congress as a whole. The American taxpayers and servicemen and women simply deserve better.

Mr. President, I would again say there are many good things in the bill. I applaud the efforts of the members of the committee and the conferees and the staff. At the same time if we continue to cut defense spending in the way and fashion that we are, not only the overall numbers, but the way that we are spending these defense dollars, we are going to have a national security crisis in this Nation. I have no doubt about it.

The Bottom-Up Review cannot be funded. For the benefit of the RECORD, the Bottom-Up Review envisioned a force structure that specified numbers of ships, planes, Army divisions, Air Force wings, that would be necessary to meet the challenges to this Nation's security well into the next century. That Bottom-Up Review was conducted by the most highly qualified men and women I know. That force structure as envisioned by the Bottom-Up Review cannot be maintained by this bill, and in the view of the General Accounting Office is as much as $150 billion underfunded in the future.

My major opposition to this bill is for that reason. Unless we change our priorities, unless we change our vision, and our view of the threats to our national security we, therefore, cannot meet those challenges the Bottom-Up Review describes and, therefore, we may see the sacrifice of the lives of young men and women in the military in an unnecessary fashion.

Mr. President, let me return for 1 minute, and I note my friend from Pennsylvania has been waiting with great patience. Let us return for the moment to the issue of Haiti.

Mr. President, I do not believe the President of the United States is constitutionally obligated to receive approval of the Congress before invading Haiti. I do believe that the President for every other good reason should receive a vote of approval or disapproval from the Congress of the United States.

The lesson of the Vietnam war which is the most compelling is that you cannot embark on a military enterprise without the support of the American people, and right now 7 out of 10 Americans believe we should not invade Haiti.

I am not in the business of giving advice to the President of the United States primarily because it would not do any good. But I strongly recommend that the President of the United States go to the American people in a nationally televised address and tell the American people why he is going to send young Americans into harm's way and lose the lives of some of them, and why there is a compelling reason to do so, and then he should come back to the Congress of the United States and receive an affirmative vote for doing so.

If he does not, he is setting himself up for a very, very dangerous turn of events. If this invasion, which we all know initially will succeed, causes us to be bogged down in the kind of a tar baby which many military experts predict will happen, civil unrest, urban guerrilla warfare, attacks by certain factions upon other factions for which the United States would have to intervene, the role of the United States military being a palace guard for Mr. Aristide, and the ensuing costs of American lives, can cause this President to see the end of his political career.

So, Mr. President, I believe that if the President of the United States would come forward to the American people and to the Congress of the United States, then he would be best served and the American people would be best served.

So I would hope, Mr. President, that this week knowing there is a religious holiday, knowing it is a short week, we could fully debate and vote on this important issue since all indicators are there will be an invasion of Haiti next week.

Mr. President, I appreciate the indulgence of my colleagues, and I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair, and I acknowledge at the outset my appreciation to my colleague from Texas for permitting me to precede her. I will do so with relative brevity.

HAITI

Mr. SPECTER. At the outset, I state that I both agree and disagree with the Senator from Arizona on his comments as to Haiti. I agree with him on the extraordinarily bad public policy judgment to invade Haiti, but I respectfully disagree with him on the issue of constitutionality and on the issue as to whether the Senate of the United States ought to be in the business of giving advice to the President.

I think that is our role. I think that is our role because, constitutionally, the Senate has extraordinary powers on foreign policy, on treaties, on advise and consent, and the Congress as a whole, both Houses, have extraordinary power on the very basic proposition of declaration of war.

Last week, I wrote to the President a very short letter, which I will read.

DEAR MR. PRESIDENT: I am very deeply concerned about the announcements coming from your administration that you intend to order an invasion of Haiti. I believe that it is extraordinarily bad judgment for you to order the United States to invade Haiti as a matter of public policy. I believe that you do not have the constitutional authority to order an invasion of Haiti without prior congressional authorization on the current state of the record.

There are two questions posed on the Haiti issue. First, what should the United States public policy be on an invasion of Haiti? And, second, who has the constitutional authority to make that decision?

Mr. President, the Constitution is unequivocal. It is only the Congress of the United States which has the authority to declare war. The executive branch, the President, makes the argument that the President has the constitutional authority to make war. That simply does not make any sense. It does not make any common sense and does not make any legal sense. If

the President has the authority to make war, what is the value of the constitutional mandate that only the Congress has the authority to declare war? Absolutely none.

This is a question which I have consistently asked nominees to the Supreme Court of the United States. And it is customary for the nominees to duck that kind of a question. But even the most recent nominee, Justice Breyer, conceded that Korea was a war and the issue of Korea and especially Vietnam show the erosion of the constitutional authority of Congress on its sole authority to declare war.

The analogies of Grenada and Panama are not similar to the Haitian situation. There, at least there was some indicator of an emergency situation for Presidential action, although I will not speak long in defense of the Presidential action there, thinking that the better course in both of those cases would have been to come to the Congress of the United States.

The best analogy is the analogy of United States action in Kuwait, where the United Nations authorized the use of force on January 15. Weeks, months intervened between that declaration and United States preparations to move in to retake Kuwait from Iraq. At that point, many of us spoke out, I among them. It was not a matter of Democrats or Republicans. I said that a Republican President, George Bush, had a constitutional duty to come to the Congress before conducting a military operation in Kuwait. And, similarly, the Democratic President, William Clinton, has the constitutional duty to come to the United States Congress before conducting an invasion of Haiti.

There is no precedent, Mr. President—no precedent at all—in U.S. history for action by the President alone without congressional authority where there is as much time as has elapsed for Congress to act one way or another on this issue. We have had months of the record being established on whatever U.S. interests there are, and under these circumstances it is a clear-cut congressional prerogative.

When we come to the question of what the policy should be, there is an extraordinary list of arguments now being made. The most recent argument, listed No. 1 by administration officials just yesterday, is the credibility of the United States. If our Government is to act on everything that President Clinton declares, we would have a hard time knowing when and where to act with so many changes of policy by President Clinton. He has talked about military action in Bosnia on many occasions. Does that bind the United States? Does that bind the Congress of the United States to military action in Bosnia?

The President expanded the United States operation in Somalia. It was only when the Congress voted to cut off the funds as of March 31 that the United States withdrew the military operation in Somalia.

When you talk about protecting U.S. policy on immigration, we can solve that problem without a war. When you talk about restoring democracy in Haiti, with special emphasis on its being a Western Hemisphere nation, if we are to take that tack, why not around the world? If we are to take that tack even in the Western Hemisphere, there are many nations where we would be intervening.

Haiti has had a 200-year history with very little democracy. We were in Haiti for 19 years after a 1915 invasion. What good did that do? When we talk about the suffering of the Haitians and the human rights issues, that is a matter of enormous concern. But then what about Rwanda, what about Somalia, what about Bosnia, what about north Philadelphia? There are examples given about the rape of a 13-year-old girl, which is atrocious; a murder of a supporter of Aristide. You can go through a litany of crimes in major American cities where there ought to be more help for American citizens.

The figleaf of international support is transparent when the Secretary of State talks about 1,500 from a group of other nations, conceding at the same time that there would be 20,000 U.S. troops involved and the other nations would not have any obligation or intention to come in until the field was secured. So it is U.S. fighting personnel who are going to be exposed to loss of life and limb. This is absolutely unjustified on the state of the record.

I heard about it on the street as I traveled through Pennsylvania during the course of the past recess. I hear about it wherever I go. Last night at the football game in Philadelphia, between the Eagles and the Bears, the principal topic of conversation before the game started was not Randall Cunningham's throwing arm, but what was the United States going to do in Haiti? That is a concern all over this country.

There is no doubt about the sense of the Congress voting 98 to 2 against an invasion of Haiti, the sense of the Senate. When I offered a resolution specifically disallowing the authority of the President to invade Haiti, it was defeated largely along party lines.

Mr. President, on this record, it is clear as a matter of public policy, at least as I see it, that we ought not to invade Haiti. And as a matter of constitutional law, I submit that it is plain that the President ought to come to the Congress before any action on an invasion of Haiti.

Again, I thank my colleague, noting that I have come within the time limit, although it was close.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. I certainly do appreciate the Senator from Pennsylvania, both in his comments and also his willingness to stay within the time limit.

OPPOSITION TO INVASION OF HAITI

Mrs. HUTCHISON. Mr. President, I rise in opposition to what appears to be an imminent invasion of Haiti for the purpose of restoring Mr. Aristide to power.

I call upon the President to come to Congress, make the case for what national interests are at stake vital enough to warrant the loss of one American life. I ask the President to seek congressional support in advance of any invasion.

This body has often debated the issue of war powers and the President's authority as Commander in Chief. We are today faced with the real possibility that President Clinton is very close to sending our U.S. military into harm's way, having sought his authority to act in this case not from the U.S. Congress, but from the United Nations.

Since the War Powers Resolution was passed in 1973, Presidents from both parties have questioned the constitutionality of the law which sought to restrict the President's power as Commander in Chief. Even so, all Presidents have selectively complied with the provisions of the War Powers Resolution and have recognized that the President's hand is only strengthened when he seeks and gains the support of Congress and the American people before ordering deployment of military personnel into hostile military environments.

Because Operation Desert Storm was such a brilliant success, few recall today how contentious this issue was when President Bush came to the democratically controlled Congress and sought and gained a resolution in support of Desert Storm. Initially, President Bush did not believe he needed the authority from Congress to act in his capacity as Commander in Chief during Desert Storm. What President Bush did understand, and what I fear is not understood at the White House today, is that when a President makes the case for American involvement and acts in concert with Congress, his authority is strengthened, the resolve of the United States is understood by our allies, and neither our enemies nor our friends can doubt the commitment that the United States is there to stay through the course and see the action through to its conclusion.

Mr. President, the administration claims that there have been numerous consultations with Congress regarding the situation in Haiti. If that is the

case, these consultations can only be described as one-way communications by an administration uninterested in addressing the concerns of a majority of our citizens and of a majority of Congress, concerns which remain today.

The administration has simply failed to make a case for the invasion of Haiti. They have failed to inform the American people what interests are sufficiently vital as to warrant the loss of one American life in the invasion of Haiti. The situation in Haiti fails every rational and prudent test for United States military involvement, except one.

Our military is the best trained, best equipped and most capable fighting force in the whole world. No one doubts their ability to make swift work of an invasion of Haiti. But having the military might to conquer a small island is not a justification. No case—no case—has been made that there is a national security interest important enough to warrant or to bring our military forces to assault Haiti's beaches.

Once President Clinton orders an invasion and our people complete the primary task of conquering Haiti, how long will they be required to stay there? What will their role be? And what is the strategy to bring them home? These are the questions for which the American people deserve complete answers. These are the questions, if ignored, for which there are tragic consequences, as we have seen in Somalia and elsewhere. These are the questions which the administration has thus far failed to address.

Some would like to have the American people believe that a U.S. military invasion of Haiti can be compared on moral and military grounds to Operation Urgent Fury in October 1983, when a joint task force of U.S. forces and those of Caribbean nations liberated the island nation of Grenada. This comparison is not only false, it is foolhardy. Those who push this idea are ignorant of history and the concept of collective security arrangements.

Grenada was controlled by a Marxist dictatorship known as the new jewel movement. The island was used as a transshipment point for Soviet bloc weaponry destined for Communist insurgent groups, such as in El Salvador and those in other countries in our hemisphere.

In the spring of 1983, President Reagan pointed these facts out on national television when he showed photographs of the large runway that the Cubans were constructing on Grenada, the extension of which could only have been necessary if there were a military buildup contemplated. The Government of Grenada was actively trying to destabilize countries in this hemisphere that were aligned with us. In other words, they were assisting the potential overthrow of our allies.

There was also a large group of United States medical students enrolled at the military college on Grenada. In the week prior to the invasion, Maurice Bishop was deposed and executed by a more radical faction of the new jewel movement. Martial law was declared on the island and our medical students were not allowed to leave. Attempts to insert intelligence officers on the island to determine how grave the threat was to U.S. citizens met with failure. Anyone who doubts the threat to our young Americans on the island should look at the news footage when U.S. Air Force C-41 aircraft brought them to Charleston Air Force Base and they got down on their hands and knees and kissed the U.S. soil because they were so thankful for a safe return.

Haiti invites no such comparison. Let us look at the timing issue. It was an emergency in Grenada. Clearly an emergency. We needed swift action, and that is what we accomplished. Swift action. We got in, we did our mission, we rescued our Americans, and we got out. President Clinton has been talking about invading Haiti for some time. He has gone to the U.N. and gotten their support. We have been talking for months about the invasion of Haiti. Why not come to Congress? Where is the emergency? The military dictatorship of Haiti cannot export its form of government to other nations in the region, nor does it act as a surrogate for the Cubans to do so.

Since the President has failed to make his case for an invasion to the Congress and to the American people, it is fair to try to answer some of the questions posed by the threatened invasion.

As we look at the situation in Haiti, it is instructive to reflect on the lessons learned in Somalia and ask if an invasion of Haiti and the subsequent requirement for stationing of United States forces would be worth the cost. Let us be clear about the costs of reinstating President Aristide to power.

Military personnel may die. Military personnel may die if we invade Haiti. That is the first cost. I simply do not believe there is any national interest in Haiti significant enough to warrant the loss of one American life. As I see the Clinton administration moving steadily toward the confrontation of Haiti, I am concerned they have so quickly forgotten the lessons of Somalia. There, a humanitarian mission, filled with good intentions, escalated into a combat mission in which American military personnel were killed attempting to capture an elusive warlord. They did not die in furtherance of an American security interest, but they were sacrificed for an ill-conceived United Nations plan to pacify the country and impose a new political order.

This is the same sort of morass the President threatens to involve us in now. Even if the United States were to invade Haiti, drive out the military junta, and reinstate Mr. Aristide to power, the problems which have sent thousands of Haitians to sea would still persist.

Before embarking on a military adventure, we should consider the effects of the steps we have taken thus far in the name of humanitarian goals. It is the United States economic boycott which has destroyed the subsistence economy and reduced Haitians to desperate struggles for food and fuel. It is the United States economic boycott which has wrecked, not the military junta, but which continues to wreck the economy of the poor people in Haiti but not the lifestyles of the military leaders.

Indeed, President Clinton's Haiti adviser, William Gray, recently admitted that it was the increasingly difficult economic conditions which have resulted in the despair which has caused unprecedented numbers of economic refugees.

Mr. President, the United States should act, but it should act in the interests of both our country and the Haitian people. We should not invade Haiti. We must not place one soldier in harm's way in Haiti. But we should lift the embargo. We should repatriate the 15,000 Haitian refugees that are now in Guantanamo Naval Base in Cuba, and in exchange for lifting the embargo, we should encourage another election, a real, free, democratic, election in Haiti.

Recently, I joined several of my colleagues, on both sides of the aisle, in writing to President Clinton to express concern over his policies in Haiti and to express the view that full and complete consultations with Congress were necessary. The response from the White House was not very comforting. In his reply to our letter, he referred to the passage of the U.N. Security Council Resolution 940 as a critical step. He referred to continuing consultations with Congress and added that he would welcome the support of Congress and hopes that he would have the support if he decided that military action in Haiti is required. Apparently, the administration, having persuaded the United Nations, is less concerned about making the case to the American people and to Congress.

The reason the President has not made his case seems clear. There is no case to be made. Indeed, an invasion of Haiti will indirectly weaken our security. It will be hugely expensive— estimates are almost half a billion dollars in the early stages of an invasion, and the costs will amount to one more budgetary assault on a national defense structure that has already been dangerously weakened by too many cuts and by humanitarian missions that are drawing from our military budget.

Most importantly, Mr. President, the American people do not support this invasion. Using the common sense that seems to be lacking here so often, they have concluded that there is no reason for the United States to invade and take over Haiti. They know that no matter how well planned, some Americans may lose their lives, and there will be widows and orphans and shattered lives. I strongly believe there is nothing to be accomplished in Haiti that is worth the price we will have to pay, and I call on the President to either make his case, consult with the Congress, or call off this invasion.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mrs. HUTCHISON. Mr. President, I do want to support S. 2182, the bill that is before us. The post-cold-war era has brought about tremendous changes in our security environment. Shaping our military forces to meet existing and future challenges requires strong leadership of the type that the senior Senators from Georgia and South Carolina have provided to the committee and to the Nation. As we draw down our military forces to the lowest levels since just prior to the outbreak of World War II, we must be mindful that the threats we face are still global in nature and that the readiness and training requirement of a smaller military must be more vigorous, and we must be able to meet the various threats we face.

Mr. President, while I support and will vote for this bill, I am very concerned that continuing cuts in defense spending will leave us with a military force structure that lacks the manpower and materiel to defend the United States and its vital interests. This would be disastrous, not only for the United States but for our allies and for the peace and stability of the world.

We Americans love peace, but one thing the post-cold-war era has taught us is that the world is still a dangerous place to live; that there are still acute threats to our security and peace that we must meet. The Persian Gulf war should have demonstrated clearly to the doubters the folly of imagining evil and aggression has been banished from the globe. The United States has never had the largest army in the world, although we certainly have the best. I doubt many Americans know that currently our country has the 12th largest standing army in the world. While I do not advocate that we have the world's largest army, I do think we need to keep in mind our national security presumptions are based on this 12th largest army having the capability of fighting and winning two major conflicts simultaneously.

Who knows from where the threats will come in the future. But the magnitude of the challenge for our military forces can be imagined from recent history. We could find ourselves fighting a war on the Korean Peninsula or we could see renewed aggression by Saddam Hussein.

Mr. President, one hopes that this scenario is unthinkable, but it is not. To depend on our slimmed down forces to meet these very real and very terrible threats is an extraordinary expectation, but it is one that our men and women in uniform can fight if we give them the support they need. The unequaled capabilities of our forces was displayed during Operation Desert Storm. Even after the cold war drawdown, our Army, Navy, Air Force, and Marines remained the best trained, the best led and the most formidable fighting force in the world. But all that quality and superb capability is, I am afraid, at risk.

The last 5-year plan from the Bush administration established a hard floor below which the consensus of military analysts agreed we could not go without dangerous diminution of our strength. But not only has this administration and this Congress made additional cuts in our defense budget, we face daunting budget shortfalls in the years ahead that threaten further dangerous reductions in our capabilities. According to the General Accounting Office, current defense level spending will fall as much as $150 billion short of what is needed to maintain force levels to provide the equipment we need to fight at optimum effectiveness. At current spending levels, not only must something give but that something could have profound consequences for our military's ability to fight and win.

Consider just one sector of our force structure—air power. Unless we continue to upgrade our combat aircraft, with the most modern models of the F–16 and other proven fighters and with a new generation of high performance tactical aircraft, our troops on the ground and our ships at sea could pay a terrible price in the future. Unless we move ahead with deployment of badly needed, heavy air transport capability, the C–17, our troops and essential materiel may not arrive at the point of conflict in the amount of time that we need.

With the continuing phaseout of B–52's, only a limited number of B–1's and the freeze of additional B–2 acquisitions, we have arrived at the cusp of a critical shortage of strategic bombing capability. The ability to strike at an enemy's nerve and supply center with strategic bombing is an essential component of our strategy to win major conflicts.

Aircraft programs describe only one aspect of what we must do in order to keep our edge militarily. Correspondingly, vital Army, Navy, and Marine programs must be maintained or there could be dire consequences when we next ask our men and women to go into harm's way.

But equipment only describes part of the quality of our force that we are jeopardizing. The people are the backbone of our military, and they are at risk, too. They are the best trained, most highly motivated and most capable in the world. In order to accommodate budget realities, we are encouraging thousands of skilled, combat-experienced soldiers, sailors, and pilots to muster out. When you consider what we invested in them and what they have invested in themselves, and the quality of their performance, the loss is staggering. We can maintain our capabilities with reduced numbers, but that means training is even more important. Our smaller, leaner forces cannot maintain their edge without the resources for constant intensive training, fuel, ammunition, and equipment. Cut training and resources and readiness decline in direct proportion. This is what is happening.

Furthermore, this very serious situation is being exacerbated by spending for what is known as operations other than war. We are spending too little to equip and train our forces for war, but we are calling on them to take new responsibilities that have little or nothing to do with the vital job of protecting our Nation and its interests.

Let me give some examples of how the diversion of forces to nonmilitary duty detracts from their primary mission to deter war and defend our country. One army infantry battalion from Fort Carson was about to be sent to Fort Irwin, CA, to the Army's national training center. There is no military training in the world short of war that equals this training experience for our soldiers. But that battalion, unfortunately, will not be trained this year. Instead, they were sent to Guantanamo Bay to assist with the Cuban refugees.

Clearly, someone has to do this mission. It may be that it is soldiers on active duty that need to do it. But let us understand the cost. These infantry soldiers have lost an invaluable training experience at the National Training Center which may not be replaced. What is the impact on the individual soldier who joined the Army to do the things soldiers do? The answer is simple. He or she sets up tents in Cuba, fights fires in Idaho, takes part in peacekeeping in Somalia, refugee assistance in Rwanda and disaster relief in the United States. What they do not do is train in their military skills. A soldier, sailor, pilot, or marine that is not trained in military skills cannot be morally asked to take part in a major regional conflict.

The policy of diverting our active military personnel to firefighting and

police tasks is a policy which I do not think we have fully considered, and it is diverting resources from our defense budget and adversely impacting on the training posture of our forces. We must debate this policy fully in order to determine the proper role of our Armed Forces in peacetime and the resources of our armed services in peacetime.

As we look at a military which is becoming increasingly hollow, it is helpful to reflect on the circumstances which prevailed in 1950. When North Korea launched the Korean war 44 years ago, the first United States forces to arrive on the scene were under the command of Lieutenant Colonel Smith. And they were known therefore as "Task Force Smith." The soldiers of Task Force Smith were brave soldiers. But they were disastrously ill-equipped and having spent the preceding years in peacetime occupation duty, completely unprepared to accomplish their military duties. The Army had not been modernized and their antitank projectiles literally bounced off North Korean tanks. Task Force Smith suffered horrendous casualties.

What had become of the military which had defeated the Japanese and the German military just 5 years earlier? Like today, our military was diverted for every mission possible except military training. And like today, calls for modernization had gone unheeded. They did not call it "Operations Other Than War" then, but occupation duty. The result was the same. The soldiers who were sent to Korea to face the North Koreans were untrained and ill-prepared for the enemy they faced, and thousands of them died as a result.

When the current military drawdown began, Army Chief of Staff, General Sullivan, recalled those dark days at the beginning of the Korean war. And he warned that there must not be any more Task Force Smiths. By this he meant that never again should we send soldiers into combat unless they are well trained and properly equipped with the best weapons available.

But despite General Sullivan's commitment, the fact is that there is every chance that very soon we may be in danger of repeating the mistakes which created the conditions where a Task Force Smith could be committed to fight in a battle they cannot win.

I voted for the 1995 Defense Authorization Act with some very serious misgiving about the level of funding. My concern has only grown since that vote. Soon after the Defense Authorization Act passed, the Deputy Secretary of Defense, John Deutch, announced in a memorandum that 10 of the military's top programs were slated for either elimination or delay.

Included among the systems on Deutch's now famous list are the Air Force's F–22 fighter, and the Marine Corps' B–22 Osprey, the Army's Advanced Field Artillery System, and the Apache helicopter. These systems are considered critical to the overall defense modernization effort and to our defense industrial base. But because the military has been engaged in every mission other than their primary mission, funds are now critically short, and the Pentagon has signaled its intention to barter the military modernization requirements of the future for near term savings. This is at least partially attributable to this administration's commitment of our military to missions unrelated to the main purpose for which we have raised our military, and that is to defend our country.

Mr. President, in closing, I must state my deep concern for the continued decline in our defense expenditures. We cannot continue to coast on our cold war buildup, nor on our gulf war laurels. The military strength which we put in place then is becoming increasingly hollow. Readiness is beginning to suffer, and now the critical modernization needed for the future is being mortgaged to pay for humanitarian, peacekeeping, and disaster relief operations. All are worthy in and of themselves but they take money and resources away from our military's primary mission of defending our country.

We should talk about our humanitarian missions, and we should fund them separately. But I fear we are now repeating the mistakes that we made in the 1930's, the 1950's, and the 1970's. By the end of the current 5-year security plan, our defense spending will have declined by 40 percent in real terms since 1985—almost half. Yet, there are those in this Congress and this administration who would cut even deeper. The first responsibility of our Federal Government is to provide for the common defense. If we continue our current force reductions we risk failing in that responsibility with consequences too terrible to imagine for our children and grandchildren.

I will support the authorization bill now before the Senate, but we must reassess what we are doing. In my view, we are verging on a reckless stripping of our military capabilities. We should downsize our forces but we cannot do so in a way that diminishes our readiness. We must do all we can, as General Sullivan, said to make sure there are no more Task Force Smiths. Never again should we send our soldiers into combat ill-trained, poorly equipped, and unprepared. Soldiers died in Korea because they were unprepared. Sailors died at Pearl Harbor because we were complacent. And Americans will die needlessly again unless we are vigilant.

Mr. President, on April 19, 1951, Gen. Douglas MacArthur appeared before a joint session of Congress. One of the memorable lines he delivered was:

In war there is no substitute for victory.

As we again face a future full of uncertainty and potential dangers, we should remember that in peace there is no substitute for preparedness.

Mr. BAUCUS. I would like to ask the distinguished chairman of the Armed Services Committee, Senator NUNN, to clarify the intent of the conferees to S. 2182, the DOD authorization bill, with regard to section 3411 of this conference report.

But first, I would like to make a general statement on this provision—which incorporates authority under the Civil Defense Act into the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Emergency management in this Nation needs a new Federal charter, building on the Stafford Act, to clarify Federal, State and local responsibilities and shift the emphasis from the civil defense focus of the cold war to domestic emergencies and natural disasters. The Civil Defense Act was enacted in 1950 at the start of the cold war. At that time, Joseph Stalin ruled the former Soviet Union and nuclear weapons had just entered the Soviet arsenal. For the next 30 years, the threat of attack was the driving force behind the civil defense program.

But in 1981, Congress amended the Civil Defense Act to permit States to spend their Federal civil defense funds to prepare for natural disasters if it did not detract from attack-related civil defense preparedness. And since 1981, we have witnessed dramatic changes in the world and the balance of power.

Our civil defense has the new focus of emergency management. It provides the infrastructure of people and resources that exist today to save lives and protect property when disaster strikes. Civil defense today means emergency management.

In the past several years, we have witnessed the effects of the most devastating disasters in the history of the United States including Hurricanes Hugo, Andrew, and Iniki, the Loma Prieta and Northridge earthquakes, the Midwest floods of 1993, the wildfires in my State of Montana and throughout the West, and the most recent floods in Alabama, Florida, and Georgia this summer. These recent natural disasters demonstrate that civil defense has a national mission of emergency management. The real threat to the American people today comes from tornadoes, earthquakes, fires, floods, hurricanes, chemical spills, and daily threats which are clear and present in thousands of communities across the Nation.

In each disaster cited, the level of response was closely tied to the capabilities of the State and local governments that are supported through the funding that has been authorized by the Civil Defense Act.

Mr. President, civil defense funding is the major Federal source of financial assistance to maintain the baseline emergency management infrastructure

at the State and local level. This financial lifeline is critical to building stronger, more consistent emergency management programs to save lives and protect property.

The emergency preparedness measures being transferred to the Stafford Act by this conference report have helped to develop the local infrastructure of both people and resources. This merging of authority is critical to the successful implementation of the disaster assistance and mitigation elements of the Stafford Act.

This shifting of authority is important in that it moves us a step forward in making the Stafford Act a home to all of the legislative steps necessary for a comprehensive response—from preparedness and training, mitigation, response, and recovery. We are shaping and adding to a piece of legislation that will supplement the capabilities of local jurisdictions and States to both prepare and respond. And they will be able to find the authority to do so in one act—the Stafford Act.

The previous scattering of disaster authorities has made it cumbersome for the Federal Emergency Management Agency [FEMA], and its counterparts in the States, to coordinate and combine their efforts. Through this action we are clarifying legislation and improving our emergency management system.

I would like to inquire of the distinguished chairman of the Armed Services Committee—with the repeal of the Civil Defense Act and transfer of this act's authority to the Stafford Act—is it the intent of the distinguished chairman of the Armed Services Committee to consolidate legislative oversight in this area within the jurisdiction of the Environment and Public Works Committee?

Mr. NUNN. I thank my friend from Montana for his question.

Mr. President, a strengthened emergency management structure at the State and local level can prevent many emergencies from becoming major disasters. This emergency management infrastructure can be improved and strengthened by incorporating the Civil Defense Act authorities into the Stafford Act. The consolidation of authority for emergency management into the Stafford Act will streamline the congressional oversight role over disaster programs.

It is the understanding of the conferees that the Office of Management and Budget will transfer the civil defense program from the national security budget function to a domestic discretionary budget account. Along with the shift in legislative authority, the conferees expect a corresponding shift in funding, since the program will no longer have an overriding defense purpose.

The emergency management and preparedness authorities under the Stafford Act are already within the jurisdiction of the Environment and Public Works Committee. As we move from a focus on nuclear attack preparedness to a risk-based, all-hazards approach, it makes sense for the Environment and Public Works Committee to also have oversight responsibilities for the new authority created by this conference report—specifically, title VI of the Stafford Act.

However, should the President's fiscal year 1996 budget request not reflect a shift in funding from the defense budget function into the domestic discretionary budget account, or if Congress does not agree to such a shift, the Armed Services Committee should retain jurisdiction.

Again, I thank the chairman of the Environment and Public Works Committee for his question. I look forward to working with my colleague as we move forward in streamlining the process of emergency management.

Mr. BAUCUS. I thank the distinguished chairman of the Armed Services Committee. I would also like to congratulate him and members of the Armed Services Committee for their tremendous work on this conference report.

Mr. GORTON. Mr. President, I will vote against the fiscal year 1995 Defense authorization conference report because I feel that it does not provide adequate funds to protect our national interests in a still dangerous world.

This marks the 10th consecutive year that we have reduced our defense budget. In that time, we have cut our defense expenditures by 34 percent. We have reduced our military personnel by 23 percent, our ship procurement by 80 percent, and our aircraft procurement by 86 percent. In the next 5 years we will not have an adequate bomber force or strategic lift capability to fight two wars simultaneously.

Most disturbingly, we have reduced our readiness. In a quest to obtain immediate savings we have drastically cut our personnel and maintenance accounts. Our services' Chiefs of Staff have told us that readiness is declining from the Gulf War and that cuts in base operations funding have reduced the standard of living of our troops, and forced us to reduce training.

We have reduced benefits for servicemen and women. We have reduced their pay increase and their retirement benefits. Some 17,000 members of our Armed Services now receive food stamps.

And this budget does nothing to redress these shortfalls. In fact, if we continue to pursue Clinton defense budgets, this situation will dramatically worsen. This year's budget, and the budgets of the next 4 years, do not adequately pay for the programs and benefits that this administration says we need to protect national security. Secretary Perry has admitted to a budget shortfall of $20 billion as a result of underfunded inflation costs. Other credible sources have estimated $60 billion and $100 billion. Regardless, these cuts force our commanders to make difficult choices between combat training and quality-of-life, between readiness and modernization.

Already in Washington State we have had two EA-6B squadrons grounded at Whidbey because of lack of funds—one squadron for 100 days, and another for nearly a month. Last month, the Pentagon threatened the delay or death of nine defense programs, three of which have been contracted out to Boeing. Mr. President, these are the signs of a hollow force. Already, today's Washington Post reports that the administration plans to call up a few hundred reservists in order to invade Haiti. What does this say of our ability to deal with nuclear proliferation in North Korea?

Furthermore, we are continuing to use our defense budget for nondefense purposes, such as environmental cleanup, defense conversion, peacekeeping, disaster relief, and drug interdiction. Since the end of the Gulf War, we have used our military to protect Kurds and Marsh Arabs, to assist Floridians after Hurricane Andrew, to bring food to Somalia, to blockade Haiti, to drop supplies into Bosnia, and to pick up refugees off of Haiti and Cuba. This report includes $3.09 billion to help displaced military personnel, defense contractors and their communities adjust to the decline in defense spending. It includes $1.47 billion for 1994 to cover humanitarian operations in Somalia, Bosnia, Haiti, Southwest Asia, and elsewhere.

All of these programs are fine, but we cannot fund them all with scarce defense budget dollars. Last year, the GAO concluded that:

> For fiscal years 1990 through 1993, DOD allocated at least $10.4 billion to domestic activities. This figure, however, *understates* the full amount spent because data on such activities are incomplete.

We simply cannot use our defense budget in this manner and modernize our Forces and maintain readiness. Earlier this month, General Shalikashvili said:

> The military is beginning to eat into its readiness to fight. Some units are already being forced to cancel training due to lack of funds. The time has come to stop warning that readiness is going to be jeopardized and focus on the problems that are here right now.

This Defense authorization conference report does not adequately address this readiness problem or the shortfall. As we continue to face threats around the world, and consider employing force in areas like Haiti and Bosnia, it is imperative that we act on requirements rather than arbitrary budget figures, and pass an honest defense budget. I will vote against this conference report and I urge my colleagues to do the same.

Mrs. HUTCHISON. Thank you, Mr. President. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Tennessee, asks unanimous consent that the order for the quorum call be rescinded.

Hearing no objection, the quorum call is rescinded.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:31 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KOHL).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Wisconsin, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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 Chair recognizes the Senator from Michigan [Mr. RIEGLE].

INTERSTATE BANKING AND BRANCHING EFFICIENCY ACT OF 1994—CONFERENCE REPORT

MOTION TO PROCEED

Mr. RIEGLE. I thank the Presiding Officer.

Mr. President, we are now about to begin work on the conference report to H.R. 3841, which has been named the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. The Banking Committee passed a substantially similar bill by a vote of 19 to 0 on February 23 of this year, and that bill then later passed the Senate by a voice vote on April 26, again earlier this year.

This conference report was passed by the House on August 4 by a voice vote to, I think, show the broad base of support that exists for this legislation, and that is so because it is very important legislation. There is a strong bipartisan consensus in favor of it, and I urge its swift passage today.

This bill removes current restrictions on interstate banking after 1 year and on interstate bank branching by the date of June 1997. There are a number of provisions in this bill to ensure branching takes place in a manner that preserves the interests of individual States, including that they can apply their consumer protection laws to the branches that come into the State.

It also gives States the right to opt out of interstate branching. Over the past 14 years, each of the previous four administrations has advocated removing these barriers to interstate banking. The Carter administration told Congress back in a 1981 report that restrictions on interstate banking caused "inequities and inefficiencies" and that removing such restrictions would, in their view, serve "the public interest."

Then in April 1983, Treasury Secretary Donald Regan testified on behalf of the then Reagan administration, also before the Banking Committee, and in that testimony in which that administration endorsed congressional efforts to eliminate restrictions on interstate banking, then Secretary Regan noted, and I quote:

> Most such restrictions serve only anti-competitive purposes to the detriment of consumer service and convenience.

Then former Treasury Secretary Brady also advocated removing restrictions on interstate banking and branching. On February 26, 1991, he also told the Banking Committee:

> We have left antiquated laws on the books that prohibit banks from * * * branching across State lines. Banks in California, Michigan and Utah can open branches in Birmingham, England, but not in Birmingham, AL. These laws—mainly enacted in the 1920's and 1930's—are wholly out of touch with reality, and impose unnecessary costs on banks and consumers.

Most recently, our current Treasury Secretary, Secretary Bentsen, stated:

> We currently have a de facto system of interstate banking. But it's a patchwork system, and it's clumsy * * * permitting a true interstate banking system can translate into increased lending, a safer and stronger banking system, and more competitive services for all consumers in all communities.

So eliminating the remaining restrictions on interstate banking will permit banks to better diversify both their deposits and loans and, consequently, provide greater protection to the deposit insurance fund. Geographic restrictions that are now in place make this kind of diversification much more difficult. This tends to leave banks more vulnerable to downturns in local economies where they do their business.

Acting Federal Deposit Insurance Corporation Chairman Hove made this point in his October 5, 1993, testimony before the Banking Committee when he said to us:

> During the 1980's, more than 80 percent of failed-bank assets were in just four States: Texas, Illinois, New York and Oklahoma. Perhaps if there had been more geographically diversified, banks in these States might have been better able to weather the financial storms that beset local and regional energy, agricultural and real estate markets.

The bill also provides for interstate branching within a State. Removing our current restrictions on interstate branching will help promote efficiency in the banking system and again permit banks to serve consumers better. It will reduce administrative expenses for banks that presently operate interstate through separately chartered subsidiary banks of a bank holding company. Permitting expanded bank branching will also increase consumer convenience and reduce banking charges to consumers by increasing the competition. Bank customers will also be better served if they can deal with branches of their home bank when they are out in different States across the country.

Consumers will be rid of the headache of not being able to deposit funds or cash checks from State to State as they commute to work, in many cases across the country, or travel on work purposes, or, for that matter, for recreational purposes as well.

The bill also amends the Community Reinvestment Act to ensure that banks moving across State lines will still serve all the communities in which they operate.

I think we also need to be mindful of making our U.S. banks stronger global competitors around this world economy so that they in turn can help U.S. exporters, meaning that we can put more Americans to work here in the United States making and producing goods and services that can then be sold overseas to foreign buyers. It is interesting that the United States is the only industrial country that restricts bank branching. The globalization of the bank industry means that U.S. banks often cannot afford to continue to base their success on a limited geographic area. Removing the restrictions on bank branching will permit American banks to become stronger global competitors with an enhanced capacity to help U.S. companies sell their goods and services abroad, in foreign markets.

Now, let me briefly say what this bill does. One year after the date of enactment, adequately capitalized and managed bank holding companies would be permitted to acquire control of a bank in any State. Now, States would be permitted to retain provisions setting the minimum age of target banks so long as they require no more than a 5-year age period. Any provisions beyond 5 years would be read as 5 years. Any acquisitions would be subject to a nationwide 10-percent deposit limit and a 30-percent statewide limit except that a State could waive the 30-percent deposit limit or impose a more restrictive limit. The appropriate banking agency with jurisdiction over the transaction would also need to consider the community reinvestment ratings of the insured banks and the views of the State regulators concerning their compliance with applicable State CRA laws.

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Beginning then on June 1, 1997, interstate branching would be permitted as banks would be allowed to merge with one another across State lines, creating a main bank with branches. Any merger would be subject to certain concentration, capital, and CRA requirements and would also require regulatory approval. A State could authorize such mergers earlier than June 1, 1997; in contrast, a State could also choose to prohibit branching by mergers by passing legislation to opt out of that arrangement. States may also permit de novo branching into their borders if they adopt legislation to allow it; that is, if they opt in to de novo branching.

This bill also contains important provisions intended to reduce the competitive advantage that foreign banks now enjoy in the U.S. market relative to U.S. banks. This is an issue in which Senator FORD of Kentucky has been particularly interested, and I very much appreciate the help he gave us in reaching a compromise with the House on this matter.

Concerns about foreign bank competitive advantages stem primarily from the fact that the wholesale branches of foreign banks do not pay deposit insurance premiums, nor are they subject to the CRA requirements. To reduce these and other competitive advantages, the conferees adopted several provisions.

A new section of the International Banking Act limits the activities of Cayman Island and other offshore agencies and branches managed from a foreign bank's U.S. offices. It limits offshore activities to only ones that U.S. banks are permitted to manage in their offshore operations.

Another section deals with the types of deposits that may be accepted by the wholesale direct branches of foreign banks. Presently, regulations issued by the FDIC and OCC govern the types of deposits such wholesale branches may accept. Concerns have been expressed that current regulations permit foreign banks to engage in retail deposit taking in their wholesale branches. Since these wholesale branches are not subject to the CRA nor to deposit insurance premiums, this gives foreign banks a cost advantage. The bill directs the OCC and the FDIC to revise these regulations to tighten the types of deposits that wholesale branches can take so they do not receive a competitive advantage over U.S. banking organizations.

Third, the bill amends the International Banking Act to place CRA requirements on interstate branches of foreign banks established through the acquisition of any existing banks or branches which were subject to the CRA at the time of acquisition. This is a very important provision. This will ensure that foreign banks which expand their U.S. market presence by buying existing banks in this country will not have a competitive advantage over U.S. banks that are subject to the CRA. It will also ensure that U.S. banks that are now subject to the CRA will remain subject to the CRA even if they are acquired by a foreign bank for use as a wholesale bank. A related provision prohibits the establishment of branches and offices primarily for the purpose of deposit production. This prohibition against deposit siphoning from the community applies equally to foreign and domestic banks.

So I might just say parenthetically, as I go through some of these provisions, while they are technical in nature, they are very important and they are constructed to provide a very careful balance here to make sure that this bill works in a positive way and that we both foresee and deal with and prevent negative, unintended consequences.

This bill contains also a number of other provisions, including the Texas State homestead provision. Under the Texas Constitution, a lender may not require a home owner to put up his or her homestead as security for a loan unless it is for the purchase of the homestead, to pay taxes on the homestead, or to improve it. The provision reverses an OTS regulation that preempted that part of the Texas State Constitution.

This conference report also contains a number of coin bills including the 1995 Special Olympics World Games Commemorative Coin Act, which authorizes the issuance of 800,000 $1 silver coins to commemorate the 1995 Special Olympics World Games which will be held in New Haven, CT, on July 5 of next year.

Another provision in the conference report permits the FDIC and the RTC as conservator or receiver of a failed depository institution to revive tort claims that had expired under a State statute of limitations.

I might say this bill enjoys very broad support. In addition to support from the administration, this bill also enjoys the strong backing of all the bank regulators, including the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. It also enjoys the strong support of, among others, the American Bankers Association and the Bankers Roundtable.

Now, passage of this bill will streamline the interstate banking process and remove laws that burden that process. It will increase the safety and soundness of our banking industry and reduce risks to our deposit insurance fund and, of course, reduce the risk then to the American taxpayers who ultimately back that fund.

I believe it will permit banks to operate more efficiently and to serve their customers better and, I think over time, help drive down the cost of banking services to the customers of banking institutions.

Before closing, I wish to thank Senator DODD for his longstanding leadership on efforts to pass interstate banking and branching legislation. I wish to also express my appreciation to Senator D'AMATO, the ranking member of the Banking Committee, whose bipartisan support has helped make passage in this instance of this legislation a near reality, and I believe soon to be a reality in this Congress.

In addition, I want to express my appreciation to all the members of the Senate Banking Committee for helping to shape this important bipartisan legislation and for reporting it out of the committee by a vote of 19 to nothing.

I know from time to time there are issues here that divide the Congress and divide us along partisan lines. I have tried very hard over the last 6 years as chairman of the Banking Committee to avoid that and to work on a bipartisan basis.

I think one measure of that—along with many others, we have moved a vast amount of legislation through on a bipartisan basis—is this issue which came out of the Banking Committee by a vote of 19 to 0. It meant all Members—all Democrats, all Republicans—were voting in favor of the legislation. That, to me, is bipartisanship. That is the way we ought to try to make the Government work. I think the public wants to see that as well.

Finally, I also want to thank my very good friend and colleague, Senator SARBANES, who served on the conference committee, for moving that this important legislation be named after Congressman NEAL and, very graciously, also myself. I greatly appreciate the honor that my colleagues in both Houses have extended to me in adopting this suggestion.

I would say that this meets the test of being what I consider to be a historic piece of legislation. It finally makes a very needed change in the banking law landscape. I hope we can pass it today and send it on to the President for his signature.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, I am a strong supporter of community banks. I believe community-oriented, locally owned banks play an important role in the communities they serve. Community banks know their communities; they know their customers.

That knowledge oftentimes makes them better bankers, and that knowledge helps them meet their communities' financial needs more effectively. It is therefore important to note at the outset that the conference report now before the Senate does nothing to impair the ability of well-run community banks to meet the needs of their communities, and that it does nothing to impair their competitiveness.

At the same time, it is clear that the financial services industry in general, and the banking industry in particular, are in a period of major change. Changes in our economy, changes in technology, new competition, new products, and new needs, are just some of the factors driving the changes in our banking industry.

The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 is one important step Congress is taking to enable the banking industry to respond to the forces of change, and to respond in a way that enhances the ability of the banking industry to meet the financial needs of consumers, of farmers, of businesses, all the other interests that depend on it.

Consumers increasingly deal with mutual fund companies that operate nationwide. Mortgages are now increasingly turned into securities that trade on Wall Street. The competitors of banks are increasingly not other banks, but other, usually less regulated, financial services companies that can do much of what a bank can do—and oftentimes more. And these competitors do not face the limitations banks face when trying to enter new markets.

This conference report opens up new opportunities and new choices for banks. It will help some banks who want and need to compete through a large network of offices to do so more efficiently and at less cost, while at the same time protecting the interests of local communities across our Nation.

This legislation passed the Senate by voice vote earlier this year, and passed the House of Representatives by voice vote on its Suspension Calendar. Last month, the House acted on the conference report by voice vote. These voice votes demonstrate the broad support this bill enjoys, and are a clear indication that interstate banking and branching is an idea whose time has come.

I want to take this opportunity, Mr. President, to congratulate the distinguished chairman of the Banking Committee, Senator RIEGLE—whose name is on this bill—for his skill and his leadership in putting this bill together, and in bringing it to this final step in the legislative process.

As my colleagues know, Chairman RIEGLE is retiring at the end of this Congress. I will speak more extensively about the chairman's fine record on another, more appropriate occasion. At this time, however, I would like to commend him for being an active chairman, active in promoting the interests of consumers, and of communities, and active in protecting the interests of the American public. And I want to commend Senator RIEGLE, Mr. President, not just for his leadership on this bill, but also for his leadership on other major initiatives, like the Community Development Banking and Financial Institutions Act, which the President will soon sign into law, and on numerous other banking, housings, consumer protection, and securities bills that he was instrumental enacting during his 6 years as chairman of the Banking Committee.

I also want to thank him for all of the friendship and the courtesies he has shown me during the last 2 years as a new member of the Banking Committee.

Mr. President, I want to make only two other brief points before I conclude. First, I want to comment on the thrift statute of limitations issue that I know is of great concern to my good friend from Ohio, Senator METZENBAUM. As my colleague know, I was a supporter of the broader extension that originally passed the Senate, and I continue to support that kind of broad extension of the statute of limitations. I think the scope and extent of the savings and loan crisis demands that we give the RTC and the Department of Justice—and through them, the American people—every possible chance to recover the maximum amount possible from those whose activities caused the crisis that cost the American taxpayer over $100 billion. I want to make it clear that I would support an amendment broadening the statute of limitations extension as the original Senate bill did on another bill.

Second, I want to note that the conference report contains a provision based on an amendment of mine that will result in a comprehensive review of Federal financial services policies. I think that such a review will help provide us with a framework that will be very helpful as the Banking Committee considers additional financial reforms, and as the committee faces new issues.

I think it is critical that we review our financial system from the viewpoint of how it is meeting the needs of the users of the system—the individuals, the communities, the businesses, the exporters, the farmers, and all those who need and depend on our finance system. We live in capital-scarce times, and that means it is imperative that our financial system provides capital to those who need it in the most cost-effective manner possible. We can no longer tolerate inefficiencies due to outmoded regulation.

I am a relative newcomer to the Senate, but it is already clear to me that we need to take a very hard look at the Federal policies and regulations governing our financial services industry generally, and the banking industry in particular. I think Congress needs to consider which of these policies still make sense, and which are no longer appropriate in this new and rapidly changing environment.

I want to conclude, Mr. President, by again commending the distinguished Senator from Michigan, Chairman RIEGLE, for his leadership in bringing this consensus, bipartisan, legislation to the Senate, and to commend Senator DODD, who has worked on this legislation for a long time, and Senator D'AMATO for his leadership. It is time to pass this bill for the last time. It is time to send it to the President for signature. It is time to make this bill the law of the land.

(At the request of Mr. DOLE, the following statement was ordered printed at this point in the RECORD:)

• Mr. HATFIELD. Mr. President, I am pleased to announce my strong support for the Interstate Banking and Efficiency Act. While I am unable to cast my vote in person due to commitments that have kept me in the West today, I strongly urge my colleagues to support the motion to proceed on this measure.

The legislation before us has strong bipartisan support. This legislation represents an important step forward in modernizing our banking laws and will create a stronger and safer banking system. Interstate branching will make banking services more convenient for millions of Americans, enable small businesses to find new sources of credit, and allow large corporation which operate across State lines to meet their banking and financial needs more efficiently.

Removing obstacles to interstate branching by banks has already been addressed by State throughout our Nation and it is long overdue that the Congress continue that process by doing the same. I urge my colleagues to support consideration of this legislation.•

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to proceed to the consideration of the conference report to accompany H.R. 3841, the Interstate Banking Efficiency Act. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—97

Akaka	Cochran	Feingold
Baucus	Cohen	Feinstein
Bennett	Conrad	Ford
Biden	Coverdell	Glenn
Bingaman	Craig	Gorton
Bond	D'Amato	Graham
Boxer	Danforth	Gramm
Bradley	Daschle	Grassley
Breaux	DeConcini	Gregg
Brown	Dodd	Harkin
Bryan	Dole	Hatch
Bumpers	Domenici	Heflin
Burns	Dorgan	Helms
Byrd	Durenberger	Hollings
Campbell	Exon	Hutchison
Coats	Faircloth	Inouye

Jeffords	McConnell	Rockefeller
Johnston	Metzenbaum	Roth
Kassebaum	Mikulski	Sarbanes
Kempthorne	Mitchell	Sasser
Kennedy	Moseley-Braun	Shelby
Kerrey	Moynihan	Simon
Kerry	Murkowski	Simpson
Kohl	Murray	Smith
Lautenberg	Nickles	Specter
Leahy	Nunn	Stevens
Levin	Packwood	Thurmond
Lieberman	Pell	Wallop
Lott	Pressler	Warner
Lugar	Pryor	Wellstone
Mack	Reid	Wofford
Mathews	Riegle	
McCain	Robb	

NAYS—1

Boren

NOT VOTING—2

Chafee Hatfield

So, the motion was agreed to.

INTERSTATE BANKING EFFICIENCY ACT OF 1994—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report at this time.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 2, 1994.)

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I note the presence of the distinguished Republican leader on the Senate floor.

As we have discussed previously in a private conversation, it is my hope that we can complete action on this banking bill conference report as soon as possible and today if possible.

I have inquired, and now inquire again, from my colleague whether we will be permitted to go to a vote on this matter today. That is our strong desire to complete action on this measure.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Mr. President, if the majority leader will yield, I will get back to what the majority leader said in the next 40 or 45 minutes. I have to do some checking on this side.

I know of no desire to hold up the bill. I know one Senator on this side who has a specific problem. I can get back to the majority leader very quickly.

Mr. MITCHELL. Mr. President, I thank my colleague for that.

In light of that, we will withhold any further action on this matter until such time as the distinguished Republican leader is able to do that consultation and respond.

I thank my colleagues.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, I wonder if the managers would permit me to use my morning business time. Is the leader time reserved?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE and Mr. MITCHELL pertaining to the introduction of S. 2431 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mrs. FEINSTEIN). Who seeks recognition?

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Madam President, let me thank all colleagues who voted earlier for the motion to proceed on the interstate banking bill.

Mr. MITCHELL. Madam President, the Senate has voted overwhelmingly to proceed to consideration of the banking bill. We are now awaiting a response by the distinguished Republican leader to my request to have a vote on this matter as soon as possible.

I want to inquire of the manager of the bill whether there is any further debate on this matter or whether we can now return to consideration of the Defense Department conference report, which we are still hoping to get action on today as well.

Mr. RIEGLE. Let me just say to the majority leader, it is my hope that we can finish this bill today. I know of no one on the floor at the moment wishing to speak. I know at some point Senator METZENBAUM will want to raise a point with respect to an issue of concern to him that we have dealt with.

Mr. FORD. Madam President, may I say to the floor manager, that I have about a 5-minute statement in favor of the piece of legislation. I will be glad to make that statement at any time he wishes. I can do it now or later, file it for the RECORD if it is his wish—however.

Mr. RIEGLE. I am wondering, in light of the fact that there are other matters that the majority leader wants to go to, maybe filing the statement for the RECORD.

Mr. FORD. I can do that at a later time. It is perfectly all right with me. I will be glad to file it.

Mr. MITCHELL. Madam President, I believe there will be ample time for the Senator to give his remarks later on. I have just been advised that our Republican colleagues are agreeable to resuming consideration of the Defense Department bill and voting on that at 4:45 today, and that the time between now and then be divided between the two. Therefore, may I suggest to our colleagues that I proceed to get that agreement and, following that, we can resume debate on this matter and any Senator will be able to speak for as long as he or she wants. And at that time, we hopefully will be able to get an agreement on completing action on this bill as well.

Mr. RIEGLE. Today, it would be my hope, yes.

The PRESIDING OFFICER. Has the majority leader yielded the floor?

Mr. MITCHELL. Madam President, I am now advised that there has to be consultation with one additional Republican Senator. So I am not ready at this time to proceed to putting the agreement. So I will at this time suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. METZENBAUM. Madam President, I rise to indicate my support for this legislation, notwithstanding the fact that at an earlier point I had concerns and indicated I was prepared to speak at some length in opposition to it by reason of the action of the conference committee. Let me explain what I am talking about.

When the bill went over to the House, it was satisfactory and did not affect the right of the RTC and the FDIC to bring action against those officers, directors, professionals, and others of savings and loans who had defaulted and were subject to being brought to account in the courts of this country. But when it got to the conference committee, certain Members of the House insisted upon limiting the right of the RTC and the FDIC to bring such actions so that only where you could prove certain intentional misconduct or fraud would it be possible to bring an action. That meant that the hands of the RTC and the FDIC were seriously infringed upon, seriously limited and, in the RTC's own words, they felt that it would cost the Government at least $1.6 billion that they knew about, not counting hundreds of millions in cases that they were yet to file, but by reason of the certain court decisions and the actions of the amendments from the Members of the House, that right was being restricted.

With all due respect, Senators RIEGLE and SARBANES made a spirited effort to keep the House from putting in the egregious language. But by reason of the failure of the Republicans on the

conference committee on the Senate side and some of the Democrats, we were not able to prevail. Senators RIEGLE and SARBANES tried their hardest to preserve the Senate position, but the House provision prevailed and, as a consequence, the RTC and the FDIC were limited in their right to go forward, costing the taxpayers of this country literally billions of dollars, $1.6 billion already known, hundreds of millions in other cases yet to be filed against those officers and directors, lawyers and accountants, and other thrift officials who had been guilty of malfeasance, misfeasance, and nonfeasance. The RTC and FDIC were precluded from suing them in the courts.

It was shameful. This Senator had decided and had determined that I would speak at some length and hold up passage of this bill, notwithstanding the tremendous respect I have for the chairman of the committee and the other members of the Banking Committee who have been wonderfully cooperative on this side of the Senate—wonderfully cooperative. I wish I could say the same for some Members on the other side of the aisle. They have been less than cooperative.

But the fact is, there is that limit placed in this bill. So I felt that the only way to preserve the rights of the public was to keep this bill from being enacted into law. That gave me concern because Senator RIEGLE has put much of himself into this bill, and it is a good bill, except for this provision that the House insisted be put into the bill.

Then we learned that the Office of Thrift Supervision had the right, and has the right, to maintain actions on its own, under separate legislative authority, and even has a Federal statute of limitations which is longer than that which was originally contemplated in this bill as it went to the conference. It is an unusual situation. But the sad part was that a responsible leader at the Office of Thrift Supervision, OTS had, by memorandum to members of her staff, indicated that they should not be devoting their time to investigative and enforcement efforts. In fact, the OTS announced this April that it was giving reduced priority to cases involving officials of failed thrifts.

So here you had an agency of Government that had the authority—has the authority—and was not moving forward because somebody over at the OTS said, "Take it easy. We have other priorities. Don't spend your time on this."

I ask unanimous consent that at the conclusion of my remarks, a copy of that memorandum be printed in the RECORD.

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

(See exhibit 1.)

Mr. METZENBAUM. Madam President, so we opened discussions with the leadership of the OTS and said to them, that if you will step into this breach, if you will stand up and meet your responsibilities, I would not oppose this bill and I think we can solve the problems and the rights and concerns of the taxpayers of this country would be protected.

With all due respect, Jonathan Fiechter, the acting Director of the OTS, was particularly cooperative. He indicated his willingness to work to do that which had to be done, notwithstanding that earlier memorandum about which I spoke that had been signed by the head of the legal division of the OTS.

And so Senators RIEGLE, BOXER, JOHN KERRY, PATTY MURRAY, and I, sent a letter to Mr. Fiechter and urged him to move on this subject and to strengthen the OTS position.

Madam President, I ask unanimous consent that a copy of the letter signed by the five Senators be printed in the RECORD.

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

COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS,
Washington, DC, September 12, 1994.

JONATHAN FIECHTER,
Acting Director, Office of Thrift Supervision, Washington, DC.

DEAR MR. FIECHTER: Recent court decisions substantially limit the ability of the Resolution Trust Corporation (RTC) and the Federal Deposit Insurance Corporation (FDIC), as receivers, to bring legal actions to recover funds against those culpable for thrift failures.

We believe that the Office of Thrift Supervision (OTS), as a regulator, has separate, and different, statutory authority which can protect taxpayers in the event of a shortfall in the RTC and FDIC powers.

The OTS's separate statutory authority includes the authority to seek, on its own initiative, administrative orders and affirmative remedies, including civil monetary penalties and restitution from affiliated parties of failed institutions.

According to the RTC and FDIC, the recent decisions, *FDIC* v. *Cocke*, 7 F.3d 396 (4th Cir. 1993); *FDIC* v. *Dawson*, 4 F 3d 1303 (5th Cir. 1993), *cert. denied*, U.S. Sup. Ct. No. 93-1486 (June 13, 1994); and others in the Federal district courts, jeopardize more than $1 billion in pending claims. If these claims cannot be prosecuted, innocent taxpayers, rather than wrongdoers, will pay.

The OTS can prevent this from happening. For example, although the recent court decisions will prevent the RTC and FDIC from pursuing many pending cases due to the expiration of state statutes of limitations, the OTS is not subject to state statutes of limitations. With regard to officials of failed thrifts, the OTS has a six-year, federal statute of limitations. See 12 USC Sec. 1818(i)(3). The six-year statute of limitations is running out on many pending cases.

We write to urge the Office of Thrift Supervision to utilize its authority in cases where the RTC's and FDIC's ability to protect taxpayers has been limited. Time is of the essence. If the OTS will act, it could recover a significant amount of money for the taxpayers.

Sincerely,

HOWARD M. METZENBAUM.
JOHN F. KERRY.
BARBARA BOXER.
DON RIEGLE,
Chairman.
PATTY MURRAY.

Mr. METZENBAUM. Madam President, I am pleased to say that in a letter dated September 13, the acting Director, Mr. Fiechter, who, as I already said, was very cooperative, responded and said:

I want to assure you that OTS shares your concern about recent court decisions regarding failed thrift institutions. OTS enforcement policy is committed, to the fullest extent permitted by law, to the vigorous pursuit of individuals and entities whose misconduct caused harm to the thrift industry.

One of our specific supervisory objectives is the recovery of losses from institution-affiliated parties of closed thrifts. The OTS policy will not differentiate between open and closed institutions.

He went on to say:

We understand that our enforcement authority is different from and independent of RTC and FDIC authorities as receiver and insurer.

He went on to say:

We also recognize that recent court decisions, including the Supreme Court's denial of certiorari in Dawson, will require a greater OTS commitment of resources. The OTS, therefore, will review and, if necessary, streamline the initiation and pursuit of investigations within the Enforcement Division.

It is a strong letter. It is a strong response to the letter sent by Senator RIEGLE, myself, and three other members of the Banking Committee.

Madam President, I ask unanimous consent that the entire language of the letter addressed by Mr. Fiechter to Senator RIEGLE and myself be printed in the RECORD.

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

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, September 13, 1994.

Hon. HOWARD METZENBAUM,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: This is in response to the September 12, 1994 letter from you and your colleagues concerning the authority of the Office of Thrift Supervision ("OTS") to bring enforcement actions concerning closed thrifts.

I want to assure you that OTS shares your concern about recent court decisions regarding failed thrift institutions. OTS enforcement policy is committed, to the fullest extent permitted by law, to the vigorous pursuit of individuals and entities whose misconduct caused harm to the thrift industry. One of our specific supervisory objectives is the recovery of losses from institution-affiliated parties of closed thrifts. The OTS policy will not differentiate between open and closed institutions.

We understand that our enforcement authority is different from, and independent of, RTC and FDIC authorities as receiver and insurer. OTS' authority is not a backup to the FDIC's and RTC's. We also recognize that recent court decisions, including the Supreme Court's denial of certiorari in Dawson, will

require a greater OTS commitment of resources. The OTS, therefore, will review, and if necessary, streamline the initiation and pursuit of investigations within the Enforcement Division. I am also directing the staff to seek a Memorandum of Understanding or other similar formal agreements with the FDIC and RTC to assist the OTS in formulating and funding enforcement actions. This effort will add to a number of existing joint agreements and efforts. We believe that these efforts have been very efficient, recovering millions of dollars for the taxpayers at very little cost to the OTS and the taxpayers.

We look forward to working with you as we implement and carry forward this policy.

Sincerely,

JOHNATHAN L. FIECHTER,
Acting Director.

Mr. METZENBAUM. Madam President, I am pleased to say that by reason of the cooperation of the chairman of the Banking Committee and other members of his committee, and by reason of cooperation of the head of the OTS, this Senator feels we are resolving a problem by going around the corner in order to make it possible to pursue those officers and directors, lawyers and other professionals, and others associated with failed savings and loans who otherwise would have been relieved of their obligations by reason of the House action. I think we have made a step in the right direction. I appreciate the cooperation of all those who have been involved in this effort.

I yield the floor.

EXHIBIT 1

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, January 15, 1993.

Memorandum from Carolyn B. Lieberman, Acting Chief Counsel, re formal examinations and investigations.

To Therese D. Pritchard, Richard Stearns, Bruce Rinaldi, Ken Guido.

During the recent reviews of the enforcement docket with the Regional Directors, it appeared that some cases were initiated without first considering the impact on the current case load, which is an important consideration in view of our increasingly limited resources. Before opening a new formal examination or investigation ("investigation"), it is important that we consider the impact of the proposed investigation on our other work.

To this end, effective immediately, my prior approval is necessary to initiate an investigation. The memorandum recommending initiation of an investigation must include a short summary of the facts giving rise to the investigation and the identity of the known targets of the investigation.

In addition, an investigation may not be commenced without an engagement memorandum executed by the Regional Director or his or her designee. Engagement memoranda must specify the supervisory objective of the action and the time period in which the Regional Director believes enforcement action must be achieved to provide useful supervisory results. The engagement memorandum should specify an investigative plan for achieving the desired supervisory results within the time frame established by the Regional Director. The engagement memorandum must also address the feasibility of completing any necessary investigation no later than thirty days before the end of the period specified by the Regional Director for achieving results.

The cover memorandum transmitting the package to me for review also must identify the lawyers and investigators to be assigned to the matter, the percentage of each lawyer's time that is presently available to handle the matter, and the nature and amount of support that will be required from the supervisory staff. Please also state whether the proposed assignment of attorneys and investigators is likely to result in delays in the completion of other cases and, if so, identify the affected case or cases and specify the length of the anticipated delay.

Finally, in accordance with established procedures, a detailed written plan of investigation must be provided to me within two weeks of initiation of the investigation.

Please distribute this memorandum to your staffs.

Mr. RIEGLE. Madam President, I so appreciate the statement and the leadership of the Senator from Ohio. Few Senators, I think, in the history of this country have given as much or as effectively to the Senate's work than has Senator METZENBAUM. In this area, we have been working as colleagues with a common cause now stretching back many, many years.

In fact, I remember one time during a previous administration, during the Christmas-New Year holiday period, we were on the telephone with one another, and we were jawboning the then Secretary of the Treasury to try to crack down on some of these abuses at that time. So our history together goes back even much further than that, but the Senator from Ohio has been a tireless fighter on this issue.

I think it is fair to say that hundreds of millions, in fact, I think billions, of dollars have been saved and recovered and not otherwise wasted and squandered as a result of his efforts.

When we were in the conference committee with the House, I made arrangements for Senator METZENBAUM to come over, although he is not a member of our committee, to present his views on this issue, and he did so with great effectiveness.

To my disappointment, we were not able to prevail on the vote that we had, although I strongly supported him, as he has noted, and voted with him. We did not have the votes we needed to prevail. I do think that the letter from Jonathan Fiechter, the Acting Director of the Office of Thrift Supervision, which Senator METZENBAUM has inserted in the RECORD, is a very important document. I think it lays down a solid basis for further action here that will mean more financial recoveries.

So I think we have done all we can do within the scope of the leverage that we have to bring at this time in this matter. I appreciate the leadership of the Senator from Ohio on this issue and on the other issues that have come before the Banking Committee.

I might just say again that I think it is rare in the Senate to have someone with the energy and the vision and range of interest of the senior Senator from Ohio, Senator METZENBAUM. He is one of the great ones that has come down the track here and will be greatly missed in the future.

Mr. D'AMATO. Madam President, I rise today in support of the conference report on H.R. 3841, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994.

The conference report retains many of the provisions in the Senate passed bill, adopts some important provisions from the House-passed bill, and makes pragmatic and reasonable compromises reconciling other differences between the House and Senate passed bills.

Adopting the conference report will significantly advance the development of interstate banking and branching in the United States. This, in turn, will increase the safety and soundness of our banking system, provide increased convenience and services to consumers, and save millions of dollars that are wasted in unnecessary administrative expenses and overhead costs. Funds now being used to pay for unnecessary and duplicative administrative costs will be freed up—making more credit available to our businesses and other consumers.

Interstate banking and branching has been a priority of both Republican and Democratic administrations. In 1991, the Bush administration fought hard for an interstate banking bill similar to the Riegle-Neal bill. That legislation passed the Senate, but not the House. The Riegle-Neal bill, modeled after the 1991 Senate passed bill, is enthusiastically supported by the current administration, academic experts, and industry representatives. According to Federal Reserve Board Governor LaWare, "the elimination of geographic restraints will provide an important tool in diversifying individual bank risk, providing for stability of the banking system, and improving the flow of credit to local economies under duress."

FDIC Acting Chairman Hove, testified before the Banking Committee that full interstate banking will strengthen the Federal deposit insurance funds. Citing the FDIC's experience with bank failures in the 1980's, he noted that the failure of banks to diversify geographically makes them particularly vulnerable to regional economic downturns.

Likewise, the General Accounting Office [GAO] found that 90 percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching. The GAO noted that "when a bank's assets are not geographically diversified, the quality of its balance sheet can be severely affected by fluctuations in the local economy." Interstate branching will permit banks to diversify their loan portfolio, thus

making our banking system less vulnerable to downturns in any particular community or region.

The Congressional Budget Office [CBO] also found that nationwide interstate banking will enable banks to increase geographic and industry diversification, thereby reducing the probability of bank failure and "lead to a healthier and more stable banking system."

As I mentioned, interstate branching will eliminate unnecessary overhead costs, and make banking more efficient. Some of the larger banking companies have estimated that they could each save between $30 and $50 million per year if they were allowed to consolidate their separate bank subsidiaries into branches. These savings will be used to replenish bank capital, thus increasing the ability of the banking industry to provide the credit essential for the continued growth of our economy.

Madam President, the conference report takes into consideration the rights of the States with respect to interstate banking and branching. Section 101 of the legislation repeals a current provision, known as the Douglas amendment, that restricts the ability of a bank holding company to acquire a bank outside of its home State. Instead, the conference report provides that the Federal Reserve Board may approve an application by an adequately capitalized and managed holding company to acquire a bank outside of its home State. However, a State may insist that the out-of-State bank holding company only acquire an existing bank in that State. Further, the State may, if it so chooses, limit the banks that may be acquired to those institutions that have been in existence for a given period of time, up to 5 years. A State may also limit the size of the institution, based on deposit share, that may be acquired, so long as this limitation does not have a discriminatory effect against out-of-State bank holding companies or banks.

The bill also respects State's rights with respect to interstate branching. Under section 102 of the conference report, beginning on June 1, 1997, banks having different home States may merge into one bank with interstate branches. The resulting bank may establish additional branches at any location where the former separate banks could have branched under applicable Federal or State law. However, a State may opt-out of this provision by passing a law prior to June 1, 1997, that specifically prohibits such interstate mergers.

Madam President, the legislation also protects the authority of the States to tax interstate branches in the manner that they determine appropriate, provided of course that the tax does not contravene other Federal statutes or the U.S. Constitution. Thus, this bill in no way affects the taxation authority that a State otherwise possesses.

The authority of foreign banks to establish interstate branches and agencies is dealt with in section 104. This section provides that, with appropriate regulatory approval, a foreign bank may establish and operate branches and agencies outside of its home State to the same extent that domestic banks may establish and operate interstate branches. However, regulatory approval may not be granted if the foreign bank's financial resources are not equivalent to the financial requirements imposed on domestic banks seeking to establish interstate branches.

Under section 105, State bank supervisors are specifically authorized to examine branches of out-of-State State banks, but not branches of national banks, for purposes of determining compliance with State laws and to ensure that the activities of the branch are not conducted in an unsafe or unsound manner. This section also authorizes State banking examiners to enter into cooperative agreements to facilitate regulatory supervision of State banks with interstate branches.

Other provisions of the conference report provide additional protection for consumers. The bill mandates enhanced disclosures when an interstate branch is to be closed, modifies the Communities Reinvestment Act to take into account the development of interstate branching, and prohibits deposit production offices. The Federal Reserve Board is also required to conduct a study of bank fees.

In addition, title II of the conference report contains several provisions that are not related to interstate branching. Among these provisions is one that I authored expressing the sense of the Senate that the President should work to achieve a clearly defined and enforceable agreement with our allies to establish a multilateral export control system to control the export of products and technologies that could jeopardize the national security of the United States.

Also incorporated into this conference report is an array of commemorative coin authorizations. Included in this package are coins to commemorate the 1995 Special Olympics, World Games, and the bicentennial of the U.S. Military Academy at West Point. I am pleased to have been an original cosponsor of the Special Olympic coin bill and to have introduced, along with my esteemed colleague from New York, Congressman HAMILTON FISH, the West Point Bicentennial coin. I appreciate my colleagues' support for including these provisions in the conference report.

Madam President, while I have some reservations about particular compromises agreed to by the conference committee, the conference committee overall took a balanced approach in resolving the differences between the House- and Senate-passed bills. The conference report takes into consideration the historic role of the States in regulating financial institutions, and the concerns of the Federal Government to protect the safety and soundness of our banking system and to avoid losses to the deposit insurance funds and the taxpayer. This legislation will increase the safety of our financial system, and improve the efficiency and delivery of financial products. It will ultimately lead to a healthier and more competitive banking system to efficiently and effectively serve the needs of our economy into the next century.

We should act now to pass this legislation. I urge my colleagues to vote for this bill.

Mr. FAIRCLOTH. Madam President, we live in a world economy. Capital is the lifeblood of the world economy, and market forces are its master. The time has come to lift the ban on interstate banking, and to recognize the reality of those market forces.

Politicians sometimes try to artificially control the flow of capital. They try to defeat the laws of supply and demand. They may even get away with it for a short while. But in the long run—or the not so long run—the tide of market forces will prevail.

If politicians make our capital markets more inefficient than our international competitors, then that capital will just go somewhere else. Socially desirable goals won't be met. Our society will just be poorer.

The ban on interstate banking makes our capital markets less efficient. Perhaps at one time it made sense to ban interstate banking. If it ever did, it does not make sense today.

Today money can move across State lines or across international borders with a few strokes on a computer keyboard. Banning interstate banking doesn't stop the movement of that money. It just makes managing money more inefficient, which in turn makes it less likely that money will enter our banking system in the first place, which in turn makes our economy less competitive.

Interstate banking will make our capital markets more efficient. By recognizing the reality of interstate banking that already exists, we will eliminate hundreds of millions of dollars in Government-created overhead that makes our banking system less efficient.

Banks will no longer have to file mountains of duplicate paperwork for each of their subsidiaries. Customers will no longer have to put up with the Government-created barriers to banking where they live and work.

By reducing the overhead and inefficiency in our banking system, we will

lower the cost of capital and make our economy more competitive.

In North Carolina we have had a fiercely competitive banking industry for generations. Our small banks and community financial institutions have done will in that environment.

Our small banks in North Carolina have found their place in the shadow of NationsBank, First Union, and Wachovia. They do not fear interstate banking. They fear Government regulation and overhead that makes it impossible to survive as small independent banks.

We cannot fear the future. We cannot fear the markets. Fear of the future and of markets will not stop the tide of market forces. It will only make us weak, and poorer as a nation.

I urge my colleagues to join me in supporting the interstate banking bill, so that we can make our country a stronger and more prosperous place.

Mr. FEINGOLD. Madam President, I congratulate Senator RIEGLE, chairman of the Senate Committee on Banking, Housing, and Urban Affairs, for his work on this legislation. Though I oppose its fundamental provisions, the chairman deserves credit for his hard work on this legislation.

I thank him for his help in addressing a variety of concerns that I had relating to the ability of States to prepare for the significant changes in the structure of our financial institutions.

And I also thank him for his support for including language to ensure that the new banking system structure will not result in the loss of information that is vital to congressional and regulatory oversight.

But, Madam President, I do have several concerns with the interstate banking and branching bill. First, I am not persuaded that consumers, businesses, and banks, in Wisconsin and elsewhere, will benefit from this legislation.

As chair of the Wisconsin State Senate Banking Committee for 10 years, I participated in a number of debates related to structural and regulatory changes for financial institutions. Perhaps the most important of those bills was legislation to permit regional interstate banking.

I opposed that legislation then, and I oppose this measure now in part because of my concern that our well-managed, conservative, stable Wisconsin banks would be attractive prey for out-of-State financial institutions.

In fact, Madam President, in a matter of only a few weeks after passage of the regional interstate banking bill, Wisconsin lost one of its major bank holding companies to an out-of-State bank holding company.

The ability of the mammoth out-of-State institutions to buy up locally owned banks only increases with national interstate banking, and the loss of locally owned and controlled capital cannot be a benefit for either businesses or consumers.

Second, Madam President, this legislation only accelerates the further concentration of capital throughout the country.

Wisconsin's own former Senator William Proxmire has noted that as banking assets become more concentrated, the banking system itself becomes less stable as there is greater potential for system-wide failures.

Beyond that, the trend toward further concentration of economic power and economic decisionmaking is not healthy for the Nation's economy.

Banks have a very special role in our free market system; they are the rationers of capital. When fewer and fewer banks are making more and more of the critical decisions about where capital is allocated, there is an increased risk that many worthy enterprises will not receive the capital needed to grow and flourish.

A strength of the American banking system has been the strong community and local nature of that system. Locally made decisions made by locally owned financial institutions—institutions whose economic prospects are tied to the financial health of the community they serve—have played a critical role in the economic development of our Nation, and especially for our smaller communities and rural areas.

Madam President, I am concerned that this legislation is inconsistent with that tradition, and for that reason, I oppose the measure.

Mr. DASCHLE. Madam President, today this body has an opportunity to take the final step in approving the Riegle-Neal Interstate Banking and Branching Efficiency Act. This fact is attributable in no small part to the unparalleled dedication and hard work of Senator DON RIEGLE, the chairman of the Senate Banking Committee, and Representative STEVE NEAL, the chairman of the House Financial Institutions Subcommittee.

Both men have distinguished legislative records, and their contributions as Members of Congress will be missed long after their retirements this year. Passage of this legislation bearing their names will serve as a small but meaningful tribute to the leadership roles they have played on the Senate and House Banking Committees for many years.

As we enter the hectic final weeks of this Congress and struggle to sort out a crowded legislative agenda, we should not lose sight of the act that the Interstate Banking and Branching Efficiency Act has negotiated the tortuous path through committee, the floor and conference, and that its enactment will benefit consumers and financial institutions alike. Without this landmark legislation, our banking system will continue to suffer under a confusing jumble of State laws that govern bank expansion across State lines, a situation that truly does not benefit anyone.

Most obviously, the restrictions on interstate banking hamper the ability of banks to make rational, economically driven decisions about where and how to expand their operations. In effect, the various State laws place artificial limits on the ability of banks to respond to market realities, limiting both their efficiency and profitability.

In a time when many of us are extolling the virtues of free and open trade for other sectors of our economy, we owe it to our financial institutions to break down some of the unnecessary trade barriers they face within the country.

Less apparent but equally true is the fact that consumers also suffer from the restrictions States place on interstate banking. Because the limits prevent banks from expanding in response to customer demand, customers are not able to choose from among the full array of banking services that otherwise would be available to them.

Without the benefit of a truly competitive financial services market, consumers frequently suffer from unnecessarily high prices and inconvenient service. The Riegle-Neal act would go a long way toward solving these problems, while still offering depositors adequate and effective protection.

Finally, there is some evidence that soundness of our Nation's banking system is impaired by the inability of banks to expand their operations across State and regional lines. Banks that depend on the economic success of one State or region are particularly vulnerable to the regional recessions that we have experienced throughout the 1980's and early 1990's. Not only do the banks occasionally have trouble staying afloat during regional recessions, but the regions that suffer from them have difficulty turning around their economies because of inadequate credit supplies and skittish lenders.

By allowing freer bank expansion, the legislation we are considering today would reduce the system's exposure to regional economic shocks.

I would also like to note that this legislation contains a provision important to efforts to restore and preserve the Mount Rushmore National Monument. The bill would correct a problem created by the 1990 Mount Rushmore Commemorative Coin Act, which authorized the Mint to sell coins commemorating the 1991 golden anniversary of the Mount Rushmore National Memorial.

The Mount Rushmore situation is unusual. Congress attached a provision to the original Mount Rushmore Commemorative Coin Act that required half of the coin surcharge proceeds to go to the Treasury. Almost no other commemorative coin bills have had this same stipulation. To make up for this requirement, the bill authorized twice the amount of coin sales necessary to fund the project so both the

Treasury and the Mount Rushmore Preservation Society could receive their expected proceeds.

When sales fell far below what was expected and only generated $12 million, only $6 million was left for Mount Rushmore—less than a third of what was expected and not nearly enough to fund the planned budget of the Mount Rushmore Preservation Society.

The interstate banking bill addresses this shortfall in proceeds, by dedicating the first $18.75 million of them to the Mount Rushmore Preservation Society and the remainder of them to the Treasury. In effect, this provision will result in the Government transferring to the preservation society the $6 million the Treasury has already collected.

Without this additional revenue the preservation society's efforts, which have been described by the Department of the Interior and National Park Service as "a model public/private partnership" for protecting and improving our national parks, would not be able to successfully complete its planned renovations.

With this money the preservation society will be able to construct a new interpretive center, which will serve as the centerpiece of the educational program at Mount Rushmore. Through this facility, nearly 3 million Americans and foreign visitors annually will learn how the colossal sculpture was carved and, more importantly, why. The story of America's birth, growth, preservation and expansion will at last be fully told in the interpretive center's exhibit halls and theaters.

Once again, I would like to commend Chairman REIGLE for his patience and skill in guiding interstate banking over the long road to passage. The legislation before us has been thoroughly examined and formulated through a broad and open hearing process. It has enjoyed overwhelming support in subcommittee votes, full committee votes, and on the floors of both Chambers. The conference committee was able to iron out major differences between the House and Senate versions, and the final product has garnered the support of the banking industry and consumer groups alike.

Madam President, the Riegle-Neal Interstate Banking and Branching Efficiency Act is worthy of the distinguished names it carries and worthy of our support. We should not delay any longer in taking this step towards a more efficient, stable, and consumer-oriented banking system.

UNANIMOUS CONSENT REQUEST

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate resume consideration of the conference report accompanying S. 2182, the Department of Defense authorization bill, with the time until 5 p.m. today equally divided and controlled between Senators NUNN and THURMOND, or their designees; that 10 minutes of that time be under the control of Senator GRAMM of Texas; that at 5 p.m., without intervening action, the Senate vote on adoption of the conference report. I further ask unanimous consent that on Wednesday, September 14, there be 7 hours of morning business with the time equally divided and controlled between the majority leader and the minority leader or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Madam President, reserving the right to object——

Mr. THURMOND. Madam President, we have no objection.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, does the majority leader mean by that there could be no other business taken up tomorrow?

Mr. MITCHELL. No, I do not mean that.

Mr. METZENBAUM. Pardon?

Mr. MITCHELL. No, I do not mean that. We have not set the time for the morning business as of yet. This provides for 7 hours tomorrow, but it does not set the specific time for it.

Mr. METZENBAUM. Other action could be taken if that was decided by the Senate?

Mr. MITCHELL. It could, after the completion of the morning business.

Mr. METZENBAUM. That would mean you could not do that until after 7 hours had expired?

Mr. MITCHELL. If the time is used or, of course, by consent the Senate can agree to interrupt that time and take some other action. The Senate could by consent vitiate this and have no other time.

Mr. METZENBAUM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader has the floor.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Madam President, I ask unanimous consent to speak as in morning business.

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

The Senator from Montana is recognized.

OPPOSING MILITARY ACTION IN HAITI

Mr. BAUCUS. Madam President, I rise to state my opposition to military action in Haiti.

The Haitian military junta is illegal, it is brutal, and it is a gross abuser of human rights. Few people doubt that we do have a long-term interest in a Haiti which is politically stable, which is democratic, whose rulers are not involved in drug trafficking, and which does not send refugees across the Caribbean.

The question, though, is whether an American military invasion can create such a Haiti. I believe it cannot. And that is why I oppose it.

American service men and women are well-trained and brave. If they go to Haiti I am confident they will carry out their orders professionally, but they will run into difficulty.

The invasion itself and the initial stages of the occupation will probably be relatively easy. General Cedras and other members of the junta will be removed from power and President Aristide returned.

The problems, however, are likely to come later on. As in Somalia, small gangs of Tonton Macoutes, and other thugs will snipe at American soldiers. We will have to retaliate or simply sit there and take it.

In the long term, the Haitian public, as well as the American public, will tire of the occupation, and we will have to bring the soldiers home. At that point, Haitians will have to solve the problems themselves in their own way. And we have no way to make sure tyranny will not return.

So I think there will be serious practical difficulties as time goes by. But most important is that I do not believe an American military occupation will solve Haiti's deep-rooted problems.

The only way to solve those problems is for Haitians to reach a political settlement among themselves that allows the country to develop a stable democracy. No American soldier or Senator or President can make that happen. We can best contribute to the process through patient diplomatic efforts.

Therefore, I share and admire the administration's commitment to democracy in Haiti. But I believe we cannot restore democracy at the point of a gun. I do not think a military solution to this problem exists. Therefore I urge the administration not to introduce any American military personnel to Haiti, on our own or with the help of neighbors.

If, however, the administration is determined to invade Haiti, I urge that the President seek authorization from Congress.

My own judgment is that this military action would be a relatively small-scale event, similar to the invasions of Panama and Grenada, and that authorization is not absolutely mandatory.

I believe the Constitution and the War Powers Act both indicate that this is the right course. Authorization would also provide—as it did in the gulf war—a degree of public unity, which is now clearly lacking.

I, myself, would vote against authorizing the use of force in Haiti. I urge the administration to avoid it. But if the day comes when we must go down that road, I will do what I can to make the effort succeed and to bring the troops home quickly.

Today, however, we still have time to choose another course. I hope the President will do so.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate resume consideration of the conference report accompanying S. 2182, the Department of Defense authorization bill, with the time until 5 p.m. today equally divided and controlled between Senators NUNN and THURMOND, or their designees, with 10 minutes of that time under the control of Senator GRAMM of Texas; that at 5 p.m. without intervening action, the Senate vote on adoption of the conference report; and that on Wednesday, September 14, there be 7 hours of morning business, with the time equally divided and controlled between the majority and minority leaders, or their designees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MITCHELL. Madam President, I now ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Madam President, I yield myself whatever time is necessary to complete my statement, and I ask that it appear as in morning business.

The PRESIDING OFFICER. The Senator from New York is recognized to speak as in morning business.

MILITARY ACTION AGAINST HAITI

Mr. D'AMATO. Madam President, I must confess to you that many, many of my constituents have asked me how it is and why it is that the United States would seem to be prepared to undertake a military action against Haiti.

I have to tell you that I find it difficult myself to respond in a logical fashion as to why that should be. More troubling are the statements that come out of the administration, whether they be by Secretary Christopher or Madeleine Albright, our U.N. Ambassador, as it relates to the justification that is being put forth for such an act.

I have to ask myself if the President of the United States can go to the U.N. for approval of such an act, then certainly should not that same consideration be given to the Congress of the United States? Should that case not be made for why it is that an invasion and military action in Haiti is to be undertaken? Should there not be a debate here in the Congress of the United States before the American people?

This is not a question of an invasion or an action being taken in a manner to rescue someone. We had the use of military force in Grenada. One of the reasons that we moved with the speed that we did was that there was the potential for loss of American lives, and Americans were being held hostage at a medical facility there. We quickly extracted our American troops and the U.S. citizens who were endangered there, and this operation was never questioned. That is not the case here.

We have been speaking about this, preparing for this, and now we have a situation where the Haitian junta has been clearly notified of an imminent military engagement. We are not going to be jeopardizing lives by speaking as to whether or not we should or should not invade Haiti. This is not a question where speed and a quick strike is going to make the difference. This really comes down to a question of the justification for independent military action by the President. Haiti is not an unexpected threat to our national security.

I have had people say, well, what about Panama? And I have raised the question that we had American lives at stake and we had vital American interests at stake, the Panama Canal.

In Haiti this is not the case. We have no U.S. lives and no immediate threat to American interests. We do not have the Communists building bases, as they were at that time in Grenada, with both the Soviets and the Cubans making overtures to expand their sphere of influence there.

I would like to note that President Bush sought and received congressional approval prior to the start of the gulf war. He went to the United Nations, but the drums were loud and clear, and he knew that that was not sufficient. If he was going to engage in a military action, he knew that the Congress of the United States should be consulted and there was vigorous debate both for and against.

How is it now that the situation has turned so dramatically? I have heard people say that well, the President and his national security adviser, Mr. Lake, made these pronouncements, and now if he were not to go forward with this "it would jeopardize his standing."

That is not sufficient reason to put any of the lives of our young men and women in harm's way, because of concern over the President's standing. And, by the way, if he has a good case and if there are those in the Congress who feel that he can and he should, well, then, fine; let us do it. But let us not do it in some manner which is not prescribed by law or the Constitution or by logic or emergency. If you have a dire emergency, if U.S. lives are in danger, then we should move, and the President should move quickly, and I would support him in this action. There is no doubt, that is not the case with Haiti.

Now, if this is an invasion and it is being undertaken for political reasons, then, Madam President, it is wrong. It is immoral, and it should not take place. Not one life should be lost or risked for the sake of political advantage.

The people of the United States will rally behind our troops whether we believe in a particular cause or not because they are our young men and our young women. But should we put them into harm's way, should we endanger their lives simply to pump up the polls, as has been suggested? I would say resoundingly no. It does not matter whether one be a Democrat, Republican, liberal, or conservative, they would come down and say, no, we should not be jeopardizing the lives of our young Americans simply for someone or some side to look better in the polls. If that is the reason, then shame on those who would be going forth with an invasion any place at any time.

That is what is taking place here. I would like to know why it is we in Congress should not be consulted. What is the imperative to prevent us from sanctioning such an action?

We know there would be an overwhelming military victory within a relatively short period of time. But do we know what the cost will be in terms of lives as time goes by? How much is this operation costing us? And once we do achieve some military victory, as overwhelming as it might be, what then? What happens then?

How many lives should be placed at risk? I do not think one. But once we have this overwhelming victory and

there are no lives lost—and I do not believe that can be the case, I certainly do not think we could assume that—how long will our young men and women be obligated to defend whatever administration comes to power? What will be the role of our soldiers? How long will they have to stay there? Will they then become, in effect, the policemen for this island of 7 million people? How many of them will be required? What happens if there is an insurrection? Whom do they defend? What acts do they take?

Is this nation building? Do we undertake this action in similar cases as it relates to countries, whether they be island countries or others that are in our hemisphere?

Is this the beginning of a new doctrine, that we go to the United Nations and we get permission to use our troops for this kind of military or police action in our own hemisphere?

These are questions that need to be answered. I do not have all the answers. I think the American people, and I think that the young men and women whom we ask to defend this Nation, take an oath and pledge to do so, place themselves at great risk, and they have a right to know why it is and how it is that they will be expected to put their lives on the line in an invasion of Haiti.

Are we going to be calling up reserves? How many reservists?

Again, what about the costs of this action? I have heard some estimates as high as $500 million. Is that $500 million for what period of time? To the end of this budget year, to when? Is it more if we stay there a longer period of time?

I want to see democracy in Haiti. I recognize this is a very complex and difficult issue. I do not believe that we should tolerate the status quo. I think we should use all of our power and wherewithal in concert with our allies to seek a way to bring about freedom and eliminate those totalitarian forces that have taken charge, the colonels and their goons.

We were able to do that without invasion as it related to Baby Doc Duvalier. We got Baby Doc out of there. He was certainly no paragon of virtue. He had the military under his command. We were able to eventually make him an offer he could not refuse and he left Haiti.

I am not suggesting that the administration has not tried, but I suggest that maybe they have not tried hard enough and thoughtfully enough, and have not brought more pressure to bear on the junta, short of invasion.

Let me tell you, there are dictatorships throughout this world. Do we send troops into each one?

It seems to me that no one has justified national interests and goals and what it will cost in terms of lives and the disruption and the damage to our troops and their families.

So I would hope that this action is not being contemplated to justify or to raise someone's stature in the polls, to look politically better, then this is not the way a great democracy should be conducting itself.

I am deeply saddened to think that we even have come to a point where probably more Americans think that this may be taking place for exactly that reason—political advantage. If we have really reached that point in time in the life of this country, it is a very sad commentary about what the greatest democracy on the face of this Earth has come to represent. If it means that we are so desperate for election and for power that we would place in harm's way our young men and women, then how far have we slipped? And what would our forefathers think about our Nation conducting its foreign policy and the use of the military for these purposes?

I hope that is not the case. I hope that they are not attempting to gain political advantage by the use of the military. That would be a very sorry, sorry situation, a very sorry time in the history of this Nation, a nation that has stood up for democracy, yes, whose young men and women have given their lives, shed their blood for the safety of this country, for democracy to beat down the forces that would deprive us and others of freedom.

I do not believe that we should engage in this kind of action until and unless these questions can be fully answered.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Who seeks recognition?

Mr. D'AMATO. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I rise today to explain why I am going to vote against the Defense authorization conference report.

I have served in Congress for 15 years and I have always considered myself a very strong supporter of national defense. My dad was a sergeant in the Army. I was born at Fort Benning, GA. I have always believed in a strong defense.

The world has changed dramatically over the last 15 years. We have won the cold war, the Berlin Wall has come down, Eastern Europe has been liberated, and the Soviet Union has been transformed. All of those things were done because America was strong. Even today, in a world where the lion and the lamb are about to lie down together, it is very important that the United States of America be the lion.

I have strongly supported national defense over the years, but this will be the second year in a row that I vote against the Defense Authorization Act. I have done this because I cannot remain silent when we continue the process of tearing down the greatest defense that the world has ever known.

I do not believe that you can justify what we are doing in the way of defense cuts, given the world that we live in. At the very moment when the President is talking about military intervention in Haiti, at a time when we are actually involved in military support activities in Bosnia, at a time when we still are facing a potential confrontation with North Korea over nuclear weapons development, I do not believe that you can justify the cuts in defense that we are making in this authorization bill.

I think even more difficult to justify is the fact that we are spending every penny that we are saving by cutting defense. If we need this money in the future to rebuild defense, we will not be able to get it back because it has already been spent on social programs.

I have one chart here. I know my colleagues want to go ahead and vote on this bill, so I will explain the problem very simply by asking people to look at this chart, which shows defense outlays in real inflation adjusted dollars since 1986. What has happened to defense spending since 1986, with the exception of the gulf war, which is this little peak here, is that defense spending in real dollars has fallen like a rock.

To give you an idea of the problem, this year we are building 4 Navy ships and we are building 28 new fixed-wing combat aircraft, and that is it. Meanwhile, many of our most important modernization programs have been called into question as the Pentagon has finally admitted that the Bottom-Up Review is grossly underfunded. Ten modernization programs, from the new F–22 Air Force fighter plane, which is not scheduled to come into the force until the turn of the century, to the V–22, which will replace the aging CH–46 troop-carrying helicopter, are in the process of being reviewed and are at serious risk of being dismantled.

When America needs its military forces in the future, I want to be sure that I can say that I raised an alarm; that I said I thought we were making a mistake. I do not believe that you can justify this dramatic reduction in real defense spending based on what we see in the world in which we live.

But, Mr. President, the problem is greater than what the numbers show. These numbers give a false picture because much of what we are spending defense money on is not for defense. We have in the bill before us $2.2 billion of expenditures for what is called defense technology conversion and reinvestment. But actually, this money is for an elaborate industrial policy where Defense Department money is used by the Clinton administration to try to dictate investment patterns in American business.

Who could possibly believe that the way to transform defense industry to civilian activity is to have the Federal Government tell them how to do it? Who could possibly believe that you help defense industry find the capacity to create jobs in the private sector of the economy by giving them Government subsidies?

We have in this bill $5.5 billion of expenditures on environmental programs. We have in this bill numerous programs that basically have nothing to do with national defense.

I want to briefly alert my colleagues to several points.

No. 1, we are not building defense down. This is not an orderly reduction justified by the end of the cold war. We have already undertaken and completed that process. What we are doing now is tearing defense down to free up money, every penny of which is being spent on social programs.

No. 2, we are pirating defense spending by taking money that is allocated to the defense budget and spending that money on everything from the environment to health care to industrial policy.

Mr. President, I am concerned that unless this process is reversed, we are going to reach a point where our vital national interests are at stake and the Defense Department is going to be called on to do jobs that it will find difficult to do. I am concerned that if we do not continue our modernization program, we are not going to keep the technological edge that was so important in saving American lives in the gulf war. And, finally, I am concerned that, if these kinds of cuts continue, we are going to destroy our capacity to keep the finest young men and women who have ever worn the uniform of this country in the service.

I am very concerned about what we are doing to defense. It is because I support a strong defense that I am going to vote against this bill.

I am going to continue to speak out on this issue. We cannot justify the cuts that we are making in defense. We certainly cannot justify them when every penny we are saving is being spent on social programs.

HAITI

Mr. GRAMM. Finally, Mr. President, I want to talk about one additional issue.

I read in the polls that 78 percent of the American people oppose invading Haiti.

During the recess, I was all over my State and I was all over the country. In that process, I listened to a lot of people tell me what they thought of our work in Washington, DC.

It was not an A and B report card. A lot of people told me what they thought about Haiti, asked me what I thought was going to happen, asked me if I could give any justification for invading Haiti. I was able to give them a short answer: No.

I did not run into a single person in the State of Texas or a single person in a half dozen other States that I was in during the recess that thought that we ought to invade Haiti.

I remind my colleagues that we have invaded Haiti in the past, and we have never found it to be a fulfilling experience. We have never had trouble getting into Haiti. We have always had trouble getting out of Haiti. The last time we invaded Haiti, we were there for 19 years. I do not understand why the President seems determined to invade Haiti. He does not have my support in that decision. We have demonstrated numerous times that he does not have the support of the U.S. Senate but, more importantly, he does not have the support of the American people.

It is always very serious when a President puts Americans in harm's way—but it is especially dangerous when he does it knowing that the American people do not share his willingness to undertake a mission with such high potential cost.

I know the hour is late on this subject. I know the President has made many statements concerning his position. I hope, Mr. President, that he will reconsider. Backing down on a possible invasion is a lot better than getting Americans killed when our vital national interests are not at stake.

I thank the Chair for his tolerance.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. 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. THURMOND. 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. THURMOND. How much time does the Senator want? I yield an additional 5 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from South Carolina has yielded 5 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I want to thank our dear colleague, the Senator from South Carolina, for not just his yielding but his leadership on this defense bill. I know it represents his best effort. I know there is nobody in Congress who is a stronger supporter of defense than the distinguished Senator from South Carolina.

Mr. President, I was hurriedly trying to conclude my remarks because I saw your gavel about to come down. Let me go back and restate the point I want to make.

For several months the President has been threatening to invade Haiti, and in the last few weeks, I think the saber rattling has become very loud. We have now gotten down to the moment of truth. I know the President has to be considering what he is going to do next since it seems clear at this point that what he has demanded the Haitians do, they are not going to do.

I hope that the President, in making his final decision, will look not just at the political cost of making a lot of blustery statements and rattling the saber without using it. I hope he will weigh that cost against the potential loss of American life.

One of the important things about the gulf war is that we had a President who told the American people what national interests were at stake. He took the time to explain to the American people what we were going to do in the Persian Gulf and why we ought to do it. And then—ever though he did not have to do it—President Bush came to the Congress and had us vote on whether we supported using American troops in the Persian Gulf. It was a historic debate, a historic moment, and the Congress endorsed the President's policy. We sent troops to the Persian Gulf and we liberated Kuwait, and I think all Americans were proud.

My point is, Mr. President, that was the right way to do it. I think the way the President is proceeding on Haiti is the wrong way to do it. I hope the President will go on television and tell the American people what our policy is and what we are going to achieve by putting Americans at risk.

I have to admit that having read everything that I could on the subject, I do not know the answer to that question, and my guess is most Americans do not.

I hope the President will come to Congress and ask for our support before he makes this decision. I am concerned that if the President acts unilaterally, not having the support of the Congress, not having the support of the American people, that if things go badly—and I hope they do not—that we are going to be right back in the kind of position that we have been in the past where the American people do not support what the President is undertaking.

This is very serious business, and I am hopeful that there can yet be a solution. There is no doubt that if the President commits American troops, that I am going to support any action

in Congress to be supportive of those troops. But I do believe that this is a mistake. I think it is a mistake because we do not have a vital national interest at stake in Haiti. I think it is a mistake because the American people do not support it. I think it is a mistake because Members of Congress of both parties do not support it.

One of the problems with going around threatening people that you are going to do things before you have public support to do them, is you end up in the kind of box the President is in today. I hope—I am prayerfully hopeful—that Americans are not going to lose their lives as a result of the situation that the President finds himself in and, therefore, the Congress finds itself in.

I thank our distinguished ranking member of the Armed Services Committee for yielding me time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. PRYOR. I thank the Chair for recognizing me, and I thank the distinguished manager for allowing me the opportunity to speak for just a few moments this afternoon.

Mr. President, I would like to address the attention of my colleagues to a particular amendment which has been accepted by the various managers of the defense authorization bill.

I truly believe that this amendment is going to result in a much greater efficiency and effectiveness in the way that the Department of Defense performs its work. This provision—it sounds pretty simple—is pretty far-reaching. It is an amendment that I had added to this bill. I am very indebted to the various managers who have accepted this language.

It has two parts which are designed to ensure that the taxpayers of this country are not paying excessive amounts of money to private contractors.

Mr. President, not long ago the Senate passed the Acquisition Reform Act which was intended to make our Federal procurement system easier for the Government to operate and to make it easier for contractors to deal with the Government. While I did support this legislation, I also thought it was important to recognize that in addition to making our system simpler, we should also strive to make it more efficient, and more accountable.

As I have stated, the provision has two parts. The first section requires that the DOD Inspector General review a portion of the existing service contracts at DOD to determine if these contracts have experienced actual cost overruns. This requirement is necessary due to the simple fact that all too many GAO reports, IG reports, and hearings like the ones that I have held on Government contracts, have documented that all too often these contracts awarded to save money actually end up costing more than the Federal employees who were replaced.

This requirement does not prevent DOD from contracting out any services, but it does, for the first time, give us some independent oversight over those contracts once they are awarded. Perhaps if contractors and the DOD know that the Inspector General will be checking up on these particular contracts, then the taxpayers will not be forced to pay for excessive cost growth that occurs all too often when Government work has been farmed out to contractors.

The second part of the amendment addresses those types of contracts that are not now subject to cost comparison. I am speaking about the consulting services contracted out for by the Department of Defense or, as they are sometimes called, advisory and assistance services. If the Department of Defense wants to contract for, let us say, lawn mowing services, they do it with a cost comparison between the contractor and a Federal employee. However, if the Department of Defense wants to contract for planning, for managing, for analyzing, and other such services, then there is absolutely no requirement that they first compare the cost of using Federal employees versus private contractors. This, Mr. President, I have said for a long period of time, absolutely makes no sense.

Mr. President, again this requirement to conduct a cost comparison does not prohibit the Department of Defense from awarding any contract. However, for the first time in our acquisition history, the Department of Defense and others will at least begin asking a very simple and basic question before awarding consulting contracts. That question is this: Is it going to cost more to use Federal workers or private contractors to perform this same work? This is the first time, as a result of the adoption of this amendment, when this particular question is going to be asked. This is the information that any manager, I think, would like before making a decision that would cost the taxpayers large sums of money.

This is a requirement that allows DOD to consider other factors not related to cost when they are performing these comparisons. For example, these other issues could include the availability of DOD personnel, or whether the work is a one-time requirement or a recurring need.

Mr. President, this amendment sets also a dollar threshold for conducting a cost comparison of $100,000. I think this is a reasonable figure, and when the Senate was considering the acquisition streamlining bill there was much discussion of the need to raise the small purchase threshold from $25,000 to $100,000 in order to reduce the paperwork burden on the various agencies involved.

The Senate was informed that the vast majority of contract actions—close to 90 percent, I think—were under this threshold. This means that the agencies could now begin to focus on the larger contracts, those over $100,000. I think the same logic applies to cost comparison for consulting contracts.

For many years, I have been advocating this very simple reform, and I do appreciate the chairman and ranking member of the Armed Services Committee bringing this cost comparison idea to fruition. In conclusion, these two requirements will provide DOD and the Congress with much needed information on the cost of using private contractors. This is a small but a very critical step to take toward a more efficient and accountable Government.

Mr. President, I urge the adoption of this amendment and once again thank the managers.

Mr. President, finally, there are two other amendments which I am very proud to have had accepted as a part of the authorization bill for the Department of Defense. The first amendment, Mr. President, is the early notification of defense contract termination.

This amendment is designed to provide defense workers early notification of the termination of defense contracts. This early notification will make them eligible for JTPA reemployment and training services earlier and enable these workers to begin their job search much earlier, which will shorten the time that they will be without a job.

This amendment will require the Secretary of Defense to notify a defense contractor of the likely termination of a contract within 90 days of the submission of the President's budget to Congress, or within 90 days of the enactment of an appropriations bill. Contractors are subsequently required to notify the subcontractors, who are required to notify the workers.

This requirement currently in law gives the Secretary of Defense 10 days

to give notice, which does not provide enough time in many instances for these workers to begin the process of looking for a new job or taking advantage of training opportunities.

Mr. President, I see my friend from Wyoming seeking the floor, but if I might have an additional 2 minutes, I will briefly describe the third amendment included in this authorization bill that I think our colleagues need to know about.

This amendment will make JTPA reemployment and training services available to workers who lose their jobs as a result of reductions in defense exports caused by Government policy decisions.

Workers who lose their jobs because of a base closure or cutbacks in Pentagon procurement, currently qualify for JTPA services and I think, it is only fair that defense export workers who lose their jobs because the Government prohibits the export of their product, should be receiving these same services also.

Mr. President, this is a summary of three constructive amendments, not only in the acquisition area, but also in the job training area, to those workers who are employed by defense establishments within our great country.

Once again, Mr. President, I thank the ranking member of the committee, Senator THURMOND of South Carolina, and the distinguished chairman of the committee, Senator NUNN of Georgia, for their cooperation and their acceptance of these amendments.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, will the distinguished ranking member, Senator THURMOND, yield time to me?

Mr. THURMOND. Mr. President, I will be pleased to yield to the distinguished Senator 15 minutes.

Mr. WALLOP. I thank the Senator.

The PRESIDING OFFICER. If the Senator will withhold, the Senator from South Carolina controls 9 minutes, so the Chair understood the Senator to mean he will yield the remainder of his time to the Senator from Wyoming.

Mr. THURMOND. I believe I only have 9 minutes. I yield the Senator that.

Mr. WALLOP. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. WALLOP. Mr. President, the Defense authorization bill does not authorize enough defense to keep America strong. It is really a very simple equation. We do not have enough money in here to close the bases authorized for closing by the Base Closure Commission. So savings to be realized down the road are not going to take place.

Mr. President, top gun is not going to fly for a month at a naval air station because they do not have fuel for the aircraft. I am told that three Air Force fighter wings are not able to fly for training. This, just a couple of short years, Mr. President, after the greatest military force the world had ever known was honed and ready.

It would not have required a lot of extra money. It would not have required the same sustained effort that we were in. But it would have required a little bit of common sense, and it has not been applied.

Mr. President, this defense authorization sets the military of the United States to environmental exploration, it sets the military of the United States into job training, and it sets the United States into a lot of displaced worker programs when defense contractors are putting on hold every piece of new research that we have.

Mr. President, this is a disaster. How big a disaster? The Defense Department said we have to call up the Reserves to invade Haiti. To invade that little miserable island nation, we have to have Reserves. We have spent or will have spent two-thirds of $1 billion by the time the invasion of Haiti has been completed. And for that, Americans get not one piece of safety. They get a big piece of politics. They get a big risk to the reputation of the military.

Let me just tell you what is going to happen when the U.S. troops go down there. All of a sudden, they are going to be confronted with somebody trying to take their lives. And in defense of their lives or their unit, they are going to shoot. And somewhere along the line, a child will be killed, a pregnant woman will be killed, or somebody that ought not to be killed will be maimed or shot or wounded by people who have been put into a position under which no rational human could react differently. But all of a sudden, the reputation of the men and women of the armed services of the United States will be sullied and damaged by a President who put them in harm's way, which does not make any sense in the national interest.

Let me move from there to Cuba.

I have had calls from constituents of mine stationed in Guantanamo that the military presence there is not sufficiently armed to defend itself against a growingly restive Cuban population held hostage, imprisoned, by the United States for the crime of seeking freedom. And when the President of the United States joins with that dictator, Castro, to keep these people in prison and to use his secret service to suppress the desires of other people leaving, maybe we ought to rethink this.

Just think about it for a moment. The Cubans held prisoner in Guantanamo are now devoid of hope. There is nothing for them to look forward to—release from Guantanamo, back to Castro's prison; stay in Guantanamo in prison; go to Panama for 6 months and return to prison. They are not going to be let go. There is no hope. No wonder they are getting restless.

This is a policy that has nothing but failure attached to it. What kind of a role is it for the defense forces of the United States to start shooting people who are rioting because all they ever sought was freedom? Make no mistake about it. In controlling the prison population at Guantanamo, sooner or later that restive population is going to force a person of the U.S. Armed Forces, in defending himself or a comrade, to shoot somebody whose only crime is that they want to be free. What have we done? We have joined with Mr. Castro to use his secret police to suppress the rest of that population.

Now, going back to Haiti, we have a government in exile with Mr. Aristide. The Clinton administration denies that anybody ought to be a government in exile for Cuba. They are going to invade Haiti. But they are going to imprison those who seek freedom in Cuba.

Mr. President, no wonder we are going broke in the defense business. We are spending money for things that are not the role of the military. We are spending money to invade a little island nation; $250 million now already spent, and $490 million yet to go if we invade.

Mr. President, something is very, very wrong when Top Gun cannot fly, when Air Force training flights cannot fly, when the Navy is close quartered, when all of the training operations that we have are coming down, down, and down to the hollow Army that we had, only worse, in the Carter years.

Yet, we have money enough to invade Haiti. We have money enough to assign our forces to the command of the United Nations so that not even the President of the United States nor the Secretary of Defense knew when American aircraft had engaged and shot down Serbian planes in Bosnia. We have time enough to assign them to Rwanda and money enough to do all of this, but not to train them for the roles and missions which they have contemplated all these years. Mr. President, something is very, very wrong.

This authorization bill spends money on civilian programs when the funds could better be spent by purchasing and acquiring the equipment, the fuel, and the research that is necessary to keep us alive. Now we are told that the President of the United States is going to cede to the Russians when Boris Yeltsin comes here all manner of controls on tactical ballistic missiles under new agreements on the antiballistic missiles program, and this without submitting those to the Senate of the United States, in violation of the Nunn-Byrd interpretation of the obligations of the executive branch with regard to the treaty.

We do not have money enough to buy our soldiers gas to train. We do have

money enough to invade a little island nation and put back in power a man who is every bit the infamous dictator as the one we wish to replace. We do have money enough to tell Mr. Aristide that we are going to have 20,000 troops down there, and 7,000 of them are going to be policemen in his nation.

Mr. President, something is very, very wrong when we have money for these kinds of things but not to train America's young men and women for the kinds of roles that will defend this country from harm should it ever arise again. And if the President of the United States does not believe that the world is still dangerous and that we can fritter away the rest of what we have on this basis, then the President of the United States, Mr. President, is wrong.

This Defense authorization bill is a catastrophe because it does not buy Americans the defense they need with the money we are spending, and yet we have money enough to assign the roles to the Armed Forces that are not their roles. They should not be peacekeepers. They are not social experimenters. They are not environmental folks. They are soldiers, sailors, and airmen, whose role is to defend this country. And we are letting them down.

I thank the Chair.

The PRESIDING OFFICER. The time allocated to the Senator from Wyoming has expired.

There are 21 minutes and 26 seconds remaining.

Who yields time?

Mr. WARNER. Mr. President, I wish to speak on behalf of the bill. Is it possible to inquire——

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, on behalf of the managers of the bill on this side, how much time does the Senator need?

Mr. WARNER. Six or seven minutes.

Mr. FORD. Mr. President, I yield the distinguished Senator from Virginia 7 minutes.

Mr. THURMOND. Mr. President, I wish to thank the Senator from Kentucky for his kindness.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. Mr. President, I wish to thank the distinguished Senator from Kentucky and also my good friend and colleague, the ranking member on the Senate Armed Services Committee, Senator THURMOND of South Carolina.

Mr. President, I wish to say that I thought the statement of the Senator from Wyoming was a very interesting one. I associate myself with several of his points. I will address one of those points in the course of my remarks. I first want to again compliment the distinguished Senator from Georgia and the Senator from South Carolina and the membership of our committee for again this year compiling what I believe is a very credible piece of work, strengthened as best we can given the restricted resources for our Nation's defense.

We endeavor to take care of those who serve in our military services. We provided a 2.6-percent pay raise—modest, nevertheless a raise—for military personnel, and we enacted other measures to improve their standard of living and quality of life. We also authorized funding to ensure cost-of-living allowances for military retirees, known as COLA's, which were equal to their Federal employee counterparts. This was a matter in which there was a strong contest here in the U.S. Senate, and I was able to lead the effort, along with several others, to have an overwhelming vote. And I hope the men and women in the Armed Forces found it reassuring that the Senate of the United States wants in every way possible to assure them a good quality of life in return for their heroic work on behalf of our national defense and, more important, to ensure freedom for ourselves and that of our allies.

It was essential that Congress provide the final chapter of funding for the next phase of nuclear power, the CVN–76. Incremental funding was provided over the years, but this was the last chapter. I always view our great country in some respects as an island nation, surrounded by the Atlantic and Pacific Oceans. The sea lanes of the world are literally our lifelines of survival in terms of our strategic defense and in terms of our ability to come to the assistance of our allies and, of course, what is quite obvious, our ability to maintain trade and commerce with the other nations of the world in this one-world market that we have today.

Along with other members of the Armed Services Committee, I am concerned that the future years defense plan [FYDP] is seriously underfunded. This has been commented on by almost all of my colleagues in one way or another. We draw the attention of others not on our committee to the comments of the Secretary of Defense and Deputy Secretary of Defense, who have indicated that the FYDP is underfunded by about $40 billion, while the General Accounting Office reports that the underfunding in the outyears is close to $250 billion. This will be a major challenge for the Armed Services Committee next year to try to analyze that disparity and come to some conclusion and a sense of direction.

The Deputy Secretary of Defense in a recent memo asked the military services to consider the cancellation of 22 of the top modernization programs. Recent reports of canceled training, deteriorating maintenance, and other indicators of declining readiness are also of major concern to the committee and reflect serious underfunding to the future years defense budget.

As I look back on the many years I have been privileged to be associated with defense, America has always been on the cutting edge of technology. We have been able to use our vast resources, research and development, and our magnificent industrial base to buy the very best equipment for those who step forward and proudly volunteer to wear the uniform of our military services. I am concerned that we may fall back in our ability to provide the best airplane, the best ship, the best gun—not gold plated, just the best. When we ask the American families and the young people of this Nation to step forward and volunteer, they are entitled to nothing less than the best equipment to provide not only for their own security in the furtherance of their missions, but the ability to protect our Nation.

Mr. President, I heard the Senator from Wyoming touch on this subject. I want to express concern about the way our military forces are being used more and more for missions with less and less military justification. What effect is this having on our services and on the DOD budget? The continuing use of our military forces for humanitarian purposes is having three distinct impacts, in my judgment. I am not opposed to—and, indeed, I have joined with many here to do so—authorizing the appropriations and expressing the desire for our Presidents to employ our Armed Forces in the cause of helping others in their fight for freedom and in the fight to simply survive. But we should stop and think.

I will be recommending to the chairman and ranking member of our committee that our committee in the coming year make an in-depth study with respect to the use of our Armed Forces for missions which do not have a clear military objective. We spend enormous sums of taxpayer dollars to train the men and women in the Armed Forces to perform those military missions which are central to our national defense. But these are borderline situations in many instances, equally putting in jeopardy the safety of those performing the missions, and is very costly in terms of the American taxpayer. But does that erode from their ability to be trained to perform their specific missions? Does it take the dollars that we need to provide a reasonable lifestyle for these individuals?

In that vein, Mr. President, I commend to my colleagues a recent article by Caren Elliott House in the Wall Street Journal. I know this author and have participated with her in several conferences on defense, and she has written a very provocative piece on this.

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

[From the Wall Street Journal, Sept. 8, 1994]

THE WRONG MISSION

(By Karen Elliott House)

ASPEN, CO.—The U.S. military: Are its troops warriors or welfare workers?

As American society wallows in domestic debates over whether bureaucrats should administer health care and crime bills should finance midnight basketball, the same sort of debate is now engulfing the institution whose mission has always been the clearest.

Since the end of the Cold War—and especially under the Clinton administration—U.S. armed forces are being turned away from their historic role of defending the nation's security interests and toward a new, thankless and open-ended task of administering global social welfare.

An institution that is trained and equipped to protect this nation and, when necessary, to wage its wars is now being deployed in the world's Somalias and Rwandas to deal with the shambles of failed political and economic systems by dispensing welfare to hapless victims.

There are several reasons for this.

First, armies follow orders and get things done. Thus, whatever the task at hand, whether building tent cities for refugees or dispensing food to starving children, the military has the men, material, discipline and efficiency to do what failed governments or well-meaning international relief agencies clearly are less capable of doing.

FASHIONABLE PHILOSOPHY

Second, these days the American military is led by a commander in chief who never served in uniform and who largely buys into the fashionable philosophy that the post-Cold War world poses few, if any, threats that require military preparedness or response. For those who hold this optimistic world view, the logical extension is to shrink the U.S. military and to find "peaceful" uses for what remains.

Third, using the military for humanitarian purposes not only "feels" good to well-meaning politicians but, by their Alice-in-Wonderland accounting, has the additional virtue of being "free." Since the military must absorb the costs of these "humanitarian" missions from its own maintenance and operations budget, Congress can duck decisions to set up large international relief brigades or otherwise appropriate new funds for relief work.

Fourth, this "freebie" plays into the hands of political cynics whose interests have less to do with helping starving peoples than with starving the U.S. military. Every $100 million of defense spending for humanitarian relief is that much less spent on the true purposes for which the U.S. armed forces exist. By the same token, sending troops to dispense aid in Somalia or Rwanda preserves the fiction of an activist foreign policy while relieving pressure on the administration to act in places like North Korea, where real national security interests are at stake.

None of this is to argue that the U.S. should not help alleviate human suffering in distant places or foster political stability and economic development in the Third World. The point simply is that the U.S. military is the wrong instrument to advance these purposes.

That the post-Cold War world no longer has Soviet nuclear weapons targeted on U.S. cities doesn't make it a kinder, gentler world devoid of threats to American national interests. The collapse of one enemy—the Soviet Union—doesn't mean the end of history.

What is more, the "freebie" argument is a fallacy. Taxpayers foot the bill whoever dispenses humanitarian aid, and armies do it most expensively of all. More important, dipping into military budgets for humanitarian missions saps the readiness of the armed forces to deter real threats to the U.S., whether those be an Iran or Iraq intent on controlling Mideast oil reserves or a North Korea intent on developing and spreading nuclear bombs.

Using the military as a social welfare agency is ultimately self-defeating. It places U.S. troops in a succession of situations where no U.S. national security interest is demonstrable. As a result, the U.S. public rebels at the first casualties. Somalia, a humanitarian mission launched by George Bush and inherited by Bill Clinton, was a textbook case. So long as Americans could watch their troops dispensing food, they went along; as soon as the public saw pictures of a U.S. serviceman's body being dragged through the streets of Mogadishu, they wanted their troops home.

Such murky missions will eventually undermine public support for engaging the military even in those situations where national interests are at stake. Worse yet, to cut and run at the first deaths undermines American credibility abroad and encourages the world's aggressors. In the end, the more the U.S. military must dabble in nonmilitary missions around the world, the less likely the public will support its use in another genuine crisis like the Persian Gulf War.

Worst of all, nonmilitary missions eventually destroy the fighting capability of a military force. Armies, in the end, are largely composed of young men and women in uniform, not diplomats and philosophers. Such young men and women can be trained as soldiers or as policemen or as aid workers, but not as all three. As former Defense Secretary Les Aspin says in an interview, "If a soldier reacts like a policeman in a military situation, he's dead; if he reacts like a soldier in a police situation, he creates an international incident." The world offers all too many examples of armies like Canada's that have been reduced to relief agencies and those like Israel's that have been undermined by too much policing.

The broader irony, visible at an Aspen Institute gathering of national security experts here, is that political liberals now want to make increasingly liberal use of a weakened U.S. military, while political conservatives want to conserve a stronger U.S. military for fewer but clearer traditional military missions. Not surprisingly, it is the liberal view that dominates the Clinton administration and Congress.

The conservative position, however traditional and consistent, fails to deal with the initial public demand to "do something" when faced with network footage of starving children. For the liberals, there is a larger burden of needing to sort out the many and ambiguous challenges for which they suddenly are all too willing to commit U.S. forces. Do they really want U.S. foreign policy, including military deployments, set by CNN's Christiane Amanpour rather than by a president who defines America's global priorities?

In sifting these dilemmas one need not be heartless to be hardheaded. There's little debate that the U.S., by virtue of its material wealth and moral standing, has a responsibility to help alleviate massive human suffering when and where it occurs. This, however, requires U.S. political leaders to explain forthrightly to Americans that there is likely to be an "emergency" like Rwanda almost every year ad infinitum; that taxpayers must pay serious new money for an adequate humanitarian response; and that large and effective new civilian institutions will be needed to dispense relief.

A sensible policy also should involve, besides political honesty, a realistic reevaluation of the rule of the United Nations. Both liberals and conservatives sought to find common ground in using the U.N. primarily as an international relief agency. As a corollary, liberals should drop the pretense that the U.N. can be an effective agency for the resolution of international disputes. Conservatives, for their part, should recognize that it is better to fund the U.N. than to watch the U.S. military evolve into the Dutch army.

The prerequisite for all of the above is a U.S. administration with a far clearer sense of America's national interests. What, in fact, distinguishes Kuwait, Rwanda, Haiti and Cuba? All entail some element of human suffering, but not all are humanitarian. Kuwait clearly involved U.S. national security and thus merited a U.S. military response. That's because there was an external aggressor, Iraq, and a threat to U.S. oil supplies. By contrast, Rwanda, like Somalia before it and Burundi and others to follow, amounts to a civil war and involves no U.S. interest beyond the humanitarian.

HAITI AND CUBA

Somewhere in between are Haiti and Cuba. Haiti is not a vital security interest for the U.S., but it does involve a flood of refugees to America and a coup against an elected regime in our hemisphere, where the U.S. seeks to promote democracy. Thus, arguably, there is some national interest and some logic to using military force to dislodge the dictators. But if one buys that logic, how much more compelling the argument for using military force against Cuba's dictator, who is actively exporting an invasion of refugees as a weapon against the U.S.? Regrettably we have a U.S. administration that seems incapable of seeing, much less defining, such distinctions.

There is, of course, a third and more likely alternative to either military or civilian response. And that is apathy. It is all too likely that an American public bombarded with flickering images of starving peoples soon will react to them much as we do to nightly local news reports of murders and assorted mayhem on the streets of our own cities. The eyes glaze over, the heart hardens and the faceless victims are ignored. We should wish for better both at home and abroad.

Mr. GRAHAM. Mr. President, I yield 6 minutes to myself to speak on a subject other than that which is currently before the Senate.

The PRESIDING OFFICER. The Senator is recognized.

INTERSTATE BANKING

Mr. GRAHAM. Mr. President, it is my understanding that shortly after the vote on the Defense authorization bill, we may be taking a vote on the final passage of the conference report on interstate banking, and it is to that issue that I wish to make a few remarks.

Mr. President, I am a strong supporter of the basic thrust of the interstate banking conference report, which is to facilitate the interstate branching activities of domestic U.S. banks. In fact, while I was Governor of Florida and chairman of the Southern Growth Policies Board, the Southern States adopted a plan of regional interstate banking which encouraged banks within the Southeast to branch across

State lines. This was a very similar pattern to that which was being adopted at approximately the same time period in the 1980's by the New England States. So we now have a pattern of experience among States in major regions of the country which has given us confidence that we are now ready to move on a nationwide basis to interstate banking.

I am pleased that we have reached this stage. I am pleased that we have done so in a methodical, thoughtful manner, which gives us confidence that the results of nationwide interstate banking will be positive, positive not only to the institutions but positive to the customers of the institutions and to the components of our economy which they support.

However, Mr. President, while I intend to vote for this bill, I wish to make a few comments about a section of the bill which I think moves in a misguided direction and which I hope we will be able to correct over time. That relates to the branching of foreign banks within the United States.

Mr. President, I am talking about banks which are chartered outside the United States and which have been sanctioned to do business within the United States and are now desirous of doing business at multiple locations through branching.

The basic philosophy of this bill is that foreign banks should be treated the same as domestic banks as it relates to their branching across State lines.

That concept—equality, parity of treatment—has a superficial appeal. However, I suggest that we are trying to treat two quite different sets of institutions by the same rules and, therefore, are resulting in, in fact, a different, disparate, and I believe negative consequence.

Foreign banks are different than domestic banks. One, they deal only in wholesale activities. The typical foreign bank does not accept a deposit of less than $100,000. They do not engage in the kind of retail branching that is the bread and butter of domestic banks.

They also are institutions which do not utilize the various Federal deposit insurance programs which are typical of domestic banks.

They also are institutions which have as their primary customer industries involved in the provision of export financing. I will discuss that in somewhat greater detail momentarily.

Under this legislation, however, these specialty foreign banks and their branches are treated in the same manner as a domestic bank which wishes to branch; that is, they can only purchase an ongoing bank; they cannot establish a de novo or new institution. If they acquire an ongoing bank, they must strip it of its retail activities so that it is left as just a wholesale bank, but they are still required to follow regulations which are designed to relate to retail banks such as the Community Reinvestment Act.

I believe, Mr. President, that the practical effect of those similar treatments of dissimilar institutions will be to make it more difficult and less likely that we will have a flourishing set of international bank branches represented across the country, and one of the documents which I will submit for the RECORD is the statement of the Florida comptroller, who is our State banking commissioner, who states that the consequence of this will be to discourage the expansion through branching of foreign banks.

Why is this important other than to a few foreign banks that want to do business in the United States? It is important because these foreign banks and their branches serve a critical role in expanding the export of American businesses.

I was recently in a conversation with an American business person who is involved in the sale of United States agricultural products, primarily in the Caribbean and Latin America, and that individual told me that the typical transaction, let us say, for the sale of an American agricultural product to Argentina is to have an Argentine bank in the United States provide the letters of credit and other export financing which are the essential ingredients to making the transaction viable. Without ready access to these foreign banks and their branches, it makes that transaction a more difficult one.

In my State, we have had an expansion of representatives of foreign banks. In the Miami area alone, there are some 70 foreign banks represented. Those 70 banks have been a very important component of our State's ability to increase its export activities.

This legislation is going to make it more difficult for that type of representation to be available to other communities within our State, and for our State's export community to continue to be able to expand and provide jobs for Americans while we export American agricultural and industrial products.

Mr. President, I make these comments as a means of noting what I consider to be a deficiency in this legislation and in hopes that we will take an early opportunity for a relook at this issue from the perspective of the users of the system as opposed to the providers of the system, and the result of that early relook will be to make the specialized financial capabilities of foreign banks and their branches available to more communities, not less communities, in the United States and, therefore, greater opportunities for jobs for Americans as we contribute to an expanding international export economy.

Mr. President, many countries around the world are currently restructuring their economic and political systems, creating new trade and investment opportunities. No region is more significantly affected by these changes than Latin and South America. The countries in this region are moving toward economic reform, privatizing former government-run industries and liberalizing rules governing foreign trade and investment. According to the Federal Reserve, the resulting inflows of portfolio capital into the region has tripled in the last 3 years.

Implementation of H.R. 3841, the Interstate Banking bill, will negatively impact cities that want to become international trade financing centers and participate in the regional growth by limiting the ability of foreign banks to branch into new States. The development of American financial centers outside New York into international financial centers will not be successful without the direct participation of foreign banks.

Mr. President, I am specifically concerned that the interstate banking bill will make it harder for international banks in the United States to enter additional States including my State of Florida. International banks have played an important role in Florida's economy by providing jobs and trade financing, and increasing trade with our Latin, South American, and Caribbean neighbors. More than 70 foreign banks have offices in Miami.

The Greater Miami Chamber of Commerce International Banking Committee, in conjunction with the Florida Comptroller's Office of International Banking Bureau, has looked at the impact of the interstate bill and the Foreign Bank Supervision Act of 1991 on Florida. I quote from their report which I will submit at the end of this statement:

TRADE FINANCING AND OTHER BENEFITS

Florida will lose the opportunity to take advantage of the recent trade agreements (NAFTA, Mercousur) and the expected overall growth in world trade if limitations are placed on branching by foreign banks in Florida. It is estimated that within three years of full interstate branching Florida could experience the following benefits:

Trade financing, $2.0 billion.

Salaries and benefits, $22.5 million.

Occupancy (lease and rentals), $3.66 million.

Direct and indirect employment, 860 people.

Limiting foreign bank branching could have a negative impact on Florida's ability to achieve these benefits. Limiting entry of foreign bank branches would in turn place limits on export and wholesale banking activities (pre- and post-export financing, loan participation, and credit enhancement).

Additionally under the Export-Import Bank's foreign guaranteed lender program, the top 10 foreign banks guaranteed $47.4 million in 1988 and have steadily increased their guarantees to

$2,186.5 million in 1993. The top 10 foreign banks have provided $625.1 million through July 31, 1994. Foreign banks in Florida provided no guaranteed loan activity in 1988 but were providing $12.1 million by 1993 and have provided $1.4 million through July 31, 1994.

Finally, a rough estimate by the Canadian Bankers Association indicate the big six Canadian banks have provided approximately $500 million in letters of credit and acceptances for trade financing activity during last year.

Florida has aspired to develop into an even more significant international financial center, particularly for Latin and South America. Yet our ability to reach toward this goal has been severely encumbered. This difficulty occurs first due to the International Banking Act's limitation on foreign banks' interstate activities outside New York. Second the difficulty occurs by the extended delays and procedural redtape that have accompanied their applications to establish offices in the United States in the wake of the Foreign Bank Supervision Enhancement Act of 1991, and now by the procedurally burdensome requirements that will be put into effect by this legislation.

I am separately concerned that foreign banks' direct interstate branching privileges under this legislation, although viewed as equal to those of U.S.-incorporated, FDIC-insured commercial banks, will be seen by our trading partners as de facto unequal. I am concerned that this legislation will only operate in practice to deny foreign banks the equal competitive opportunity to expand geographically in the United States, because of the inherent legal, operational, and marketplace differences between insured U.S. banks and the U.S. wholesale branches of foreign banks. The 1984 U.S. Report to the GATT on Trade in Services observed that equal treatment between inherently unequal domestic and foreign service providers frequently denies national treatment in practice. The superficially equal treatment accorded foreign banks under this legislation is an illustrative case directly on point.

PROVISIONS OF THE BILL

The interstate bill allows international banks to branch to the same extent as domestic banks on a de novo basis. The bill limits the current foreign bank branching system.

The bill would limit this branching ability to one of two ways:

The State legislature must vote to allow interstate branching by domestic and foreign banks on a de novo basis.

It is highly unlikely States will vote to do this any time soon since they would prefer branching to occur by acquisition first.

Second, foreign banks could branch into a new State by acquiring an already established FDIC-insured domestic bank. The foreign bank could buy the retail bank, strip the retail deposits, convert it to a wholesale uninsured bank and fall under the Community Reinvestment Act [CRA]. Foreign banks will find this to be expensive due to the new restrictions now being applicable to foreign banks' U.S. offices. Additionally it is a convoluted way to branch in terms of relatively limited practical value to foreign banks.

Additionally, for the first time the CRA would apply to a financial institution that does not engage in retail banking activities and does not have Federal bank insurance, and in fact is precluded by law from carrying Federal deposit insurance under the Foreign Bank Supervision Enhancement Act of 1991.

Mr. President, let me include for the RECORD a memo from the Florida Comptroller's Office, and I will highlight a letter from the Florida International Bankers Association to my staff, which discuss the impact of this bill on my State. To quote from the Florida International Bankers letter,

We believe that the disparate treatment of foreign banks will substantially impede trade and international financing activities. Moreover, the de novo branching provisions are contrary to the principle of national treatment of foreign banks.

The Florida Comptroller says,

The foreign bank branching provisions in the bill make the foreign branch significantly less attractive as an expansion option for those foreign banks wishing to serve Florida. The lack of a viable foreign branch option in Florida limits the ability of United States citizens dealing in trade finance to do business with or take advantage of the trade financing expertise that would be available to them.

I therefore recommend legislation amending this bill to allow States such as Florida to attract foreign banks to establish uninsured wholesale branches outside the State of New York. The amendment would clarify that the States have the ability to expressly permit de novo entry by foreign banks. This would alleviate domestic banking concerns about retail competition from foreign branches and it would allow foreign banks to branch, on a wholesale basis, into the limited States that determine on their own that such branches are in the best interests of their States.

Foreign banks should be given similar flexibility that domestic banks were provided in the Community Development Financial Institutions bill. This flexibility would particularly be helpful in connection with certain provisions of the Foreign Bank Supervision Enhancement Act of 1991 that have resulted in unreasonable delays in approvals by U.S. regulatory authorities of applications to establish offices and related operations in the United States. These delays have also occurred more than a year for the processing of applications by foreign banks merely to establish representative offices.

Representative offices of foreign banks, like loan production offices of U.S. banks, are not even authorized to engage in any business in the United States. Yet, under the Foreign Bank Supervision Enhancement Act, U.S. bank regulatory agencies are subjecting proposals by foreign banks to establish such representative offices to essentially the same application procedures and approval requirements as proposals to establish full branch banking offices and subsidiaries. At the same time, U.S. banks are free to establish loan production offices without any such prior approvals at the U.S. Federal level. The United States cannot afford this regulatory superfluity, and the U.S. financial centers cannot afford this degree of hostility at the U.S. Federal regulatory level toward the international banking organizations the States are working so hard to attract to their cities because of the many benefits they bring with them.

Mr. President, I hope that over the next several years the United States does everything possible to work toward a consistent national treatment policy, and a safe and sound banking regulation and supervision of the U.S. operations of foreign banks. These efforts will enhance the status of our cities as international trading and financial centers. The balance between States rights, national treatment, and overall equivalence of competitive opportunity between U.S. and foreign banks is a goal we should all strive toward.

Mr. President, I ask unanimous consent to print in the RECORD two supporting documents to which I have made reference.

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

FAX COMMUNICATION

Date: August 12, 1994.

To: Ms. Leslie Woolley, Office of Senator Bob Graham, and Mr. Buz Gorman, Office of Senator Connie Mack.

From: Doug Johnson, Wilbert Bascom.

DEAR LESLIE AND BUZ: Thank you for sending us a copy of the Conference Report on H.R. 3841, the *Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994*. As you requested, we have reviewed the bill's international provisions. Wilbert Bascom, as head of our international banking bureau, was in Miami over the last few days, and, during his trip had the opportunity to discuss the bill with members of the international banking community in Florida.

It is our belief, as regulators, as well as the belief of the industry, that the bill, as drafted unduly restricts the international banking activities of foreign banks in several ways.

GENERAL COMMENTS

The foreign bank branching provisions in the bill make the foreign branch significantly less attractive as an expansion option for those foreign banks wishing to serve Florida.

The lack of a viable foreign branch option in Florida limits the ability of the United States citizens dealing in trade finance to do

business with or take advantage of the trade financing expertise that would be available to them.

The public policy desire, as stated in the bill, of ensuring that the domestic branch is not subject to unfair competition from the foreign branch is based on the mistaken impression that domestic and foreign branches serve the same markets, when in fact they do not.

Domestic deposit taking by foreign branches facilitates trade finance, it does not provide additional, and certainly not unfair competition to domestic branches.

DE NOVO BRANCHING

The bill currently does not appear to allow de novo branching for foreign banks, unless a state opts to allow domestic banks to branch de novo.

If this treatment of foreign banks is designed to protect domestic banks from unfair competition from foreign bank branches, it serves no purpose, because foreign Bank agencies and branches do not compete against domestic banks for retail customers. Their markets are totally different.

The Florida international banking community views access to the wholesale deposit market, with a minimum of delay, as a valuable tool to provide an additional funding source for their trade financing activities.

Clarifying that the states have the ability to opt-in for wholesale de novo branching for both domestic and foreign banks would do two things:

It would alleviate domestic banking concerns about retail competition from foreign branches.

It would allow foreign banks to branch, on a wholesale basis, into the limited states that independently determine that such branches are in that state's best interests.

OFFSHORE SHELL BRANCHES

The bill would provide that a U.S. branch or agency of a foreign bank may not, through an offshore shell branch that it manages or controls, manage types of activities that a U.S. bank is not permitted to manage at a foreign branch or subsidiary.

This provision limits the ability of foreign banks to book certain types of investments at an offshore shell branch and in turn manage those investments from a U.S. branch or agency.

The practice of managing off-shore investments (generally booked off-shore for taxation and other reasons) from the United States provides high quality U.S. jobs.

The prohibition of the practice could compel the relocation of the investment management team to a non-U.S. office of the foreign bank—costing the United States jobs.

United States banks might also not be subject to similar limitations on their off-shore activities that they conduct in their host countries.

DEPOSIT-TAKING ACTIVITIES

Foreign bank branches are currently only allowed to accept deposits of less than $100,000 if the total amount of those deposits do not exceed 5% of the branches average deposits.

These deposits allow the bank to provide a fuller range of bank services to those few trade finance customers who are not foreign nationals. In no way does the accepting of these deposits place the foreign bank in competition with the domestic bank for its normal retail customer base.

The bill would require the federal regulatory agencies to, by regulation, lower this current 5% de mimimus standard to 1%.

The committee report states that the public policy objective in lowering the standard is to further restrict the ability of foreign branches to engage to some extent in domestic retail deposit-taking in a manner giving it an unfair competitive advantage over insured U.S. banks and branches.

This perceived competitive advantage does not exist. Foreign branches involved in wholesale banking and trade financing activities serve different markets than U.S. retail banks. There is and will be no unfair competition.

The report further states that the agency's final regulations must take into account the importance of maintaining and improving the availability of credit to all sectors of the U.S. economy.

In that the lower 1% threshold could limit the ability of a foreign branch to fund its trade financing activities, it would be difficult if not impossible to take credit availability into account in any meaningful way when writing this regulation.

Please contact us if you need any further assistance in this matter. We certainly appreciate all of your efforts on our behalf.

[From the Bureau of International Banking, Sept. 3, 1994]

SUMMARY OF NEGATIVE IMPACT OF LIMITED FOREIGN BRANCHING IN FLORIDA

As indicated in the attached appendix, Florida could experience negative impacts in trade financing and other benefits if it does not permit full inter-state branching for foreign banks. The effects of deposit switching, as a result of full inter-state branching, would be minimal.

TRADE FINANCING AND OTHER BENEFITS

Florida will lose the opportunity to take advantage of the recent trade agreements (NAFTA, Mercousur) and the expected overall growth in world trade if limitations are placed on branching by foreign banks in Florida. It is estimated that within three years of full interstate branching, Florida could experience the following benefits:

Trade financing (in billions)	$2.0
Salaries and benefits (in millions)	$22.5
Occupancy (Lease and rentals) (in millions)	$3.66
Direct and indirect employment	860

Limiting foreign bank branching could have a negative impact on Florida's ability to achieve these benefits.

DEPOSIT SWITCHING TO FOREIGN BANK BRANCHES

It is estimated that deposit switching to foreign banks will be minimal and will not exceed one percent of total deposits of Florida state and national banks. Deposits switched will most likely be in excess of $100,000. However, deposit switching may also occur from sources other than Florida, e.g., through branch relocation. It felt that the foreign branches will be able to use these deposits more efficiently since its focus will be on the export sector and wholesale banking.

APPENDIX

The impact disallowing or limiting branching by foreign banks

Interstate branching by foreign banks through acquisition and/or de novo branching would no doubt encourage foreign banks to locate in Florida.

Foreign banks would want to locate in Florida because of the following reasons:

(i) They believe that they would be able to access large deposits (deposits equal or greater than $100,000) that are now held by domestic banks.

(ii) The deposits they would access would be those owned by foreigners and by businesses interested in trade financing and other wholesale banking services that the foreign bank for various reasons may provide more efficiently than domestic banks not involved in such services.

(iii) potential of trade financing is substantial in view of recent trade agreements in the Hemisphere (NAFTA, Mercousur, etc.) and the exploitation of this potential would be facilitated by increased deposit funding.

(iv) While the deposit switching impact will be small, the impact of trade financing, employment and other benefits would be substantial.

Estimated deposit switching to foreign branches

(i) No switching of deposits below $100,000.

(ii) Switching is estimated to be minimal and will be done by large depositors seeking increases in interest rates.

(iii) Switching may also be from sources other than Florida, e.g. through branch relocation, thus enhancing the resources for trade financing in this state. This impact has not been estimated.

Other funding

(i) The trade financing and other activities of foreign bank branches would generate their own deposit resources.

(ii) Deposit switching can be minimized by borrowing to finance asset growth.

Florida exporters and other beneficiaries

Branches of foreign banks would create additional and new types of export and wholesale banking activities (pre-and post export financing, loan participation, and credit enhancement). Limiting entry of foreign bank branches would in turn place limits on export and wholesale banking opportunities. It is estimated that within three years of foreign bank branching, trade financing would increase by $2.0 billion; salaries and benefits, $22.5 million; and employment could increase by 860.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. FORD addressed the Chair.

Mr. GRAHAM. Mr. President, at the request of the Senator from Georgia, managing the time of the Senator from Georgia, will the Chair tell me how much time is remaining?

The PRESIDING OFFICER. There are 4 minutes and 40 seconds remaining.

Mr. GRAHAM. I yield to the Senator from Kentucky.

Mr. FORD. I need some time to talk about the same thing the Senator from Florida talked about, since nobody is going to talk about defense.

Mr. GRAHAM. Is there anyone who wishes to speak?

Mr. FORD. It is positive and not negative.

Mr. GRAHAM. Mr. President, I yield 4 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. FORD].

RIEGLE-NEAL INTERSTATE BANKING AND BRANCHING EFFICIENCY ACT OF 1994

Mr. FORD. Mr. President, let me follow the Senator from Florida, my good friend, Senator GRAHAM, to say that foreign banks now have $1.2 trillion of the $3.9 trillion business. I think they are doing very well.

Mr. President, I rise in strong support of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. I believe this legislation will mean real progress in a number of ways. It will make our banking system more efficient and competitive. It will offer greater choice to consumers. It will be good for businesses. And it has been carefully structured in a manner which protects important States' rights under our dual banking system and respects the legitimate franchise interests of small community banks.

I compliment the chairman of the Banking Committee, Senator RIEGLE, for his years of hard work and dedication to this particular issue. It is appropriate that the final product bears his name.

Mr. President, I was pleased to play a part in the development of this legislation. In 1991, when there seemed to be a stalemate on this issue, the bankers of my State and many other States came together around a compromise proposal which I offered as a floor amendment at that time. I wish to compliment Ballard Cassady with the Kentucky Bankers Association for the leadership role he played in assembling a national coalition within the banking community. That 1991 compromise amendment which passed the Senate is similar in many ways to the final product we are considering today. I believe it strikes an appropriate balance between competing interests on a very complex issue.

The pending legislation is full of important compromises. There is one in particular which I wish to highlight, because I believe it is an area which we should continue to monitor very carefully. And that involves the language affecting foreign banks.

I would have preferred the original Senate approach on foreign banks, which was simple and straightforward. It said to foreign banks: if you wish to branch interstate, you must play by the same rules as U.S. banks. We will give you the exact same opportunities if you accept the same burdens. You should bear the same costs as U.S. banks if you are going to compete for the same business.

Mr. President, I believe there is growing evidence that foreign banks are increasingly competing for the same loans as U.S. banks. Their market share has grown for commercial and industrial loans as well as commercial real estate loans. Yet our tradition is to treat them as separate creatures. They are a different kind of animal under our traditional view. So foreign banks generally have not had to bear the costs of paying deposit insurance premiums or complying with laws like the Community Reinvestment Act.

All of this has evolved under our interpretation of the concept of "national treatment" under our international agreements. I would suggest to our regulators that they may now be interpreting "national treatment" to mean something that the average U.S. banker neither understands nor supports. It is a very complex area, and it may be time for a reevaluation.

However, given the time constraints involved in putting this legislation together, I believe we reached a fair compromise on foreign banks for the time being.

We are basically saying to foreign banks three important things. First, it should be clear that you are subject to most of the same consumer laws as U.S. banks. This bill specifically mentions 11 different Federal laws which will be extended to foreign banks. Second, if you take retail deposits of less than $100,000 you will have to pay deposit insurance premiums just like U.S. banks, and the definition of "retail" deposits has been tightened. Third, if you branch interstate by acquisition or merger, and you merge with an institution which is subject to the Community Reinvestment Act, you will continue to be subject to CRA just like U.S. banks.

In particular, I would like to compliment Assistant Treasury Secretary Rick Carnell and Pat Mulloy of the Senate Banking Committee staff for their hard work in developing this compromise language. It is a good start, and helps to level the playing field for U.S. banks.

However, I believe we must continue to watch the market trends with respect to foreign banks to make sure they do not have major competitive advantages under this law. This may very well be an area which we will need to revisit in the future.

With those comments in mind, I wish to say again to the floor manager that he has crafted a very positive piece of legislation, and I believe it will contribute toward a more efficient banking sector and a healthier economy. Our State banking commissioner just yesterday suggested that this may be the most significant Federal banking legislation in more than a decade, and I believe he may be right. I compliment the Senator from Michigan for making it a reality.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995 AND MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). The Republican leader.

Mr. DOLE. Madam President, I ask unanimous consent that I may proceed for 1 minute.

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

Mr. DOLE. Madam President, before we vote on the conference report to the Defense Authorization Act for fiscal year 1995, I want to take a moment to commend the chairman and the ranking member of the Senate Armed Services Committee for their efforts in hammering out this conference report. While they have done the best they could with what they were given, the fact remains that President Clinton's defense budget and his future years defense plan are inadequate. The fact is, our military is going hollow. And while this bill is probably the best under the circumstances, it represents another step down a disastrous road to unpreparedness.

The fact is, the President's defense plan is simply not sufficient to maintain American security and American leadership. The President's defense plan will not meet his declared objectives of fighting and winning two nearly simultaneous major regional conflicts, and the fact is, even this inadequate force is not funded.

We have all heard of the GAO's conclusions—the budget shortfall of the so-called Bottom-up Review force is $150 billion. And we have all seen the headlines that the Deputy Secretary of Defense, in a memo to the members of the Defense Resources Board, directed the armed services to prepare plans for deeper cuts, including the possible termination of a number of procurement programs required to modernize our forces. While the administration attempts to justify these additional cuts by arguing that these funds are needed for pay raises for the troops and to contribute to the quality of life of the men and women in uniform, the fact remains that the administration ignored these issues in their original budget submission. The Congress saw to it that our readiness accounts received more funding and it was the Congress that saw to it that our soldiers receive adequate pay. Their whole line of argument is an attempt to pit the defense industrial base against the troops and their families. It escapes me why the administration must always ply this phony game of "enemies and victims." Only in this case, American strength is the enemy and American security may be the victim.

As has been often stated by my Republican colleagues, this is the tenth consecutive year that the defense budget has been cut. And under the Clinton administration's budget we are facing another 5 years of slash and burn. I won't repeat the budget analysis. The distinguished ranking Republican, Senator THURMOND, and Senator MCCAIN

have both argued the case well. My question is, at what point do we stop this slash and burn of our national security? Next year? The year after? Five more years, as the President wants? Will we have the luxury of a wake up? Or will the realization come too late, as history shows it most always does?

During World War II, it was the leadership of the United States which made victory possible. During the cold war, it was the stalwart leadership of this country that resulted in victory over communist aggression. Now that we have entered a new era, whether we like it or not, the world still looks to the United States for leadership. Leadership on today's world stage still means being militarily prepared to meet any future threat. Leadership requires a commitment to strength. Weakness invites war. These are simple truths, but too easily forgotten.

Yet, if World War II, Korea, the cold war, and Desert Storm have taught us anything, it is the danger of wishful thinking. You cannot just wish threats away. Wishes are no substitute for vigilance and leadership.

We see the signs that we are returning to the hollow forces of the late 1970's. The administration's own panel on readiness recently reported that pockets of unreadiness are already showing up in the Air Force, Army, Marine Corps, and Navy. This is not an honest defense budget. The administration does not have a genuine defense plan. The chairman and the ranking member have done all they can with an inadequate defense budget proposal. While I appreciate the good work of the chairman and ranking member, and while I wish I could support this legislation, I will not endorse another step toward a hollow force.

STATEMENT ON THE SHOOTDOWN PROVISIONS OF S. 2182

Mrs. KASSEBAUM. Madam President, I am deeply disturbed by the so-called shootdown provisions in the conference report for the fiscal year 1995 defense authorization bill.

Section 1012 of the conference report reverses the longstanding U.S. policy of flatly discouraging the use of deadly force against civilian aircraft. Under this legislation, the law of the United States would no longer condemn foreign governments that choose to shoot down civilian aircraft they believe to be involved in drug trafficking. This bill also will permit the U.S. Government to assist foreign governments that choose to use force.

I understand how frustrating it is when the illicit contents and use of an aircraft are known and yet law enforcement agents cannot down that plane. But the alternative in this bill is far worse. To sanction the use of deadly force against civilian aircraft, as this legislation does, is ill conceived. It is a dangerous error of judgment that wisely was rejected by previous administrations.

This bill permits the shooting down of civilian aircraft so long as the plane is reasonably suspected of drug trafficking. And, if that reasonable suspicion is wrong—if an innocent aircraft is mistakenly downed—the bill would shut off legal recourse for survivors or their families. In a deadly game of chance, this legislation lets the United States help foreign governments shoot down civilian planes based on little more than an educated guess. It then shields our Government from liability if the guess is wrong.

Those who advocate this provision argue that it is needed to protect the national security of countries struggling against drug traffickers. But by creating a national security exception to the international prohibition on the use of force against civilian aircraft, the United States will open the door for other countries to do the same. We should not forget that in 1983 the Soviets justified the shooting down of Korean Airlines Flight 007 on national security grounds and that 269 innocent people died as a result.

Madam President, most observers agree that this provision violates international law and U.S. treaty obligations. But legalities are not the most important problem here. The bottom line is that this is plain bad policy. At this point, there is little we can do to remove it from this legislation. But I urge my colleagues to rethink this issue and to take steps in the future to prevent its implementation.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the conference report on S. 2182.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

The result was announced—yeas 80, nays 18, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—80

Akaka	Dodd	Kerry
Baucus	Domenici	Kohl
Biden	Dorgan	Lautenberg
Bingaman	Durenberger	Leahy
Bond	Exon	Levin
Boren	Faircloth	Lieberman
Boxer	Feinstein	Lott
Bradley	Ford	Lugar
Breaux	Glenn	Mathews
Bryan	Graham	Metzenbaum
Bumpers	Grassley	Mikulski
Burns	Harkin	Mitchell
Byrd	Heflin	Moseley-Braun
Campbell	Helms	Moynihan
Coats	Hollings	Murkowski
Cochran	Hutchison	Murray
Cohen	Inouye	Nunn
Conrad	Jeffords	Packwood
D'Amato	Johnston	Pell
Danforth	Kassebaum	Pressler
Daschle	Kennedy	Pryor
DeConcini	Kerrey	Reid
Riegle	Sasser	Stevens
Robb	Shelby	Thurmond
Rockefeller	Simon	Warner
Roth	Simpson	Wofford
Sarbanes	Specter	

NAYS—18

Bennett	Gorton	McCain
Brown	Gramm	McConnell
Coverdell	Gregg	Nickles
Craig	Hatch	Smith
Dole	Kempthorne	Wallop
Feingold	Mack	Wellstone

NOT VOTING—2

Chafee	Hatfield

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

INTERSTATE BANKING EFFICIENCY ACT OF 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. The Senate is considering the conference report on H.R. 3841, the interstate banking bill.

Mr. MITCHELL. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Madam President, I am especially pleased that this legislation contains the 1995 Special Olympics World Games Commemorative Coin Act. The Special Olympics are an international success story. Among other things, they provide a world-class sporting event for athletes with mental retardation and demonstration to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation.

I have been a long-standing supporter of the Special Olympics. Today, nearly 1 million athletes compete in Special Olympics programs throughout the world. There are accredited Special Olympics programs in more than 130 countries.

The 1995 Special Olympics Coin Act directs the Secretary of the Treasury to issue $1 silver coins, emblematic of the 1995 Special Olympics World Games. It mandates that surcharges, collected from the sale of such coins, be paid to the 1995 Special Olympics World Games Organizing Committee to help fund these games.

The Special Olympics are an extraordinarily worthwhile and special international sporting event and I want to

express my gratitude and congratulations to Sargent and Eunice Shriver for their tremendous leadership and success in making the games a reality.

HOST STATE AUTHORITY OVER NATIONAL BANKS

Mr. D'AMATO. I would like to bring to the attention of the chairman a concern that has been expressed with regard to section 105 of this bill. The purpose of that section is to authorize host State bank supervisors to examine and bring enforcement actions with respect to interstate branches of State-chartered banks. The section makes a reference to section 5155(g) of the revised statutes, which, considered alone, speaks to branching by national banks. I understand there is a concern that the section could be construed as conferring on States supervisory authority over interstate branches of national banks.

Mr. RIEGLE. This simply is not the case. Section 105 speaks to the supervisory authority of State banking supervisors over interstate State-chartered banks only. The reference is intended to be to State banks that are members of the Federal Reserve System. They have the same authority to establish branches as national banks under section 5155(g).

The reference to section 5155(g) was added by the conferees as a technical and conforming correction. We intended section 105 of the bill to apply to all State banks, but the language actually only referred to State nonmember banks that are subject to section 18(d) of the Federal Deposit Insurance Act. A correction was needed to fill an unintended regulatory gap that may have prevented host State bank supervisors from examining and bringing enforcement actions against State member banks.

The conferees' intent is clearly stated in the official version of the conference report, where we described section 105 as permitting "the appropriate State bank supervisor of a host State to examine branches of out-of-State State banks * * *."

A different section of the bill addresses supervision of interstate branches of national banks. Section 102 of the bill clarifies that under interstate banking, State-chartered banks will continue to be subject to supervision by State authorities, while national banks will remain subject to supervision by the OCC. Where a national bank is subject to State law, section 102(f) of our bill clearly spells out that those State laws "shall be enforced, with respect to such branch, by the Comptroller of the Currency."

Mr. D'AMATO. I appreciate the chairman's clarification of this matter. I am in total agreement with Senator RIEGLE on this point.

I would like to point out that the printed version of the conference report seems to have prompted this concern. As the Senator said, the official version of the conference report clearly states our intention that section 105 apply only to State-chartered banks. Unfortunately, the word "State" in the reference to "State banks" was omitted in the printed version. This error inadvertently suggested that section 105 could speak to supervision of all banks, not just State banks.

Mr. RIEGLE. The official version of the conference report contained the word "State" in reference to the types of banks covered and so that document correctly describes the conferees' agreement concerning the scope of section 105. The omission of the word "State" from the printed version was a printer's error. The official version of the report clearly shows the section is limited to examination and enforcement by host State officials with respect to out-of-State State banks—not national banks. I ask unanimous consent to print the correct version of the conference report description of section 105 in the CONGRESSIONAL RECORD.

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

EXCERPT FROM HOUSE REPORT 103-651

COORDINATION OF EXAMINATION AUTHORITY REGARDING INTERSTATE BRANCHES

Section 105 permits the appropriate State bank supervisor of a host State to examine branches of out-of-State State banks to assure compliance with host State laws, including those governing banking, community reinvestment, fair lending, consumer protection and permissible activities, and to assure that the activities of the branch are conducted in a safe and sound manner.

The host State bank supervisor, or other host State law enforcement officer (if authorized under host State law) may take appropriate enforcement actions and proceedings regarding the branch.

State bank supervisors are permitted to enter into cooperative agreements to facilitate supervision of State banks operating interstate. Under the Senate-passed bill, such agreements would have been subject to approval of the appropriate Federal regulator. The House-passed bill had no requirement for approval. The Senate receded to the House on this issue. Both bills contained a provision that nothing in the section affected the authority of Federal banking agencies to examine branches of insured depository institutions, and the Conferees included such a provision in the title.

Mrs. MURRAY. Madam President, I rise to discuss an issue that has come to my attention upon closer scrutiny of the Interstate Banking Efficiency Act.

Following conclusion of deliberations of the conference committee, the director of the department of financial institutions in my home State of Washington identified a potential unintended consequence of the wording of section 102 of this bill. This section allows a State to opt out of the interstate branching system by adopting a State law "that—(i) applies equally to all out-of-state banks."

It was the understanding of the director of the department of financial institutions that the intention of this provision was one, to prohibit interstate compacts limited to specific regions of the United States; and 2, to prohibit state legislation that discriminates against national banks doing business in such States.

This bill was not drafted with the intention of creating a disparity between the treatment of State-chartered savings banks and Federal savings banks. I am hopeful that such a situation will not occur.

I ask unanimous consent that the director's letter be printed in the RECORD.

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

STATE OF WASHINGTON, DEPARTMENT OF FINANCIAL INSTITUTIONS,
Olympia, WA, August 16, 1994.

Re Interstate Banking Efficiency Act.

Mr. KERRY KILLINGER, President, Washington Mutual Savings Bank, Seattle, WA.

DEAR MR. KILLINGER: As you are aware, on August 2, 1994 the Conference Committee concluded its deliberations on the Interstate Banking Efficiency Act. I would like to draw your attention to Section 102 Interstate Bank Mergers which creates new Section 44 in the Federal Deposit Insurance Act. There appears to be some unintended results that may impact the competitive viability of state-chartered savings banks to their federal savings association counterparts.

Paragraph (a)(2) of new Section 44 is the state election to "opt out" of the interstate branching provisions. Subparagraph (A) states that, among other things, that the opt out provisions must apply to "all out-of-State banks." Upon inquiry to committee staff, it appears that the intent of this provision was to (1) prohibit the formation of interstate regional compacts and (2) prohibit the possibility that some states may opt out only national banks in order to provide competitive edges for state-chartered financial institution. Thus, the intended purpose of the provision was to assure a "level playing field" among competing financial institutions. However, if it is determined that state opt out legislation must also include savings banks in order for the provision to be operative, state-chartered savings banks are put at a competitive disadvantage compared to their federal savings association counterparts. Since the apparent intent of the provision was to level the playing field, it would not appear that the result against state-chartered savings banks was ever intended.

I would be glad to discuss this issue with you further at any time.

Sincerely,

JOHN L. BLEY,
Director.

Mr. DODD. Madam President, with consideration of the conference report on the Interstate Banking Efficiency Act, we have finally reached the last legislative hurdle to the long-sought goal of nationwide banking and branching.

We have thoroughly debated the merits of interstate banking and branching for many years. At long last, we have arrived at a bipartisan consensus on this important issue. I, and others, have had to compromise and temporarily put aside issues of great importance to us in order to get to this

point. I would have liked to see certain banking-related provisions involving bank sales of insurance included in this conference agreement, but their inclusion might have once again unnecessarily delayed enactment of this important legislation. These matters are still important to me and it will continue to pursue them but this was not the right time.

The swift movement of interstate banking legislation through both Houses indicates just how strong this consensus is. In the 103d Congress, the legislation has received almost unanimous support with only one negative vote cast against it throughout its consideration by both Houses.

This overwhelming consensus demonstrates the widespread understanding that it is high time that we allow our banks to branch into other States. The restrictions on bank branching we have had in place are unprecedented in the industrialized world and must be eliminated if our banks are to remain competitive.

Madam President, the positive impact of interstate banking and branching will be widely felt. Full interstate branching will improve bank efficiencies, ease regional economic slumps, boost consumer conveniences, ameliorate the impact of future credit crunches, and enhance the safety and soundness of the banking industry.

Our banking system will benefit, but most importantly, this conference agreement, when enacted, will be a boon to consumers. Bank customers nationwide will be able to enjoy a fuller range of services available in any State in which their bank operates.

This conference agreement before us today takes into account the many concerns that have been raised about interstate banking and branching over the years. It strikes the proper balance between creating a more efficient national banking system and protecting States rights and the dual banking system. It respects the interests of States by giving them a long transition time and requiring branches to abide by applicable State laws.

The conference agreement contains safeguards to preserve safety and soundness by prohibiting undercapitalized institutions from participating in interstate branching. It meets community needs by maintaining community reinvestment act requirements. It ensures competition and diversity of services by providing safeguards against over concentration of banking assets in any one State.

Here is the crux of the conference agreement: Just 1 year after this conference agreement is enacted, a banking organization will be able to operate banks in any or all of the 50 States just 1 year after enactment. Three years after enactment, a bank will be able to establish branches outside its home State, if the State in which the branches would be located permits it. Foreign banks will have comparable authority to domestic banks to establish interstate operations.

SPECIAL OLYMPICS COINS

There are several additional provisions of the conference report I would like to mention briefly. First, the agreement authorizes the minting and issuance of several commemorative coins. One of these coins—which is of particular importance and significance to me—will commemorate the 1995 Special Olympics World Game to be held July 1 through July 9, 1995, in New Haven, CT. The funds raised by a surcharge on commemorative $1 coins will be used to help fund the cost of the games—the largest sporting event in the world in 1995. The games are a world-class competition which will provide an opportunity for very special athletes to demonstrate their talents, dedication, and courage. The coin incurs no net cost to the Government.

Second, I would like to address two provisions that have aroused much controversy and resulted in some opposition to what is otherwise a noncontroversial bill.

STATUTE OF LIMITATIONS/REVIVAL OF CLAIMS

One of my colleagues is very upset about the provision of the conference report—unrelated to interstate banking and branching—that will effectively extend the statute of limitations for tort claims brought by the FDIC and the RTC. The provision is a compromise proposal, put forward by the other body, that narrows the scope of the provision that was attached to the interstate banking bill on the Senate floor. It will allow the FDIC and RTC to revive expired claims involving fraud and intentional misconduct.

I know we will have the opportunity to debate this issue more fully. However, I would just like to take a minute to try and put this matter in perspective. We have debated the issue of extending the statute of limitations and reviving expired claims many times over the last 5 years. The compromise contained in the conference agreement—a rather extraordinary provision allowing for the retroactive revival of expired claims—is very similar to the compromise that has been struck on several other occasions. It is no better and no worse.

The provision has been widely mischaracterized. It is a true compromise that gives both sides something but does not in anyway take away existing authority from the Government to pursue S&L wrongdoers. It enhances the regulators' ability to recover losses from failed financial institutions—maybe not as much as some would like—but it certainly will not hinder the RTC's or FDIC's ability to pursue claims.

While some of my colleagues might not view it as the ideal solution, it is a balanced compromise that is certainly not a reason to vote against or block this very important banking legislation that has been so many years in the making.

TEXAS HOMESTEAD PROVISION

The other part of the conference report to which a few of my colleagues object, would reverse an Office of Thrift Supervision [OTS] regulation that has preempted the so-called homestead provision of the Texas State Constitution. The Texas Constitution prohibits a lender from requiring a borrower to use his or her homestead as security for many types of loans.

This is a very controversial matter within the State of Texas and while I understand that there are strongly held views on both sides of the issue, I would hope that my colleagues would not allow this provision of the conference report to doom the whole interstate banking bill. The conferees struggled with this issue and it was not an easy decision but I'm sure we will have other opportunities to address it.

In conclusion, the wider economic benefits that interstate banking and branching will bring are too important to delay any longer. Full interstate banking and branching authority will cushion the impact of future credit crunches by bringing badly needed capital to impacted region from other parts of the country. Past bank failures and regional economic slumps might have been prevented if banks had been able to hold loan portfolios with greater geographic diversity that interstate banking will provide.

This conference report is well crafted and establishes a sensible and consistent approach which will promote bank efficiency and growth. We have reached an ideal time to act on this enormously critical legislation which will bolster the long term health of our banking system. I strongly urge my colleagues to support this significant change to our current system.

REMARKS ABOUT CHAIRMAN RIEGLE

I would like to take a moment to say a special word of thanks to our outgoing chairman, Senator DON RIEGLE. This may be the last banking bill he manages on the floor of the Senate. Chairman RIEGLE is to be commended for his strong and persistent leadership in bringing this issue before us today.

In recognition of his efforts on this and other important banking legislation over the years, the conferees unanimously voted to name this historic legislation in his and Chairman NEAL's honor. It would certainly be a fitting tribute to him if we could pass this bill now. I can think of no better way to recognize Chairman RIEGLE's great contribution and his successful term as Banking Committee chairman. He has a record of which he can be very proud. I have enjoyed working with him these many years and wish him much future success.

Mr. DOLE. Madam President, today is an important day for the banking

community. We have just passed the Interstate Banking Efficiency Act of 1994. This bill, among other things, will enable bank holding companies to acquire banks in any State 1 year after enactment of this legislation, and generally enable a bank to merge with a bank in another State after June 1, 1997.

I voted for final passage of this bill, but I did so with caution and reserve. Many bank mergers have occurred in the banking community in recent years. And there seems to be a clear trend toward these mergers in an effort to provide customers with one-stop shopping for banking products. With banks mergers, come more financial products available to local customers, more efficient and less-costly administration, streamlining of banking operations across the Nation. And competition. But with it also comes, perhaps the end of an era. The possible dwindling in the number of local neighborhood banks. Banks where you were greeted by someone you grew up with. Banks who knew not only your business, but you as a person. Relationship banking that could make the determination to lend your startup business the necessary capital to expand because of who you were, not because of what your credit history looked like. This type of banking is what creates the fuel for our Nation's economy—the small businesses across the country.

I voted for this package because I believe interstate banking will foster competition, and will provide a more varied array of financial products to the local communities that do not yet have such alternatives. But I do so with the hope, the belief, that the banking community and Congress will not forget to continually strive toward a healthy balance of relationship, neighborhood banking, and one-stop shopping.

I also had reservations regarding how this bill would affect State rights and State laws. Through many discussions, and changes, I now feel comfortable that consideration was given to ensuring that State's rights would not be preempted arbitrarily. Under this bill, States have the option to opt-out of this legislation or opt-in prior to the June 1, 1997, effective date. Interpretations concerning the Federal preemption of State laws will undergo a process that is more accessible to the public for comments, more responsible, and more open than what we have had in the past—especially as it relates to community reinvestment, consumer protection, fair lending, and establishment of intrastate branches.

All in all, I think that this is a good bill. It may not be a perfect bill, nor even an excellent bill, but I believe that passage of this bill was inevitable. Even without this bill, many banks are already merging across State lines. This bill clarifies the procedure and the intent of Congress in this area. And this clarification is very much needed. And for this reason, I support the bill.

Mr. ROTH. Madam President, I rise in support of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. As a conferee on the legislation, I believe that the report shows the excellent work of many Members and their staffs, both in the House and the Senate. I wish to express my appreciation particularly to Chairmen GONZALEZ and NEAL as well as to ranking Republican LEACH on the House side, and to Chairman RIEGLE and Senator D'AMATO on the Senate side, for their courtesy, patience, and understanding with respect to my concerns.

This legislation allows bank holding companies to acquire banks in any State in 1 year. It also allows bank holding companies to consolidate their subsidiaries after June 1, 1997, in any State unless that State has opted out of interstate branching by that time.

Therefore, while this legislation does unconditionally authorize interstate banking, the same cannot be said of interstate branching. Instead, the legislation gives the policymakers in each State a choice whether or not to allow interstate branching in their State.

In this legislation, we do not make that policy judgment for any State. Rather, we have attempted to construct for the States a fair choice. To make the choice fair, the legislation seeks to protect State interests in three different ways:

First, the conference report—unlike the House bill—gives each State an ample timeframe, from the date of enactment to June 1, 1997, to decide whether to opt out of interstate branching. The House bill would have allowed interstate branching to occur even before a State decided, thereby creating additional constituent pressure in favor of State approval. But the conferees rejected that approach, with the result that each State has at least until June 1, 1997, to decide without such additional pressure.

I say that each State has at least until June 1, 1997, in that any State that desires additional time beyond that date may simply opt-out before that date. Then, under the legislation, it may opt-in at any later time it finally decides. This is a point that is not well understood by commentators seeking to provide a simplified explanation of the legislation. But this is, indeed, how the legislation works. The 1997 date is there for a State to act by such time or be deemed to have elected interstate branching. But if a State needs more time to resolve tax or enforcement issues, for example, it may affirmatively obtain as much time as it needs under the legislation. Each State has the power to write its own script.

At our committee markup of the legislation, I had filed an amendment to provide each State 3 years to act. The bill at that time only allowed each State a single year. At that time, several other items were also unresolved, so as part of a compromise on these matters, the chairman agreed to allow each State 2 years to act. Thereafter, various State organizations voiced their support for 3 years and I was pleased to join in a successful effort on the Senate floor to extend the date to June 1, 1997. This fulfills the purpose of my 3 years amendment, which was to provide a State such as Delaware, whose general assembly meets every spring, a minimum of three legislative sessions to address this complex subject.

This was one of the major issues resolved in conference, and I am pleased to say that the prerogatives of the States are protected in the conference report.

The second area where the conference report protects State interests is that of State taxation. In providing each State with a fair choice on interstate branching, the last thing we wanted to do is to create a threat to any State's collection of tax revenues. Of course, there is no way we could guarantee to every State that tax collections in future years would be the same as the current level. We cannot make such a guarantee even if we don't pass this legislation.

However, when we were last on the Senate floor considering this legislation, I was able to secure a provision as part of the managers' amendment that makes clear that the authority of the States to tax as they are taxing today remains undiminished by this legislation. I am pleased that the provision is retained in the conference report.

Remember that the legislation provides a choice for each State regarding interstate branching within its State. It is quite conceivable that not all States will make the same election under this legislation. But no matter what choice a State may make, my amendment makes clear that the taxing authority of the State, whether or not it elects interstate branching, remains undiminished by this legislation. Of course, it is equally appropriate to note that nothing in the legislation augments the tax authority of any State.

It is my purpose in espousing my amendment to preserve the status quo in State taxation not only between all tax collectors and all taxpayers but also to preserve the current equilibrium among individual States. Only in this way can tax considerations, which are so important to States in establishing State policy and to banks in determining their future plans, be reduced so that States and banks may consider the banking merits of interstate branching.

When a bank holding company participates in interstate branching, it does not act as some amorphous glob,

lacking in distinct legal entities. In adopting a method of taxation, a State is not precluded from treating those entities as it chooses, subject, of course, to any Federal and constitutional restraints. The State of Delaware, for example, treats different entities within a bank's corporate structure differently, treating some as part of the bank, some as distinct taxable entities, and some as either, depending upon the election by the taxpayer. Under this legislation, Delaware will have an undiminished claim on the earnings of the entities it hosts and an undiminished right to maintain or create a tax structure which complements such entities.

This, of course, is true for all the States. My amendment assures that their structural decisions need not be driven by tax considerations and that their tax structure not be driven by interstate branching considerations.

Since this legislation neither decreases nor increases the taxation authority of the States but leaves it where it is today, banks wishing to consider interstate branching will be able to do so more on the basis of banking factors and less on the basis of tax factors. It should be noted, therefore, that my amendment not only protects State interests but taxpayer interests as well.

The third area where State interests are preserved concerns the interstate extension of credit. As members of the Senate Banking Committee will recall, I was the original sponsor of the savings clause in this legislation that provides that nothing in the bill affects section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act. The Senate Banking Committee included the savings clause in the bill reported by the committee and I am pleased to note that the House and Senate conferees have agreed to adopt this provision.

The credit card industry is a very significant component of the economy of Delaware and the United States. Today, without nationwide interstate branching, a bank that provides credit across State lines may, under section 5197 of the revised statutes and section 27 of the Federal Deposit Insurance Act, charge interest allowed by the State where the bank is located. This is true today even if the bank providing the credit is part of a multistate bank holding company.

Thus, if a Delaware bank that is a subsidiary of a bank holding company provides credit to a customer who lives in a second State where another subsidiary bank of that same bank holding company is located, the Delaware bank may collect Delaware loan charges from borrowers in that second State because the bank is located in Delaware, not in the second State.

Now suppose that under this legislation the Delaware bank and the bank in the second State are merged into a single bank with branches in the two States. Can the branch of the consolidated bank that is located in Delaware still collect Delaware loan charges from borrowers in the second State? I raised this question at hearings on the interstate branching legislation last year. At that time the legislation did not include the savings clause.

As part of the hearing record, the FDIC responded in writing to my question that it was uncertain whether interstate branching might adversely affect the right of a Delaware bank to collect Delaware loan charges from borrowers in other States in which the Delaware bank might establish branches. The FDIC response indicated that provisions of the legislation could be interpreted to mean that Congress intended these bills to prohibit exportation of interest rates by an out-of-State bank—the Delaware bank, in my example—into a State in which it operates a branch, thereby restricting 12 U.S.C. 85 and 1831d—the provisions embraced by the savings clause. Moreover, the FDIC said: "It could be argued that Congress intended any bank choosing to operate a branch in another State to be subjected to that State's interest rate limitations. * * *"

This response greatly concerned me. I immediately began to take steps to address this potential threat not only to Delaware's credit card industry but to all banks that extend credit to borrowers who reside outside the State where the bank or, under this legislation, the branch making the loan or other extension of credit is located.

In order to ensure that banks providing credit to out-of-State borrowers would be unaffected by structural changes brought about by interstate branching legislation, I offered the savings clause in committee, and it is now part of this conference report.

The essential point of my amendment is that a branch of a bank that provides credit across State lines may impose its State law loan charges even though there is a branch of that same bank in the State of its customer. The savings clause is intended to preserve this efficiency of uniformity from the credit-provider's viewpoint, notwithstanding formal or structural changes that may occur through mergers within a bank holding company under this legislation. Essentially, the Delaware branch of a bank providing credit remains located in Delaware even if, through a branch, it may be argued that the bank is also located in the State where the borrower resides. The savings clause means that the establishment of a branch in the borrower's State does not defeat the powers that a Delaware bank enjoys today under section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act. Of course, the savings clause is not intended to suggest that when a branch makes a loan to a borrower who resides in the same State as the branch that somehow the branch can use section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act to impose the loan charges authorized by the laws of some other State. When the branch makes such an in-State loan to a local customer, the law of the State where the branch and the customer are located applies.

The statement of managers expressly refers to the potential of a "branch making the loan or other extension of credit * * *" This language underscores the widespread congressional understanding that, in the context of nationwide interstate branching, it is the office of the bank or branch making the loan that determines which State law applies. The savings clause has been agreed to for the very purpose of addressing the FDIC's original concerns and making clear that after interstate branching, section 5197 of the Revised Statutes and section 27 of the Federal Deposit Insurance Act are applied on the basis of the branch making the loan.

Up to this point, I have assumed that the Delaware branch that made the loan performed all aspects of soliciting, processing, approving, closing, and servicing the loan. But that is not always factually what happens. What use may the Delaware branch make of a branch of that same bank located in the borrower's State without causing the law of the borrower's State to apply? On this point, the analysis of the conferees in fashioning section 101(d) is instructive. This section provides agency authority for banks and, in some cases, savings associations as well.

The conferees were very careful in drafting this agency authority, whereby one bank may use an affiliated bank in another State as its agent with respect to some, but not all, aspects of an interstate loan. What the conferees intended was to allow the principal bank in State A to use an agent bank in State B to assist with deposits and loans in a way that the law of State A would be applicable even though the agent bank in State B helped in some respects. The statement of managers correctly characterizes these permissible functions of the agent as "ministerial." Excluded from the ministerial category are the decision to extend credit, the extension of credit itself, and the disbursal of the proceeds of a loan. The House bill had provided for the disbursal of proceeds within the agency authority, but as the statement of managers points out, the conferees deleted this particular authority and substituted the servicing of the loan.

The rationale for this conference amendment is that the actual disbursal of proceeds—as distinguished from delivering previously disbursed funds to a customer—is so closely tied to the extension of credit that it is a factor in

determining, in an interstate context, what State's law applies. Thus, the conferees made certain that such factors were excluded from the agency authorization. In contrast, "ministerial functions * * * such * * * as providing loan applications, assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information * * * and receiving payments * * *" were all included within the authorization, according to the statement of managers.

When one combines the choice-of-law analysis contained in section 101(d) with the savings clause, it is clear that the conferees intend that a bank in State A that approves a loan, extends the credit, and disburses the proceeds to a customer in State B, may apply the law of State A even if the bank has a branch or agent in State B and even if that branch or agent performed some ministerial functions such as providing credit card or loan applications or receiving payments.

Were it any other way, that is, if the branch in State B could not perform at least the ministerial functions of an agent in State B without affecting the authority of the bank in State A to apply the law of State A to the extension of credit to a customer in State B, then Congress would have constructed a significant disincentive to nationwide branching in authorizing agency powers for bank holding companies that do not elect to engage in interstate branching. Such a view misunderstands the basic purpose of the interstate branching provisions of this legislation.

Thus, it is clear that a branch of a multistate bank located in State A that approves a loan application and extends credit to a customer in State B where the bank also has a branch may, under the savings clause, impose loan charges allowed by the law of State A and may, without affecting the applicability of State A's law to such charges, use its State B facility to perform some ministerial functions regarding such extension of credit.

In conclusion, Madam President, this legislation is well-drawn. It provides for interstate banking and erects a framework for the States to decide on interstate branching. It is, for the most part, free of unrelated mischief such as has dogged efforts in the past. Again, I would like to thank Senator RIEGLE, Senator D'AMATO, and other members of the committee who were supportive of my concerns.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—94

Akaka	Glenn	Mikulski
Baucus	Gorton	Mitchell
Bennett	Graham	Moseley-Braun
Biden	Gramm	Moynihan
Bingaman	Grassley	Murkowski
Bond	Gregg	Murray
Boxer	Harkin	Nickles
Bradley	Hatch	Nunn
Breaux	Heflin	Packwood
Brown	Helms	Pell
Bryan	Hollings	Pressler
Bumpers	Hutchison	Pryor
Burns	Inouye	Reid
Byrd	Jeffords	Riegle
Campbell	Johnston	Robb
Coats	Kassebaum	Rockefeller
Cochran	Kempthorne	Roth
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Coverdell	Kerry	Shelby
Craig	Kohl	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Smith
Daschle	Levin	Specter
Dodd	Lieberman	Stevens
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Exon	Mathews	Wellstone
Faircloth	McCain	Wofford
Feinstein	McConnell	
Ford	Metzenbaum	

NAYS—4

Boren	Dorgan
DeConcini	Feingold

NOT VOTING—2

Chafee	Hatfield

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. RIEGLE. Madam President, after the majority leader has spoken, I will make some comments about the bill, and I want to recognize the appropriate staff. I will do that at the conclusion of the majority leader's remarks.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I have had the opportunity to consult with several Members and staff on the remaining matters to be taken up. I will, based upon those discussions, now propound a unanimous-consent request.

I ask unanimous consent that the Senate convene tomorrow, Wednesday, at 9 a.m.; that there be 10 minutes for morning business, and that Senator ROTH of Delaware be recognized to address the Senate for those 10 minutes; that at 9:10 a.m., the Senate proceed to executive session to consider executive calendar No. 1140, the nomination of Adm. Henry H. Mauz, Jr.; that there be 2 hours for debate on that nomination, equally divided and under the control of Senators NUNN and MURRAY; that upon the use or yielding back of the 2 hours, Senator MURRAY be recognized to make a motion to recommit the nomination if she so desires at that time; that if Senator MURRAY elects not to make a motion to recommit, or if a motion to recommit is made and not agreed to by the Senate, then the Senate proceed to vote on the Mauz nomination; and that if the nomination is confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session and proceed to the period of morning business as provided for under the provisions of a previous unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, I am advised by Republican staff that there is one Member who has to be consulted prior to this, and, therefore, I withhold the request just presented until such time as that consultation can occur.

I understand that the Senator from Michigan wished to address the subject of the previously passed banking bill. Therefore, I will now defer to him in the hope that if we are able to get this cleared during his remarks he would permit me to propound the request.

Mr. RIEGLE. I thank the majority leader and I will suspend at any time that he is ready to make that request to the Senate.

The PRESIDING OFFICER (Mrs. BOXER). The request is withheld.

The Senator from Michigan is then recognized.

THE INTERSTATE BANKING BILL

Mr. RIEGLE. Madam President, thank you very much. I thank all Senate colleagues for the vote that was just taken. The interstate banking bill that we had before us was passed by a vote of 94 to 4. That is about as close to a unanimous vote as we often get here in the Senate, and I think it shows very strong bipartisan support for this legislation, and for that I am most appreciative.

This will be the last major piece of legislation that I bring to the Senate floor, having served now as chairman of the Senate Banking, Housing, and Urban Affairs Committee for the last 6 years.

During that period of time we had an extraordinary number of major legislative items to deal with. It would not

have been possible to do that work successfully without very important bipartisan cooperation, first with Senator Garn, who was my ranking member, and then Senator D'AMATO and my colleagues, Democrats and Republicans, on the committee. I want to make comments about that, but I want now to pay particular attention and tribute to the staff members who have assisted me and the committee not just on this landmark measure just passed, but on a succession of bills over the past 6 years, that I will touch on a little bit later.

With reference to today's interstate banking bill and the successful 94 to 4 passage vote, I particularly want to thank Mr. Pat Mulloy, who is seated here with me. He has worked tirelessly over a long period of time to ensure the enactment of this legislation, and he has done an outstanding job.

Major contributions were made by many others; Kay Bondahagen, Tim McTaggart, Marty Gruenberg, Courtney Ward, and Cindy Lasker, among them.

As with every piece of legislation that we have enacted during my chairmanship, this bill was crafted on a bipartisan basis.

The Republican staff, now under the direction of Senator D'AMATO, earlier Senator Garn, is at present extremely ably led by Howard Menell. It was our great good fortune to have him assume that position when Senator D'AMATO took over and, together with Ray Natter and Laura Unger, along with Frank Polk and J.C. Boggs of Senator ROTH's staff, they deserve special thanks and commendation for their work on this bill and others as well.

I also want to recognize the individual efforts of a number of other staff who have been extraordinarily helpful to me in this session, both on the CDFI bill and now the interstate banking bill. CDFI stands for community development and financial institutions. They include Chuck Marr, Christan Givhan, Jonathan Winer, Andy Vermilye, Michele Jolin, Mark Engman, Bill Mattea, Jim Jones, and Rob Mangas on the Democratic side, as well as Wayne Abernathy, Maggie Fisher, Jon Kamarck, Buz Gorman, Glen Downs, Robert Cresanti, and Denise Ramonas on the Republican side.

I want to continue, but I will digress for a minute to say a lot of the times when people see, for example, I think of the breakdown of the process along partisan lines—we have not had that in our committee over the last 6 years, and I am very proud of that fact. I am proud of the fact that I can stand here and salute Members on both sides of the aisle—both Members and staff—for that kind of bipartisan cooperation. It is the way the system ought to work, and it has worked that way in our committee.

I want to now take a little time to pay special tribute and thank other members of our committee staff who have been so extraordinary in their efforts and instrumental in enabling my period of chairman in the last 6 years to be a particularly productive one for the committee.

I want to touch on some of those items, and I will suspend if the majority leader needs to take the floor.

Looking back to our first efforts in 1989, we passed the historic Financial Institutions and Recovery, Reform and Enforcement Act to deal with the problems of the thrift industry. That was an enormously complex task. It was my opportunity to serve as the conference chairman there, and with the help of HENRY GONZALEZ on the House side and Members on both sides we got that job done.

In 1989, though, we also passed and saw enacted into law the HUD Reform Act, an important piece of legislation; the Export-Import Bank Tied-Aid Credit; the Anti-Terrorism and Arms Export Control Act; the Defense Production Act Amendments of 1989; and the Export Administration Act, also of that year.

Then in 1990, the committee enacted and the President signed into law some major securities legislation, including the Securities Act Amendments of 1990; the Market Reform Act; the Securities Law Enforcement Remedies and Penny Stock Reform Act; as well as the historic National Affordable Housing Act. The committee was also active with respect to the Budget Reconciliation Act and the Omnibus Crime Act.

So 1990 was also a very full, productive, year for us. These are major items. I will not take the time to elaborate on them here now.

In 1991, we again passed major legislation in the banking area with the Federal Deposit Insurance Corporation Improvement Act, another major piece of legislation. We, as well, enacted the Defense Production Act Extensions of 1991, and the Intermodal Surface Transport Efficiency Act of that same year.

In 1992, we enacted the historic Housing and Community Development Act, as well as the Federal Housing Financial Safety and Soundness Act. In that year we also took to enactment the Anti-Money Laundering Act; the Export Enhancement Act; the Defense Production Act Amendments of 1992; and the Depository Institutions Disaster Relief Act of 1992. All of these were major items.

In 1993, the Senate again took the lead in funding the RTC, and we saw enacted the Government Securities Act Amendments of that year; the Limited Partnership Rollup Reform Act; the Depository Institutions Disaster Relief Act; the HUD Demonstration Act; and the Multifamily Housing Act.

Of course, this year we have just passed what I am proud to say carries my name, the Riegle Community Development and Financial Institutions Act, now awaiting the President's signature. And today we have passed here the Interstate Banking bill known as the Riegle-Neal Interstate Banking bill.

Again, I am very proud to see that matter moved to conclusion and now ready for the President's signature.

So in every major area within our committee's jurisdiction—consumer protection, banking, savings and loan, securities, credit unions, financial institutions, deposit insurance, export and foreign trade promotion, and housing and urban development, to name several major areas—we have enacted into law over these last 6 years landmark legislation.

I believe we could now say that the financial services industry today is much safer and sounder and far better capitalized than the one that we were dealing with back in 1989 when the staff and I and the current membership started down this track under my chairmanship. I think it is also fair to say that the American taxpayers are now much better protected with respect to our financial services institutions and our deposit insurance system than they have been in many, many years.

I also want to say that I am especially proud of the record of the committee in the area of consumer items. I have given particular attention to that. Members like Senator METZENBAUM and others have cared greatly about that and have assisted us.

But during the 6 years of my chairmanship, we have amended the Community Reinvestment Act to require public disclosure of CRA ratings; amended the Home Mortgage Disclosure Act to require all insured depository institutions and mortgage banks to maintain logs showing the race, income, and census tract of all mortgage borrowers and applicants; and included in the Federal Deposit Insurance Corporation Improvement Act an amendment requiring banking regulators to refer lending-discrimination cases to the Justice Department and the Department of Housing and Urban Development.

Anybody who has been reading the financial pages recently knows that the Justice Department has been taking action in specific cases to bring to bear remedies in the cases where mortgage discrimination and other discrimination has been taking place. It cannot be tolerated, and these laws, duly on the books and being enforced, are making a difference.

In addition, we passed the Truth-in-Savings Act as part of the Federal Deposit Insurance Corporation Improvement Act in 1991. The Truth-in-Savings Act requires uniformity in the calculation of interest payable on deposits to individual savers in insured depository institutions and prohibits a variety of

deceptive calculation practices that have been in widespread use prior to that time.

The Federal Housing Enterprise Safety and Soundness Act significantly expands the mandate of Fannie Mae and Freddie Mac to serve low- and moderately low-income families in inner city neighborhoods by setting specific annual housing goals.

We also amended the Truth-in-Lending Act to provide enhanced consumer protections for certain home equity loans with extremely high interest rates or up-front fees. This legislation also created a special disclosure for reverse mortgages in order to ensure that elderly borrowers, who typically enter into such transactions, are aware of the risks involved.

And in May 1994, the Senate passed the Consumer Reporting Reform Act, which amends the Fair Credit Reporting Act, to comprehensively reform regulation of the credit reporting system.

This is just a partial list.

I might say that earlier in the community development banking bill, we also had several additional items in there. One is to provide for the securitization of small business loans. And that is a matter that, as time goes on, I think will bring a whole new source of capital out of the capital markets and down into loan opportunities and business startup nurturing in our inner cities and elsewhere that otherwise would not be possible.

So a lot has been done, and I am very proud of this record.

I am very grateful and proud of the staff that has done so much of the hard work to make this possible. I suppose every chairman feels this way but I think this record on these issues, for people who understand the significance and the consequences of these matters over the timeframe we are talking about would sustain the view that this has had to be the best professional staff of any committee over this period of time. Certainly, the challenges were the most daunting and difficult, and they have been met one after the other.

There have been a number of our staff members who have moved on over this period of 6 years, but I am extremely grateful to all of them, from the beginning up to the present day.

Extraordinary contributions were made by, among others, Kevin Gottlieb, Don Campbell, Richard S. Carnell, Konrad Alt, Bart Dzivi, Gillian G. Garcia, Darina McKelvie, Kevin Chavers, and Matthew D. Roberts, as well as Bruce J. Katz, Larry Parks, Martha L. Cochran, Lory Breneman, Deborah DeYoung, Cheryl A. Fox, Eileen Gallagher, Taegan D. Goddard, Patricia Hamel, Tara S. Law, Ted Rozeboom, Kim Leslie Shafer, Nancy D. Smith, Michael J. Stein, Laura S. Trachtman, and Angela Chiu.

I also am especially grateful and deeply appreciative to Sharon Heaton, Ken Jarboe, and Jim Tuite, who have all worked in different ways on a number of special matters that I will not enumerate here. They have done exceptional and outstanding work.

So I am very grateful to all of these individuals that I have named. I think around here, people like the ones I am naming, who do not get heard about or get the recognition they deserve, are essential to the work that goes on here that makes such a difference for our country.

Finally, I want to talk about one additional group this year, and stretching back beyond this year, but particularly the productiveness of this year: Mitchell Feuer heads that list; Mark Kaufman, Glenn Ivey, Sarah Bloom-Raskin, as well as Jeannine Jacokes, Clem Dinsmore, Tammy Boyer, and Pat Lawler, who for the past 6 years has done an excellent job as our chief economist and been involved in so many important issues. Ed Malan has done a superior job as the committee's editor, and I would also like to recognize the superb contributions of Sharon Bauman and Elizabeth Rozman, as well as Sarah Frazier.

Finally, saving the most important person for last, I want to thank—and I feel a lot of emotion about this—my friend and my staff director and chief counsel, Steve Harris. Steve is an amazing individual. Steve comes from a very distinguished family. He has carried the traditions of his family, his father, in a way that is truly exceptional. I do not know anybody who works as hard or as long or as well, day in and day out, weekends, through holidays, whatever, and without seeking the limelight. It has always been his practice to give the credit to others, which is a great credit to him. There is no way in the world that we could have done this work over this period of time without the extraordinary leadership and skill and tireless effort of Steve Harris. So I thank him and all the rest of the staff.

So, with that, again, it is a major bill we have passed today. I want to thank all of my colleagues for their help and support. A lot has been done, and we look forward to other challenges ahead.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. First of all, let me commend our distinguished chairman, Senator RIEGLE, the chairman of the Banking Committee, for his efforts on this piece of legislation.

But I would also like to make note, Madam President, that, barring some other circumstance, which this Senator would not be opposed to at all, this may be the last major piece of legislation coming from the Banking Committee in this session of Congress.

I would just like to take a moment to express my deep gratitude, as a member of the Banking Committee, for the leadership of Senator RIEGLE over these past number of years. As a member of his committee, on countless occasions, all of us have our own particular matters of interest. And the job of a chairman is not an easy one, to try to sort out those desires of each of the members of the committee and to try to fashion pieces of legislation to serve the entire Nation. But DON RIEGLE, Chairman RIEGLE, has done that with great success, great fairness, and great equanimity over the years.

And so today, we celebrate the passage of what I think is a very good piece of legislation. I am proud to have played a small part in the drafting of it; in putting it together. I know from time to time I was probably a source of some frustration on a variety of issues that we dealt with, but we all have our points of view and concerns.

I say to my good friend from Ohio, who I am looking at here, we have had our disagreements, honest ones, about what was in the best interest of the country. But, nonetheless, I think we have put together a good bill here.

It is a reflection, Madam President, of the chairman's work over the years. This is not the only example of his good work. It may be the last example of his good work from this committee.

If so, I think all of us in this body, regardless of political persuasion or ideology, whether or not we voted for or against this bill, owe the Senator from Michigan a deep, deep expression of gratitude for his work over many, many years in the U.S. Congress. His presence, his thoughts, his compassion, and his conviction will be missed and the American public will be less well served in many ways because he is not a part of this deliberative process. My commendations to him, my thanks to him, and my best wishes to him as well.

Madam President I would like, if I could, to make a statement. I know my colleague has a matter of some import he would like to address. Let me yield. I have a couple of other matters. I do not know what the order of business is here, but I do have a couple of matters I would like to address regarding Haiti, as well as the situation in Northern Ireland, if I could.

The PRESIDING OFFICER. If the Senator would like to make a unanimous consent request that immediately following the remarks of the Senator——

Mr. DODD. Madam President, I ask unanimous consent immediately following the remarks of the Senator from Ohio that I be recognized for 15 or 20 minutes—up to 20 minutes—on the two matters I have expressed interest in, on Haiti and Northern Ireland.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. I have no objection, but I will seek recognition after the request is granted.

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

The Senator from Ohio.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, a short time ago I propounded a unanimous-consent request under which the Senate would come into session at 9 a.m. tomorrow. Senator ROTH would be recognized for 10 minutes in morning business. At 9:10, the Senate would take up the nomination of Admiral Mauz. There would be 2 hours for debate on that nomination equally divided and, upon the use or yielding back of those 2 hours, Senator MURRAY would be recognized to make a motion to recommit the nomination if she chose to do so at that time; that if she decided not to make such a motion or if she did make such a motion and it was not agreed to by the Senate, then the Senate would proceed to vote on the nomination of Admiral Mauz; and that following disposition of the nomination, the Senate would then have 7 hours of morning business with the time equally divided and under the control of myself and the minority leader.

Now, Madam President, I renew that request.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, there has been some confusion on the exact procedure for tomorrow's business. I certainly understand and respect the rights of the Senator from Washington to seek to vote.

However, during the last vote, it was fairly widely disseminated among Republican Senators that there would only be one vote. So many Senators, including the Republican leader, have made plans on that basis.

It comes now somewhat as a surprise that there possibly could be two votes on this. The suggestion has been made that the vote on the motion to recommit be considered the vote on this nomination. We assume that a second vote on confirmation would be identical to the vote on the motion to recommit. Members who voted to recommit would be those who voted against the nomination so it would not affect the outcome of the vote.

However, because the second vote places certain Members, including the Republican leader, in a difficult situation from a time standpoint, I would be constrained to object to that request.

The PRESIDING OFFICER. Objection is heard to the unanimous consent request.

The majority leader.

Mr. MITCHELL. Madam President, I regret the objection.

First, let me say that, although I have not been personally involved in this matter, I have understood for weeks since this matter first came up that Senator MURRAY was considering a motion to recommit the nomination. I regret it has come as a surprise to anyone and that is possibly the lack of communication on our part. But I have been aware of that for some time.

Second, I think it should be clear there are other Senators besides Senator MURRAY who have an interest in this matter and who believe it should be thoroughly explored.

Third, the result of the objection will be that we could still have the same number of votes but at an uncertain time. I am going to be here so it is not a matter of my personal convenience, but I think that leads to greater inconvenience for a large number of Senators.

Unless our Republican colleagues intend to filibuster the nomination to delay any votes from occurring tomorrow, which I do not think they want to do because I think most of them support the nomination, then we are going to be in the position of maybe having one vote or two votes—I do not know how many—after 11, which makes it less convenient for a larger number of Senators. I repeat it makes no difference to me. But I was just trying to accommodate as many colleagues as possible.

Finally, let me say Senator MURRAY has merely reserved her right to make a motion to recommit. She has not said she will do so. She has presented some questions in writing. I understand she is awaiting or has just received the answers to those questions and appropriately wants the opportunity to review them before deciding on how best to proceed. So I understand the reason for the objection but I think it is unfortunate that it produces a result that is less convenient for a large number of Senators.

What I would like to do now is to propose that the 10 minutes of morning business for Senator ROTH, who has just spoken to me and indicated he would be agreeable to doing that this evening following Senator DODD's remarks—that that be accomplished so he be convenienced and the time be saved tomorrow. So, first, I ask unanimous consent that upon the completion of Senator DODD's remarks, which I understand will follow those of Senator METZENBAUM——

Mr. METZENBAUM. Mr. Leader, I have no problem about yielding to Senator DODD. But I have another matter that I wish to bring to the attention of the Senate.

Mr. MITCHELL. And the Senator was waiting.

Would it be agreeable to Senator ROTH to go after Senator METZENBAUM?

Mr. ROTH. May I ask how long that would be?

Mr. METZENBAUM. I would say 10 to 12 minutes.

Mr. ROTH. No objection.

Mr. MITCHELL. Then, Madam President, am I correct in my understanding that Senator DODD has obtained consent that he be recognized to address the Senate for a specified period of time following the conclusion——

Mr. METZENBAUM. Following my remarks concerning Senator RIEGLE.

The PRESIDING OFFICER. That is correct, Senator DODD has 20 minutes following Senator METZENBAUM's remarks.

Mr. MITCHELL. Then I ask unanimous consent that following Senator DODD's remarks, Senator METZENBAUM be recognized to address the Senate as in morning business for up to 15 minutes?

Mr. METZENBAUM. Ten minutes—fifteen minutes. I will not take that much.

Mr. MITCHELL. For up to 15 minutes. That following Senator METZENBAUM's remarks, Senator ROTH be recognized to address the Senate for up to 10 minutes.

The PRESIDING OFFICER. Is there objection to that unanimous-consent request?

Mr. COATS. Reserving the right to object, and I will not object to that request.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I am wondering if the majority leader wants to include in that request a start time for tomorrow for the Mauz nomination debate. Since Senator ROTH will speak this evening, it may be we can advance the beginning times or release some of the time that was reserved for Senator ROTH and that would help expedite the schedule.

Mr. MITCHELL. I was going do that next, but it is so hard to get these agreements. I find it is somewhat better to do them a little bit at a time.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I would like to renew the request I made.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, and I will not object. I just want to explain to the majority leader, I wish to take 5 or 7 minutes to speak about Senator RIEGLE. Immediately thereafter, it is my understanding Senator DODD wishes to speak and has time, 15 or 20 minutes. Subsequent in time to that, I intend to speak on the subject of baseball. I am not sure under the unanimous-consent request that has been provided for.

Mr. MITCHELL. Yes, I have just provided for that, up to 15 minutes.

Mr. METZENBAUM. On baseball?

Mr. MITCHELL. Yes, on any subject you would like. And then following

Senator METZENBAUM's remarks, Senator ROTH will be recognized to address the Senate as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Is there objection to that request?

Mr. COATS. Madam President, once again, reserving the right to object and, once again, I will not object, I just want to make the point for the RECORD that, to my knowledge, there is no Senator on the Republican side that objects to the procedures and to the rights that the Senator from Washington has asserted. It is certainly within her right to ask for a motion to recommit. It is certainly within her right to ask for a vote on confirmation. We understand that. There is no attempt by any Senator that I know of to filibuster the nomination. I think most Republican Senators will support that nomination.

We were merely trying to accommodate some Republican Senators, and maybe Democratic Senators, who made plans on, apparently, a misunderstanding believing that there would be just one vote. They have made those plans accordingly and some may have already left the Chamber and are leaving town on that basis.

The feeling is that to change their understanding of that without at least attempting to move the procedure in such a way that one vote would be sufficient is something that is not acceptable to those Senators. For that reason, that is why an objection was lodged. I will not lodge an objection to the current unanimous-consent request that is before the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I may not object, but I have been waiting now for some time because of the announcement of the Senator from Ohio that he was going to ask for some kind of unanimous-consent request to call up a matter with regard to trust of organized baseball. I intend and want to be here to raise an objection on that when it comes up.

In listening to the discussion, I had assumed that the Senator from Ohio would be making that request in the next few minutes. I am now advised that that request on baseball might follow all of the other unanimous-consent requests for time for speeches.

I would simply like at this time, if anyone could advise the Senator from Nebraska as to how long am I going to be detained here, because I am not leaving town early, but how long I will be detained here this evening to accommodate everyone else so that I might have the opportunity to object when the Senator from Ohio makes his remarks?

Mr. MITCHELL. Madam President, under the proposed agreement, Senator METZENBAUM will be recognized to address the Senate with regard to Senator RIEGLE for up to——

The PRESIDING OFFICER. Fifteen minutes.

Mr. MITCHELL. No. Is there a prior order with respect to Senator METZENBAUM speaking on Senator RIEGLE, parliamentary inquiry to the Chair?

The PRESIDING OFFICER. There is no order yet. But your request was for 15 minutes.

Mr. MITCHELL. No; no.

The PRESIDING OFFICER. The Chair stands corrected.

Mr. MITCHELL. I amend my request. In addition to the speaking times previously proposed, I ask unanimous consent that upon the completion of my remarks and the other consent request I will make, Senator METZENBAUM first be recognized to address the Senate regarding Senator RIEGLE for up to 5 minutes; and that thereafter, the remainder of my request be in effect; and that is, Senator DODD for 20 minutes, Senator METZENBAUM for 15 minutes, Senator ROTH for 10 minutes.

If that is agreed to then, as soon as I can get these orders approved, the Senator from Nebraska will have to wait 35 minutes. So there will be 5 minutes with respect to Senator RIEGLE, 20 minutes for Senator DODD, that is 25; up to 15 minutes for Senator METZENBAUM. A maximum of 40 minutes.

Mr. EXON. I thank my friend. I recognize the difficulty that the leader has. I simply remind the leader and the Senate, once again, having served here for 16 years, I never, ever have been involved in any discussion to say you cannot have more than one vote tomorrow because Senator EXON does not want it. I think that we are deteriorating this place to the situation where it is almost impossible to get anything done.

But in my usual spirit of cooperation, I will be here for 45 minutes, or 1 hour and 45 minutes and I will be here tomorrow without any special attention to be given to the Senator from Nebraska. I only wish some of my colleagues could take a similar view just once in a while. I thank the leader.

Mr. MITCHELL. I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF ADM. HENRY H. MAUZ, JR.

Mr. MITCHELL. Madam President, I now ask unanimous consent that at 9 a.m. tomorrow, the Senate proceed to executive session to consider Executive Calendar No. 1140, the nomination of Adm. Henry H. Mauz, Jr.

The PRESIDING OFFICER. Is there objection to that request? Without objection, it is so ordered.

Mr. MITCHELL. Madam President, let me say finally with respect to the Senator from Indiana, I devote a great deal of time and effort to try to accommodate as many Senators as possible. But every Senator knows that one cannot make decisions on travel until an agreement has been reached. I have just spent 20 minutes trying to get an agreement merely lining up four speeches tonight, not any substantive business, just trying to get four speeches. So anybody who decided to leave on the basis of some expectation does so at his or her own risk.

Finally, let me say that I already announced earlier that there would be no votes on Monday of this week and that there would be no votes after 2 p.m. on Wednesday of this week. So the only time the Senate is in session and voting this week is on Tuesday and Wednesday up until 2 p.m. While I like to be as accommodating as possible to everybody, when we shrink the work week for voting down to 1½ days and then someone says, "Well, that's too long a period, we have to shrink it even further to 1 day," it makes it difficult to proceed on this business.

We want to be accommodating. My hope, frankly, is that tomorrow morning, in less than 2 hours, we can dispose of the Mauz nomination and then all Senators who wish to do so can meet their other commitments and we can proceed to the morning business.

I am going to continue to try to accommodate as many Senators as possible but to do so in a manner that permits us to meet our responsibilities and get this done.

Mr. COATS. Will the majority leader yield for an observation?

Mr. MITCHELL. Yes.

Mr. COATS. I appreciate the immense frustration and difficulty of scheduling the majority leader has to undergo practically every day that the Senate is in session. It is fair to point out, however, that the reason the Senate is not in full session this week is that there is a Jewish holiday and we will be breaking for that. We are all, on both sides on this issue, attempting to work out what is best for most Senators, and sometimes that does not always get reconciled in a decision that benefits all.

But, hopefully, in the spirit of cooperation, both sides can work together tomorrow to expedite the debate and to, if possible, have one vote; if not, two votes; but that others will not be unduly inconvenienced.

I do, however, appreciate the majority leader's immense difficulty in setting schedules. I hope it did not have anything to do with his decision to leave the Senate. I was taken by his remark that were he to become Commissioner of Baseball, he would have a 70-percent reduction in frustration in terms of the number of individuals he had to accommodate.

Mr. MITCHELL. I thank my colleague for his generous comments.

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, there will be no further rollcall votes this evening. We will now proceed in accordance with the series of orders earlier obtained, and we will try tomorrow morning again to reach an agreement on disposition of the Mauz nomination in a manner that is both consistent with giving full opportunity for Senators to discuss it and debate it and vote on it and also to accommodate as many people as possible.

I especially want to thank the distinguished Senator from Washington, Senator MURRAY, for her patience and cooperation in this matter.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized for 5 minutes.

TRIBUTE TO SENATOR RIEGLE

Mr. METZENBAUM. Madam President, when I was first elected to the Senate, I met a young fellow by the name of Senator Don RIEGLE. We came to this body together. We have been friends, and we have worked together over that period of time. We never had any disagreements.

Then about 6 years ago, he took on the leadership of the Banking Committee. I want to say that I do not think any chairperson of any committee has ever been more effective, more concerned, more willing to address himself to the issues of the Banking Committee and their responsibilities than has Senator RIEGLE.

There were many occasions when the opportunity for disagreement between him and me was present, but we worked it out, and I think much of that had to do with the fact he shared many of the same concerns I had about protecting the lenders, borrowers, the consumers, those who need protection and do not get protection unless the laws of the United States provide for it.

He has had legislation in the area of banks, savings and loans, the mortgage industry, the SEC—as a matter of fact, in every segment of the financial industry.

Many times, I had found that what he was proposing or advocating caused me some concern, and with no exception, during all of the 6 years of his leadership, we have worked it out and I think, to the best of my recollection, we have always been on the same side.

Don RIEGLE has recognized his responsibility to the industry and his supervision of the laws pertaining to the industry, but he has not forgotten the consumers of this country or the depositors of this country. He has been sensitive to their concerns and has tried to be helpful in enacting legislation. He has not always succeeded, just as none of us in this body always succeed. But with no exception, he was always on the side of seeing to it that those who did business with the financial industry were treated fairly and honestly by the industry itself.

When it came to issues such as mortgage discrimination, which did exist in this country, he played a leadership role. When it came to the Truth in Savings Act, he played a leadership role. I could stand here for the next 15 minutes, even though I only have 5 minutes allocated to me, to talk about all the different pieces of legislation, including the Interstate Banking Efficiency Act that was enacted today. He was willing to stand up against very powerful interests who brought great pressure, such as on the issue that was discussed earlier today having to do with the right of the Government to sue savings and loan officers and directors. He has always been on the right side.

So I say that the Senate will, indeed, lose a giant, and I will lose not a good friend, but I will not see him as often as I see him while we are in the Senate. I wish him well in whatever future career he decides upon, and I express to him on behalf of my colleagues in the Senate, as well as the people of this country, you have paid your dues. You have stood up well. You have fought for the right issues, and the country should be everlastingly grateful to you. Thank you, Senator Don RIEGLE.

Mr. RIEGLE. Madam President, I am sort of overcome by the very gracious remarks of the Senator from Ohio, who has been a mentor in many ways to many of us, not just in our time in the Senate but before that. I am very touched by his remarks.

We have gotten a lot of work done, and I think our laws are stronger and fairer and the people of the country will get a much better and fairer chance to participate within this system. Actually, that is why we all ought to be here, to get that done.

So I am very grateful to the Senator from Ohio for his remarks, and the Senator from Connecticut, who over many long years has had the chance to view this institution and Congress generally, and I feel very proud to be able to associate with them and everyone else in this body.

I thank the Senator.

The PRESIDING OFFICER. The Chair would comment that all the time has just now expired for the Senator from Ohio.

Under the previous order, the Senator from Connecticut is recognized for up to 20 minutes.

Mr. DODD. I thank the Chair.

UNITED STATES INTEREST IN HAITI

Mr. DODD. Madam President, I would like at the outset to express some general thoughts on Haiti, if I may.

It was under the Presidency of George Bush, almost 3 years ago, that a handful of military leaders in the tiny nation of Haiti, only a few miles off the southern coast of our own Nation, overthrew the elected President of that nation and began a reign of terror in that tiny Caribbean country. This illegal and repressive military regime has held onto power in the face of worldwide condemnation, a U.S. naval blockade, and a global embargo on commerce and trade.

Madam President, it has been said over the last several days that Haiti does not deserve to be inflicted with a military invasion, if that option is exercised. Let me state at the outset, I am not enthusiastic at all about such an option. I do not know of anyone who is—certainly not most of the people in this country. But I would also note that we have tried over the last number of years under two administrations now to right a terrible wrong in that country, not just acting alone but in concert with other countries in this hemisphere and around the globe.

We have had countless meetings with organizations, and diplomatic and political efforts, to try to restore a democratic government in that country. We have sought international cooperation to do so. Yet, despite all of those efforts, those handful of people, the military, who hijacked the democracy in Haiti, remain in power.

Many do not think that defending or trying to preserve democracy is a great national security interest. I happen to disagree. I think it is. I think democracy is what most people, if not all, seek to have around the globe as to how they are governed. And certainly, while one does not want to see military power used frivolously or unnecessarily, if we are going to lead in the world at a time when the cold war is over, then I think we are going to have to stand up for those principles where they are threatened or where they have been stolen.

So tomorrow, we are going to have some 7 hours to debate the issue of Haiti and what ought to be done there. But as I listen to some of the people who are talking about this issue, it does not seem to make any difference what happens in Haiti. Let me just remind my colleagues that the wholesale abuse of human rights in this little country is unparalleled in this hemisphere. We have seen other examples of it in the recent past in this hemisphere in places like Argentina and Chile and Paraguay. We have seen it in other nations, in Central American countries. I would love to think that democracy, now that it has been achieved in all but two nations in this hemisphere, all but in Cuba and Haiti, would never again be threatened. Unfortunately, that is not the case. Democracy is a fragile experiment in many nations, and we ought to make sure we are doing everything we can to solidify those democratic gains.

Now, hopefully, that can be done without resorting to military intervention at all. I hope that is not the case. But I also hope that those people who are adamantly opposed to military intervention in Haiti will not simultaneously be offering any kind of comfort to those who stole democracy by suggesting that under no circumstances will this country participate in an effort to try to restore and bring democracy back to that nation, and to give the people of the nation of Haiti a chance to determine their own destiny and their own future.

So in these coming days, I know we are all going to be watching carefully what happens, but I hope the people will exercise some caution, some thought on this matter, rather than just because the polls do not look right, deciding we are not going to do what is right. Had that been the case, President Truman might not have decided to support the Marshall plan.

There have been countless other examples in the conduct of foreign policy that were not popular at a given moment in time but turned out to be the right thing to do. I hope that we remind ourselves here in these coming days that our obligation is to do what is right, not just what the political winds dictate from day to day reading the current polls.

I appreciate that. I am certainly as conscious of them as anyone else. But when it comes to being a leader in the world, to try to exercise responsible authority as the great superpower on this globe, then I think we have to do more than just read polls. We have to try to follow a policy that will help make a difference for people, and in Haiti they are looking to this Nation and to others to see how democracy might be restored, and the thugs who are running the place will not be around that much longer.

Madam President, tomorrow I look forward to engaging in a longer discussion on the subject matter. But I did not want the evening to end without expressing my concern that this heavy-handed rhetoric we are hearing about never, ever, ever in this hemisphere, is heard in a lot of other corners around the globe. We can never say "never, never."

So my hope is, again, that this matter is resolved through diplomatic and political means. But I do not want to be a party to those who are giving comfort to Mr. Cedras and Mr. Francõis and others who murder priests, nuns, and innocent children and dismember those bodies and feed then to the animals on the streets of Port-au-Prince. That goes on every day just a few miles off our shore. Hopefully, we can resolve that problem without exercising the military intervention. But let us not be associated by our aversion to military intervention by suggesting somehow that those who continue to engage in those activities are going to have the benign neglect of the United States of America when it occurs.

IN SEARCH OF A LASTING PEACE IN NORTHERN IRELAND: AN END TO "THE TROUBLES"

Mr. DODD. Madam President, let me turn to a happier subject, if I may, one that has been the subject of great concern over the last two and one-half decades. I refer to Northern Ireland.

I rise this evening to speak today about renewed hopes for peace in Northern Ireland. After a quarter of a century of political conflict and sectarian violence, prospects for peace no longer seem unimaginable.

The reason for this optimism stems from the August 31 declaration by the provisional Irish Republican Army [IRA] of its complete cessation of military operations and its willingness to enter into inclusive negotiations in order to seek a just and lasting settlement to the conflict.

Political leaders in the United Kingdom and Ireland have reacted favorably to these recent developments. The cease-fire was warmly welcomed by Albert Reynolds, the Prime Minister of the Republic of Ireland. While somewhat more reserved in his reaction, Prime Minister John Major of Britain was also greatly encouraged by the IRA's announcement.

And, with more than 40 million Americans of Irish ancestry residing in the United States, President Bill Clinton expressed the hope and expectations of us all in stating his belief that the IRA's decision would "help bring a lasting and just peace to Northern Ireland."

Since 1969 the six counties of Northern Ireland have been the site of a bloody and protracted conflict that has claimed more than 3,100 lives and left more than 30,000 people injured. This tragic affair is only the latest stage of an age-old conflict that is rooted in centuries of ethnic, political and religious hostility. Northern Ireland has been torn between two powerful opposing forces: A Protestant population that mainly favors unification with Britain and a Catholic population that generally favors political ties with the Irish Republic.

The most recent phase of violence erupted in 1969, when British troops were sent to Northern Ireland and peaked in 1972, the year direct rule was imposed by London. Throughout the last 25 years, the challenges that have confronted Northern Ireland have been formidable. Clandestine paramilitary organizations waged bloody campaigns—the IRA a relentless campaign against British rule, and loyalist paramilitary organizations vigilante attacks against suspected IRA supporters. Significant unemployment and economic stagnation have further added to the sense of hopelessness.

While there are few similarities between Northern Ireland and South Africa or Northern Ireland and the Middle East, they do have at least one feature in common: The demands of the warring parties have at some point seemed so far apart and so intractable as to be irreconcilable. In the case of South Africa and the Middle East that has proven to be untrue. Be it South Africa or the Middle East, the momentum of the peace process itself seemed to sweep away many of the real or imaged obstacles to reaching a final agreement. The key ingredient in each case was that all sides were unequivocally committed to finding a solution. I hope such a commitment is developing with respect to Northern Ireland.

The IRA's cease-fire decision last month, in and of itself, will not bridge the sectarian divide that has marked the landscape of Ulster since its creation in 1922, and most visibly since 1969 and the start of "the troubles." But, it can bring an end to the political stalemate that has stood in the way of meaningful efforts to seek a diplomatic solution to the conflict.

Madam President, I have heard skeptical voices question the "Real intentions" behind the August 31 announcement by the IRA, particularly the voices of Protestant unionists politicians. However, I for one believe that Gerry Adams, president of Sinn Fein—the political wing of the IRA—is sincere in his commitment to desist with military operations and in his willingness to try the negotiating track for peacefully ending British rule of Northern Ireland. Mr. Adams' leadership in convincing his colleagues in the IRA of the wisdom of this approach should not be underestimated, nor should the personal risk he has taken in doing so.

In my view, the decision by President Clinton to permit Gerry Adams to enter the United States, last February, was an important factor in Adams' ability to sell the cease-fire proposal. President Clinton deserves credit for making that controversial decision. So too do Senators MOYNIHAN of New York and KENNEDY of Massachusetts and others with a long involvement in Irish issues, who strongly urged the President to act positively on the Adams' visa request in those time sequences and circumstances.

These people have been long involved with the issues involving Ireland. And those who urged the President to act positively with regard to the Adams' visa request I think did so—and I am proud to have been one of them—wisely.

When I met last Friday with Prime Minister Reynolds he told me that the Northern Ireland peace process was at a critical juncture, and that those who want peace must seize upon this historic moment. That conviction inspired him to meet on September 6, with Gerry Adams of Sinn Fein and John

Hume of the Nationalist, Social Democratic and Labor Party [SDLP] to discuss plans for hosting an October, "Forum of Peace and Reconciliation," to which all the political parties of the north are invited to participate in a dialogue for peace.

Prime Minister Reynolds deserves our congratulations and support for his tireless efforts and inexhaustible patience in his quest for a permanent peace for all the peoples of Ireland—north and south.

It was no accident that John Hume was in attendance at last week's meeting in Dublin with Prime Minister Reynolds and Sinn Fein leader Gerry Adams. If I were asked to identify one individual whose work has been indispensable to serious diplomatic attempts to bring peace to Northern Ireland, John Hume would come immediately to mind. John Hume began his political life as one of the first leaders of the movement to bring civil rights and equality to the long-oppressed Catholic community in Northern Ireland. For the last 25 years, John Hume has served in public office in Northern Ireland. He has been elected and reelected to both the British and European Parliaments—and has used these fora, without hesitation, to speak out for justice in the north.

All in all, John Hume has occupied a unique role in the political landscape of Ulster. He and the Social Democratic and Labor Party [SDLP] he leads have long been committed to the nationalist ideal of a united Ireland. Nevertheless, he has consistently spoken out against the ruthless violence of the IRA. By being willing to confront both extremes of the Ulster reality, he has been in a position to play a crucial role in the peace process.

Sixteen months ago, not without some personal political Risk, John Hume began secret political discussions with Sinn Fein's leader Gerry Adams. It was those Hume-Adams talks that prodded Irish and British leaders into more active efforts to reach agreement on a framework for the peace process—encompassed in the Downing Street Declaration of December 15, 1993. The Hume-Adams talks also helped to create the political climate that enabled the IRA to decide to foreswear violence as an instrument for ending British rule. And knowing John Hume as I do, I am confident that he will continue to play a pivotal role as the newly energized peace process gains steam.

British Prime Minister John Major also deserves special congratulations, as well, for making a solution to the crisis in Ulster a priority for his administration. Although he has sought additional clarifications from the IRA concerning its August 31 declaration, he has taken some very constructive steps to further the process. I applaud, for example, his gesture of instructing that British troops in Northern Ireland replace combat helmets with berets—a symbolic but important signal that Britain does have some measure of faith in the IRA's declaration.

Prime Minister Major's continued participation in the peace efforts is critical. Only he can persuade the Unionists that it is in their interest to sit down at the negotiating table and find a political solution to their differences with Ulster's Nationalist Catholic political leaders. Only he is in a position to respond to events as they unfold with gestures designed to build confidence and trust in the negotiating track. Such actions as lifting the broadcast ban on members of Sinn Fein would serve to do so; and in any event, the continuation of the broadcast ban is incompatible with an open political dialog. Returning Republican prisoners currently held in Irish or British jails to Belfast, and downsizing the deployment of British troops in Northern Ireland are also likely to reassure elements of the IRA that there truly is a peace dividend in laying down their arms.

There are those in the United States and particularly in the Irish-American community who are already asking, "What can the United States Government and the American people do to further the peace initiative and end the troubles?" The most important contribution that the United States can make is to assist in the rebuilding of an Ulster economy that has been devastated by decades of conflict and neglect. In the end, peace will be fleeting if there continues to be significant unemployment and economic decay in Belfast.

Both the U.S. public and private sectors have roles to play in revitalizing the Ulster economy. President Clinton has already pledged to provide financial assistance in support of the peace process. I hope that before Congress adjourns next month, we will have given that President whatever authority he needs to make good on his pledge of assistance. More important, in the long run, is the increased interest of the United States private sector in making job-creating investments in Northern Ireland. Without increased employment and economic growth to build upon a political settlement, the permanence of peace is in serious question; in my opinion.

We wait the next steps in the Northern Ireland peace initiative. I am convinced that the moment has arrived to begin the final march toward resolving the troubles so neighbors can live in peace and harmony, without the bullet and the bomb.

Perhaps the historian J. Bowyer Bell stated it best in the concluding sentences of "The Irish Troubles: A Generation of Violence." He wrote,

It is such a small, lovely island and they are such a grand people * * *. Great issues have been fought out in a small compass but not to resolution or exhaustion. And so for the Irish troubles a generation is gone and a century is running out, but not Irish persistence The Irish, whatever else, are indomitable.

Ultimately, it is that indomitable spirit that will produce the peace that all the men, women, and children of Ireland have long sought and have so long prayed for.

My sincere hope is that they will not be disappointed as this process unfolds.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized for 15 minutes.

THE BASEBALL STRIKE

Mr. METZENBAUM. Madam President, I am about to ask unanimous consent to bring up S. 2380, a bill sponsored by Senator HATCH and myself that is designed to end the baseball strike. Because I do not want to disrupt the Senate's business, I would be happy to limit debate on this bill to 1 hour equally divided. I am willing to take this unusual step because I have no alternative. There are no amendable items currently before the Senate, or I would offer the bill as an amendment to another pending piece of legislation. But the baseball bill cannot wait any longer. If we do not act immediately to end the baseball strike, the owners have threatened to declare the season over as early as tomorrow. No more season, no playoffs, no world series, unless we act immediately.

Today I spoke with Don Fehr, head of the Baseball Players' Association. He stated that if we pass S. 2380, with a few minor clarifications, he will recommend that the players call off their strike immediately and resume the baseball season. I want to repeat that Madam President. Today I spoke with Don Fehr, and he said in unequivocal language that if we pass S. 2380, with a few minor clarifications, he will recommend that the players call off the strike immediately and resume the baseball season.

What that means is quite simple: If we act quickly to pass this bill, the baseball players are willing to complete this season, the playoffs, and the World Series. It is only fair to point out that Don Fehr cannot speak for all of the players, but as the leader of that organization, he is in a position to recommend it, and I have every reason to believe that his recommendation would be accepted.

It is very simple. If we pass this bill, I believe the baseball season will be salvaged. That is why it is so important that we pass this strike-ending baseball legislation immediately—not tomorrow, not the next day, not next week, not after the baseball season is closed, although it is only fair to say that I will not give up in my effort

even if the baseball season should be shut down.

Our bill is very simple. It does not eliminate the players' right to strike or the owner's right to lock them out. It is not a blanket repeal of baseball's antitrust immunity—an effort that I have made over a period of many years, but I have not been successful. In the committee it was voted down 10 to 7. I did not have the votes to get it out of committee. But this is a much more limited version. This is a totally knew bill, very limited in its impact. The bill allows the antitrust laws to be invoked only if the owners impose a salary cap or any other terms and conditions on the players. This should take away the owners' incentive to play hard ball and impose unilateral conditions on the players. It should also relieve the players' fear that they need to maintain their strike in order to prevent a salary cap from being shoved down their throats when the season ends.

As everyone knows, I fought hard for years to lift that very exemption that baseball enjoys. It was not a congressional enactment that gave it to baseball. It was the decision by the very distinguished Supreme Court Justice, Oliver Wendell Holmes, who determined that baseball was a sport and not a business. I think the American people now know that it is very much a business—not a small business, a big business. The antitrust laws should be applicable to baseball as it is to football, hockey, soccer, and every other sport in this country.

I believe that revoking the owner's antitrust immunity is the best long-term solution to the mess that the owners and the players have made of major league baseball. However, I decided to offer this compromise bill, with Senator HATCH as a cosponsor, so that we could bring this strike to an end quickly.

The fact is that this legislation has only one purpose: To protect the season for all the fans. It is not for or against a salary cap; it is not for or against revenue sharing; it is not for or against any other proposal the owners have made to the players, and it does not tip the balance of ongoing labor negotiations in favor of the owners or the players.

The fact is I really do not have any special sympathy for the overprivileged owners nor for the very highly paid players, but I care about the fans. This strike is ruining the season for the fans. Right now the big league players cannot use the antitrust laws. If they could, the owners would have to deal with them fairly or face the consequences in a court of law. In other words, what this bill does is it gives the players another tool they can use to avoid striking, go back to work, to bring the strike to a quick end.

The last seven times the baseball players and owners have met at the bargaining table there has been a work stoppage. Seven times across the bargaining table resulted in a work stoppage: a strike or a lockout.

This has not happened in other professional sports because those players could use the antitrust laws to settle labor disputes. Professional basketball players have avoided a strike for 24 years by using antitrust laws. Professional football players have not struck since 1987 because they were able to use the antitrust laws to settle their differences. There has never been a strike in professional hockey over labor issues.

If the antitrust laws applied to baseball, the owners could not force the players to accept unreasonable terms and conditions if their labor negotiations hit an impasse. The players could challenge the owners' unreasonable demands by launching an antitrust suit instead of shutting down the season.

Would that not be a better resolution? Would it not be better to have this matter in the courts rather than have it where it is at the moment with no games being played and nothing happening in baseball? I think that would be a much better deal for the fans, and, frankly, I think it would be a much better deal for the owners as well as the players.

Passing this compromise legislation is the only hope we have of saving the season for the fans and maybe next year's season as well. But it is up to the players and the owners to come to the bargaining table and work out their differences. We, in Congress, cannot make them do that. All we can do is level the playing field so that the owners do not have an unfair advantage over the players because they are immune from our fair competition laws. I, like every other fan in America, want the players to play ball and the owners to play fair. I believe our bill can do just that.

I hope there will be no objection to my unanimous-consent request, but I recognize the rules in the Senate and recognize the right of any Member to object.

Madam President, I ask unanimous consent to bring up S. 2380 for immediate consideration.

The PRESIDING OFFICER. Is there objection?

The Senator from Nebraska.

Mr. EXON. Madam President, reserving the right to object, I do not suppose there is a person in this body that is more of a baseball fan from longstanding than is the Senator from Nebraska. I am so discouraged and so distraught as a fan that the owners and the players—and they are jointly responsible it seems to me—have brought upon themselves a pattern of these strikes that my long-time friend and colleague from Ohio has brought out with his remarks.

However, I have to feel that it would be a bad precedent indeed for the U.S. Senate in the middle of this kind of a strike or strife, as much as I would like to see the season continued and as much, as a fan, as I would like to see the World Series come about for the annual fall classic, I think that the measure that the Senator from Ohio has authored is something that should be considered, but I think it is an ill-considered move for us as the U.S. Senate to try to step into the breech at this particular point in time. I think it would set a bad precedent. I think it is not essential.

It is very essential for a baseball fan like myself and other fans similarly situated. Certainly it is critical to the interest of the baseball players and the owners of the baseball teams.

I simply will object to this unanimous-consent request because I think a bad precedent indeed would be set here, and I believe that this is not the proper time or action for the U.S. Senate to become involved in the matter of professional baseball.

With those remarks then and assuring my friend from Ohio that I feel and share some of his concerns, I wish to work forward and look forward to working on this again in the future and although the distinguished Senator from Ohio will not be with us next year when we come back and, therefore, will not be able to lead the charge, I will assure him that this is a matter that as one Member of the Senate I will give additional consideration to at the proper time.

But for the reasons that I have expressed, I feel compelled to object to the unanimous-consent request.

The PRESIDING OFFICER (Mr. MATHEWS). Objection is heard.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I expected the objection and I respect the rights of my good dear friend and colleague from Nebraska, and, indeed, I agree with him that there is no greater enthusiastic fan of baseball than is he. He is within his rights in making the objection.

I intend to keep trying to pass this bill to the last moment that I am in this body. Even if we can no longer salvage the season, I want to try to save spring training and next season. I am concerned that there just may not be a next season if we here in the Senate do not do something about the one-sided position we permitted the owners to take.

I respect the fact that the objection has been made, and I yield the floor.

MORNING BUSINESS

ISRAEL AND THE PALESTINIANS—ONE YEAR LATER

Mr. PELL. Mr. President, today, September 13, 1994, is the anniversary of a historic occasion in the march toward

a comprehensive peace in the Middle East. Precisely 1 year ago on the south lawn of the White House, Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasir Arafat—with some gentle prodding from President Clinton—shook hands to conclude the signing ceremony for their agreement on mutual recognition. That handshake set in motion a chain of events over the next 12 months that led to the establishment of Palestinian self-government in Jericho and Gaza, and to an agreement for more limited Palestinian autonomy—known as the "Early Empowerment" of the Palestinians—in most of the remainder of the West Bank.

Today's anniversary provides an opportunity to reflect upon the landmark signing ceremony, to assess whether the agreement has lived up to its initial promise, and to ponder what lies ahead in the coming year.

During my time in the Senate, I have attended many functions and ceremonies at the White House. Few of these, however, have been as moving or memorable as the Israel-PLO signing ceremony. Never have I witnessed such a discernable range of emotions and sentiments in a public setting. There was hope that the agreement would bring to a close decades of conflict, mistrust and hatred. There was sadness in the solemn remembrances of lost Israeli and Palestinian sons and daughters. There was an undercurrent of reconciliation in the act of mutual recognition. Above all, there was a sense of certitude among the participants and crowd that history was in the making.

Since the ceremonies and celebrations, however, the Israelis and Palestinians have encountered a great deal of difficulty in implementing the peace agreement. There have been charges of bad faith on both sides, and continuing acts of terrorism—the bombings of innocent Israelis at Afula and Hadeira, and the murder of scores of innocent Palestinians at the Hebron Mosque—have threatened to undermine the process at various times.

I know that many Israelis, and for that matter, many Americans, remain distrustful of the PLO and Chairman Arafat. While I, too, continue to harbor some reservations about Arafat, I think if the last year has proven anything, it is that Arafat and the PLO do represent the will of Palestinian people. Notwithstanding our doubts, we should continue to work with him to advance the prospects for the successful implementation of the peace agreement.

Already the Israel-PLO peace agreement has made the Middle East a safer, more secure place than it was 1 year ago. Equally as important, the agreement has served as a catalyst in Israel's negotiations with other Arab partners, particularly Jordan. My hope is that Israel's negotiations with Syria and Lebanon will now begin to yield some progress.

Mr. President, there are many people to thank and praise for the peace agreement between Israel and the PLO. I want to give special credit to Prime Minister Rabin, who has demonstrated great vision and poise in pursuing negotiations with all of Israel's neighbors. I also wish to thank President Clinton and his administration, which have worked skillfully and diligently on the Middle East peace process. In this regard, I would also particularly praise the work of Secretary Christopher. I hope very much that there is continued success as the Israelis and Palestinians—with the help and support of the United States—embark upon their second year of peace.

THE SIGNING OF THE CRIME BILL

Mr. HATCH. Mr. President, in cities and towns across our country, crime is getting worse.

For example, Utah's gang-related crime problem is getting worse. The Salt Lake Tribune recently reported that Salt Lake County has already seen seven gang-related murders this year. One case involved the murder of a 15-year-old by a 16-year-old named Ben Martinez. Prior to the killing, Martinez had already been arrested seven times for various offenses including weapons offenses and assault. Utah prosecutors will attempt to prosecute Martinez as an adult.

The Republican crime bill amendments, which were stripped from the conference report, would have provided for mandatory adult prosecution for violent juveniles like Ben Martinez; enhanced mandatory minimum penalties; and made such firearms crimes punishable in Federal court. Our efforts to improve the crime bill, had we prevailed, would have also provided over $13 billion to build more prisons for these violent offenders.

Unfortunately, these and several other tough-on-crime measures were not included in the final crime bill.

When asked about how we should deal with recidivist juveniles, Utah's Youth Corrections Director Gary Dalton said, "There has to be a time when we say enough is enough." Utah Detective Kent Cravens said that, "Violent juveniles, ought to get slam-dunked the first time." Yet, does the crime bill President Clinton is signing today slam-dunk violent juveniles? Does it say "enough is enough?" No. Instead, it continues the soft-headed coddling that has gotten us where we are. It does not include the tough-on-crime provisions that Republicans fought for in the Senate.

In a partisan rush to secure a legislative victory at any cost, the other side of the aisle sacrificed substance and padded the bill with still more social spending programs.

For instance, the $50 million community-based justice grants will require social workers' involvement in the prosecution of criminal cases. Participating prosecutors will be required to "focus on the offender, not simply the specific offense, and impose individualized sanctions [such as] conflict resolution, treatment, counselling and recreation programs." These sanctions would be imposed on individuals "who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations * * *."

The spuriously labeled "Certain Punishment for Young Offenders" Program provides $150 million for education and job training and aftercare programs for young offenders.

Mr. President, what about the victims—and future victims—of these crimes? When is it time to stop focusing on the offender and start protecting the public?

Senate Republican efforts to improve the bill were rejected because enactment of the crime bill was critical. Today, after nearly 3 weeks of delay, President Clinton will sign the crime bill. During the 3 weeks he was on vacation, Republicans could have made the bill a much tougher, trimmer package.

Even the administration has acknowledged that the crime bill is loaded with wasteful spending. In a recent issue of Newsweek magazine [August 1], an administration official described the crime bill as containing $2 billion in, as he put it, "pure pork." Frankly, the amount of wasteful spending is much higher than what the administration was willing to concede but it is still telling.

As ranking member of the Judiciary Committee, I pledge to do my best to assist the administration in its implementation of the bill. I will be even-handed, but I expect the effectiveness of this bill will be negligible. A recent Harris poll found that 54 percent of surveyed voters believe that this crime bill contains too much unneeded spending and won't reduce crime [Wall Street Journal, September 9, 1994]. Only time will tell. President Clinton has shown a proclivity for talking about the crime problem. Now we shall see how good he is at doing something about it.

Will the bill place 100,000 new community police officers on the streets? I am not aware of a single neutral expert who has said it will. Already, the administration is seeking to lower expectations. Attorney General Reno announced last week that 40,000—not 100,000—police officers will be hired before the end of President Clinton's term.

This leads me to a second point. The distinguished chairman of the Judiciary Committee has distributed documents that provide detailed estimates

of the amount of money each State will receive pursuant to the crime bill. His estimates even purport to provide us with the number of police each State will receive. For instance, according to the Senator's estimates, my State of Utah will hire 997 new local police officers thanks to the crime bill.

However, with all respect to my friend from Delaware—and he is my friend—these estimates are based on sheer speculation and unsupported assumptions. No independent, neutral analyst has ever stated that this bill will fund anywhere near 100,000 police officers, or that the $75,000 per officer limit on which he relies covers the cost of placing an officer on the streets for even 1 year, much less the 3 years of the grants.

Moreover, the vast bulk of the crime bill's policing grants are distributed on a discretionary basis. Yet Senator BIDEN's numbers assume that these funds will be distributed on the basis of population. The fact of the matter is that Congress could have provided for a formula that would have distributed grants pursuant to population. Indeed, my efforts to insert such a formula in conference were rejected by Senator BIDEN and his Democrat colleagues.

Mr. President, the administration and my Democrat colleagues can be sure that the Congress and America will be keeping a close eye on whether the crime bill lives up to its billing. I believe it will not. For this reason, I am pleased to be joining Senator DOLE in Republicans' ongoing effort to deliver to the American people a true, tough, effective crime bill. The legislation we are introducing today is a worthy first step.

THE 75TH ANNIVERSARY OF THE AMERICAN DEFENSE PREPAREDNESS ASSOCIATION

Mr. NUNN. Mr. President, today I want to salute the American Defense Preparedness Association [ADPA] on the occasion of its 75th anniversary. As many of my colleagues know, ADPA was organized after the conclusion of World War I by Army officers and defense industry leaders, who were concerned about the rapid demobilization of the Armed Forces and the consequent adverse impact on the domestic industrial infrastructure that supported U.S. soldiers and sailors at that time.

The association has grown and matured during the last seven decades. It now represents all of the U.S. armed services and the 700 or so defense-oriented corporations which make up the core of our defense industrial base.

Mr. President, an important part of ADPA's work today is education on national security issues. The organization has been at the forefront of efforts to preserve a prudent and capable national security establishment. ADPA has come to be recognized around the world as a principle voice of the U.S. defense industrial base. Over the years, representatives of ADPA have provided valuable testimony before the Armed Services Committee on a broad range of national security issues, including defense industrial base policies and reform of the defense acquisition system.

Mr. President, the vision and the purpose of the ADPA was recently outlined by its president, Retired Army Lt. Gen. Lawrence F. Skibbie:

> While ADPA acknowledges that the U.S. national security establishment—both military and supporting industry—can and should be downsized, we believe the defense industrial base remains a national asset and, while it will contract in accordance with changing national priorities, it must be guided and nurtured as it inevitably becomes smaller.
>
> The United States must retain a military capability sufficient to counter threats on both the strategic and tactical levels. Implicit in this delicate balancing act is the ability to support U.S. Forces in global contingencies, and to construct larger forces if necessary. Fundamental to this capability is a strong industrial base that is structured to respond as conflicts dictate.

Mr. President, I agree with General Skibbie's assessment. The concerns ADPA has raised recently about the rapid build down of our defense establishment are just as valid today as they were in 1919. We must remember and learn from our experience in past build downs. As we continue to reduce and restructure our defense establishment, we must do so in a way that preserves the essential capabilities that we need to protect our Nation's interests today and in the future.

Mr. President, the American Defense Preparedness Association and its members have made major contributions to the security of our Nation during the past 75 years. I hope my colleagues will join me in congratulating this organization on its silver anniversary.

ST. PETERSBURG COMMISSION: BOLD BUSINESS LEADERSHIP

Mr. LUGAR. Mr. President, I want to draw the attention of the Senate to a bold and creative project aimed at assisting the internal reform process in Russia. The project is called the International Action Commission for St. Petersburg and is sponsored by the Center for Strategic and International Studies [CSIS], a respected public policy research institute in Washington, DC. It provides an example of bold business leadership stepping out as a partner with government, and, in many ways, stepping ahead of government, to assist in crucial reform taking place in Russia. In this case, business leaders are contributing to the groundswell of activity in St. Petersburg and the surrounding oblast that is producing remarkable results in the evolution to a democratic government and a market economy underway in this strategic region of Russia.

Complementing their basic business operations in Russia and the region, business leaders in the commission have undertaken numerous actions and entered into various partnerships that provide mutual benefits to them and to St. Petersburg's growth. The commission's actions support an arbitration court nearly formed, an international school in operation, and 21 projects ready for investment in areas ranging from improvements to the heating and hot water system to training for the emerging commercial banks. Commission members have participated in over 12 joint ventures and are associated with $40 million in new investments which have been made or obligated. They also continue to advise the city and key business leaders on what key steps remain to enhance the region's attractiveness to foreign investors. These steps are leading to grass-roots Russian business know-how and innovation, and to permanent structures at the local level that are necessary for a stable market economy and investment growth.

The teamwork between Russia, the United States and our allies reflects the best of our intentions for programs sponsored by the United States Government and the role United States businesses should play globally. Mr. President, I highly commend CSIS and its president, Ambassador David Abshire, for this important initiative and I ask that some descriptive material about the commission's work be inserted in the CONGRESSIONAL RECORD.

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

[From the Center for Strategic & International Studies, Washington, DC, July 11, 1994]

INTERNATIONAL ACTION COMMISSION FOR ST. PETERSBURG

EXAMPLES OF BUSINESS GROWTH IN NORTHWEST RUSSIA INVOLVING COMMISSION MEMBERS

Selection of Russian sub-contractors and training of Russian sales force by the Procter & Gamble Company:

Formation of Joint Ventures: Pratt & Whitney—Klimov, Comspan—Businesslink, Booz Allen—Baltic Technical Park, Booz Allen—Leninets.

Rapid development of Gillette-Leninets joint venture.

Start-up of joint ventures with non-commission partners: Kirov—Caterpillar, Signal—International American Products Incorporated, St. Petersburg Clothing Exchange—Amerex.

Leninets award from U.S. Department of Defense of up to $5 million start-up funding for a U.S. joint venture to produce commercial products (July 1994).

22 St. Petersburg companies positioned for further U.S. Department of Defense grants for defense conversion joint ventures.

World Bank, EBRD, Finnish and U.S. government investment interest has been focused on: Priority infrastructure projects of the city; Opening of wholesale terminal market for agriculture products; Energy production and conservation projects—meetings

held in Moscow and St. Petersburg; Port Modernization.

Joint business team working on key growth areas: Port Modernization: Port of Maryland, Booz Allen, Finnlines, St. Petersburg Seaport. Energy: Honeywell, Ahlstrom, Metra, Imatra Voyma Oy, Lentek, Lenenergo Agribusiness: State of Maryland, Leningrad Oblast.

Cooperative agreements have been signed: By ICN Pharmaceuticals to modernize and expand a pharmaceutical enterprise and plant in St. Petersburg. Investment will be $40 million and involves a joint venture relationship. By a U.S.-led consortium of U.S. and Russian companies to develop the central historical district of the city. Between a team of the University of Texas and Texas A&M with the St. Petersburg Technical University to develop a business school—$295,000 awarded by USIA.

RJR Nabisco has provided $1.2 million for business education programs conducted by Duke University and St. Petersburg State University.

INTERNATIONAL ACTION COMMISSION FOR ST. PETERSBURG

EXISTING ACTIONS PROGRESS REPORT

The 40-minute television presentation aired on St. Petersburg television in late May, informing the people of St. Petersburg and the region on the benefits of foreign investment and creating a positive image of the private enterprise system. A follow-on business news program is proposed.

The Investment and Development Agency of St. Petersburg is being organized for the first two priority development zones of the city. The Agency will assist businesses and investors to search out, organize and facilitate business start-ups and new investments. The public relations firm Edelman has prepared a proposal to publicize these zones as the focus point for investment in St. Petersburg. The St. Petersburg Regeneration Agency has identified funding for market and growth assessments for the central historic district of the city.

Plans for an international arbitration court are nearing completion; the court will be registered in the coming month, and will begin operations by this fall.

Steps are being taken to educate St. Petersburg businesses on the Russian-American Enterprise Fund. RAEF president Gerald Corrigan will describe the fund's operations in detail at a city conference on small and medium-sized business on June 22, 1994. The city previously conducted a highly successful international conference on foreign investment opportunities for Northwest Russia on November 10–12. City officials participated in an investment forum in New York City in April, 1994 jointly sponsored by our commission, the Citizens Exchange Network and American Express.

The commission has assumed a major role in assisting the development of U.S.-Russia exchange programs to bring Russian business persons and other professionals to the U.S. for work experience. Exchange visits began last month to 10 cities. This pilot effort includes 300 Russians from St. Petersburg and three other regions of Russia.

A list of priority projects needed in St. Petersburg was developed and published by the city to attract investor attention. A further prioritization of these projects is under way to propose to world financing organizations, including the EBRD and the World Bank, for funding.

An international school and medical center opened in St. Petersburg last fall. Additional funding is still needed for the international school.

A standing Russian-Western defense industry diversification committee has worked with the U.S. government to ensure equitable consideration of St. Petersburg defense businesses for grants of up to $5 million each to support joint ventures of Russian defense firms with U.S. and other partners for defense diversification. Commission-member Leninets was one of four Russian companies initially selected for this program. 22 other St. Petersburg companies have been identified for the next phase of this program.

Work continues to identify funding sources for a feasibility study for a technopark in the St. Petersburg region; and to attract investors for projects for improved local telecommunications network capacity.

Establishing a system of guarantees remains a priority concern for the commission in the coming months.

The consortium of 24 St. Petersburg and international universities will meet in St. Petersburg on June 9 and 10, and will continue work on actions promoting international cooperation in higher education to assist business growth in St. Petersburg city and region. The first meeting of the consortium occurred in November 1993.

The four new commission working groups which were organized last fall have met regularly beginning in October. This work has led to 20 possible new actions, and the most promising of these actions will be proposed at our plenary session business meeting on June 11, 1994. Action papers on each action will be provided to all commissioners before the plenary session. Focus areas for these groups are: Improvements to Strengthen Banking and Investment Practices, Energy Conservation and Management, More Rapid Modernization and Growth of Agribusiness, Modernization and Development of the St. Petersburg Port Area.

The U.S. government sponsor for the commission, the United States Agency for International Development, has indicated its intention to provide funding to continue the commission until August 1995. This spokesperson stated that their goal is to commit funding to the completion of our most urgent and promising projects. This situation is not yet final; however, as an initial indicator, it is indeed good news.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let us have a little pop quiz: How many million dollars would you say are in a trillion dollars? And when you answer that, just remember that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business Monday, September 12, the Federal debt stood—down to the penny—at $4,680,078,443,187.46 meaning that every man, woman and child in America owes $17,951.21 computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion?—there are a million million dollars in a trillion dollars. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

BOSNIA

Mr. DOLE. Mr. President, on July 30—6 weeks ago—the so-called contact group countries met and pledged decisive action in the event of continued Bosnian Serb rejection of the contact group's proposal. At that time we were told that the contact group countries would work together to increase pressure immediately. That has not proven to be the case.

Instead, these countries—including the United States—hemmed and hawed, held more meetings among themselves and stalled just long enough for Slobodan Milosevic to complete his makeover as peacemaker of the Balkans. Not only has Milosevic said that he supports the contact group proposal—which should be no surprise since it rewards the aggressors with half of Bosnia—but he has promised to get tough on his Serb allies by cutting off supplies to them. For the past 3 weeks the Serbian border with Bosnia has reportedly been closed to all traffic except humanitarian goods.

No doubt, the contact group diplomats breathe a sigh of relief as Milosevic seemingly rescues them from the burden of following through on their tough talk. However, their work is not over—they must find a fig leaf for their continued inaction.

And so today, contact group representatives are meeting in Geneva to discuss the posting of around 130 civilian observers on the Bosnian-Serbian border to monitor Belgrade's announced embargo of the Bosnian Serbs. In return for allowing these 130 unarmed monitors on its borders, Serbia will receive some sanctions relief.

Mr. President, I bet that Milosevic is patting himself on the back for this latest maneuver. It costs him nothing. He agrees to 130 monitors who are unarmed, who cannot stop and search vehicles, who are stretched over a long border with 48 crossing points, and in return sanctions are eased and he is on the road to rehabilitation.

Moreover, the costs to the Bosnian Serbs are questionable. The only way to assess the costs of this embargo to Radovan Karadzic and his forces is to estimate what they have stockpiled. How much ammunition do they have? How great are their fuel reserves? Maybe Milosevic knows something that we don't know, such as how long Bosnian Serbs can withstand being cut off from Serbia. The Bosnian Serbs only have to hold out for as long as it takes to get sanctions lifted because once they are lifted they will be difficult to reimpose—even if Milosevic begins supplying arms to the Bosnian Serbs again.

Furthermore, irrespective of whether or not the Milosevic-Karadzic split is real, irrespective of whether border monitors are deployed, greater Serbia exists on the ground—Bosnian Serb Forces still occupy 70 percent of Bosnia

and Herzegovina and Krajina Serb Forces still hold 25 percent of Croatia; 2 million Albanians in Kosova are still being repressed.

Mr. President, to sum it up, for admitting that he has been the source of this aggression against Bosnia, Milosevic is being rewarded by the international community.

And how are the Bosnians being rewarded for signing up to the contact group proposal? In short, they are not. The Bosnians are in the same terrible position they were in before they signed and before the contact group made its big, empty promises. They are still being denied the right to self-defense. They are still unprotected by the U.N. Protection Forces. They are still being treated as one of the "parties" or "combatants"—as British officials like to say—rather than as an internationally recognized government and member state of the United Nations with fundamental rights—rights that are identical to those of other nations, including Britain, France, and Russia.

Mr. President, in reference to Haiti, the national security adviser said yesterday that "we must make it clear that we mean what we say." Ironically, while the administration claims its credibility is on the line in Haiti, it is seemingly unconcerned about its lack of credibility in Bosnia. Well, to restore United States credibility with respect to Bosnia, we only need to lift the arms embargo on Bosnia and Herzegovina. And for the President to do that no military force is needed, just political will.

CONGRATULATIONS TO EARL L. WILSON

Mr. HEFLIN. Mr. President, I am pleased to congratulate Mr. Earl L. Wilson, who was recently selected for induction into Alabama A&M University's Athletic Hall of Fame. Mr. Wilson is to be formally inducted into the hall of fame on September 16.

A native of Bessemer, AL, Earl Wilson received his bachelor of science degree at Alabama A&M, where he played football for 3 years and served as team captain in 1958. He went on to obtain his master of science degree at Tuskegee University.

During his career, Earl has served as a high school football coach and administrator. He is currently the principal of A.G. Gaston School in Birmingham, and is a member of the Birmingham alumni chapter of the Kappa Alpha Psi Fraternity; the Kiwanis Club of West Jefferson County; and the Alabama Elks. He was named 1993 Alabama Elk of the Year.

Again, congratulations to Earl Wilson, an outstanding selection for the Alabama A&M University Athletic Hall of Fame.

MIDDLE EAST PEACE: ONE YEAR OF HISTORIC PROGRESS

Mr. LIEBERMAN. Mr. President, 1 year ago this week, the world was filled with hope and anticipation by the announcement of a Declaration of Principles between the State of Israel and the Palestinian Liberation Organization. Over the past year, both sides to that agreement have overcome the legacy of distrust between them to negotiate implementation of the objectives set forth in this landmark document. Despite setbacks, and tasks of enormous difficulty still ahead, the Israelis and Palestinians have summoned the courage to continue moving the peace process forward and to implement the agreement.

Meanwhile, long negotiations between Israel and Jordan toward ending their 46 years of war culminated in the Washington declaration of July 1994, which affirmed the determination of His Majesty King Hussein and Prime Minister Yitzhak Rabin to bring an end to bloodshed and sorrow.

These historic steps in the Middle East peace process have created momentum toward a true and lasting peace in that troubled region. Today, negotiations are continuing among the relevant parties and Syria. I am hopeful that the Syrians too will seize the moment for progress toward peace. The challenges are great, but the opportunity to demonstrate courageous leadership is even greater.

We Americans can be proud of our contribution toward Middle East peace during this past year. President Clinton and Secretary of State Christopher have invested enormous time and effort to this worthy cause; they can be justly proud of their accomplishments. Peace can only come when the relevant leaders of the region demonstrate courage and vision. But America's leaders have worked diligently throughout this period to support, encourage, and facilitate the efforts of the courageous men and women on the ground in the Middle East.

Congratulations are due as well to the people of Israel and to the Palestinians in Gaza and the West Bank for their efforts to implement the agreements despite the sometimes violent actions of those opposed to peace. The peoples of the region know from a long and bitter history that the road of peace is neither smooth nor easy to travel. But men and women who care about the future they are shaping for their children and grandchildren will continue to reject the ways of violence and will persist on the path of peace.

Mr. President, as we mark this first anniversary of the signing of the Declaration of Principles, we can be proud of our role so far. But we must also rededicate ourselves to the goals and methods we are now pursuing. The United States must continue to do everything in its power to foster the Middle East peace process and to demonstrate to the participants the political and economic benefits of cooperation. To do so is consistent with our American national interest in a peaceful Middle East, and is in keeping with our best tradition of leading the way to peace and freedom in the world.

G.L. GUTHRIE MEMORIAL

Mr. BINGAMAN. Mr. President, I rise today on the occasion of the loss of one of New Mexico's great citizens, G.L. Guthrie of Las Cruces, NM.

Known throughout New Mexico as Gus, Mr. Guthrie came to Las Cruces in 1925 to join the faculty of what was then New Mexico A&M College. Two years later he became head of the business administration and economics department. In 1964, when the department was raised to the status of a college, Mr. Guthrie became its first dean. He served in that position until his retirement in 1969.

During his 44-year career at the university, Mr. Guthrie was involved in various phases of its activities in addition to his teaching and administrative duties in the business administration department. During the 1930's he held the position of assistant to the college's president. Because of his deep interest and experience in newspaper work, he was instrumental in establishing the first journalism courses and acted as advisor to the college newspaper, the Round-Up. He also helped organize the university chapter of Sigma Alpha Epsilon social fraternity and was its faculty advisor for many years.

He was deeply involved in community affairs. He was a charter member of the Las Cruces Lions Club and served a term as its president. He worked closely with the Boy Scouts and was a former president of the Dona Ana County Chapter of the Red Cross, as well as being a member and president of both the Mesilla Park School Board and the Las Cruces Union High School Board. In 1953 he was appointed a member of the New Mexico Labor and Industrial Commission by Gov. Edwin Mechem.

Mr. Guthrie was born on June 29, 1904, in Milan, MO, and later he moved with his family to Hereford, TX. In 1929 he married Maude Marie Tully.

In addition to his wife, Mr. Guthrie is survived by two sons, Keith, of Arlington, VA; and Kenneth, who resides in Albuquerque.

Mr. President, while the occasion of the death of G.L. is sad, he will always be remembered for the kindness and warmth that he showed to all. He will be missed.

NEW RUSSIAN-CIS MILITARY ALLIANCE?

Mr. DECONCINI. Mr. President, recently, reports have come to my attention that Russia and other former Soviet Republics might be moving toward

the creation of a new military alliance. Apparently, a draft agreement for such a military alliance is to be submitted in early 1995 to the leaders of the CIS that would call for, among other things, the eventual creation of joint armed forces, collective peacekeeping, and a joint air defense system—forces that would, no doubt, be largely dominated by Russia. According to a recent New York Times Op-ed written by freedom House president Adrian Karatnycky, Konstantin Zatulin, chairman of the Russian Parliament's Committee for Commonwealth Affairs, has hinted that Russia may not pressure Ukraine to give up its nuclear weapons should Ukraine and Russia become "strategic partners."

Mr. President, such developments must be monitored closely, given their implications for U.S. strategic and other interests. The prospects of such a union could derail efforts to integrate these New Independent States into Europe, including NATO, following decades of Russian domination. This is particularly troubling considering the possible rise of anti-Western, antidemocratic forces in any post-Yeltsin Russia.

United States policy with respect to the non-Russian New Independent States within the last 6 months has appeared to evolve. We have increasingly recognized their importance and, especially in the case of critically important Ukraine, stressed its independence and territorial integrity. Therefore, I find puzzling and disconcerting recent reports that the United States is prepared to accept an expanded Russian sphere of influence. If true, Mr. President, this cannot help but send the wrong signal to those in Russia who still have not abandoned the goal of recreation of the empire, Equally important, it sends the wrong message—one bound to undermine the recent progress that has been made—to those New Independent States less than eager to once again come under Russia's wing.

Mr. President, while pressing ahead on developing a constructive relationship with Russia, and encouraging positive changes there, we must not waver in our commitment to the independence of the other former Soviet republics. Support for their independence includes well-thought-out policy statements that must not be perceived as even a tacit green light to Russian neoimperialism. We must also extend concrete, effective, and timely assistance in many areas, such as denuclearization, energy, privitization, the environment, and last, but by no means least, democratic institution building.

Both words and deeds are important in making clear to the world the United States commitment to the independence of the former Soviet Republics.

NATIONAL AND COMMUNITY SERVICE

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to this week's formal launching of the AmeriCorps program—the largest of several youth and community service initiatives that we in the Congress authorized 1 year ago this month.

As its chief Republican cosponsor in the Senate, I'm pleased that this important initiative is now recruiting and placing eager and enthusiastic young volunteers in community organizations and agencies all over America. And, I'm especially proud that one of the satellite-linked locations for yesterday's swearing-in of new volunteers by President Clinton was the University of Minnesota in Minneapolis.

It is appropriate that Minnesota played an important role in officially launching AmeriCorps, Mr. President, because of my State's long history of leadership in service learning and youth community service.

One of the reasons I was an enthusiastic supporter of the national service legislation we approved the last year was the degree of flexibility it offers States and local communities to identify and target their own highest priority needs.

Over the past year, Minnesota has made a special effort to integrate the funding authorized by the Federal AmeriCorps program with its own YouthWorks program—creating an even larger number of service opportunities for my State's young people.

In this first round of AmeriCorps grants, Minnesota has received $2 million in funding which will fund six exciting projects:

The city of St. Paul's Future Force—a 76 member corps to be based at Concordia College.

Pillsbury Neighborhood Service's Community Works—a 24-person crew address urban issues.

Neighborhood House Association's Multicultural Communities in Action—a 26-person crew serving St. Paul's West Side and parts of South Minneapolis.

Twin Cities Youth and Housing Initiative—operated by Two or More, Inc., a group of 25 youths who will build and refurbish Minneapolis homes.

The Southeast Minnesota Initiative Fund—which will work in cooperating with Mankato and Winona State universities.

The Red Lake Tribal Council—which has already sponsored two highly successful Summer of Service programs also funded by the Corporation for National and Community Service.

PROGRAM NEEDS CLEAR FOCUS AND PURPOSE

As one of those who strongly supported the passage of national service legislation, I am also among those who believes this program will need to clarify its focus and purpose. That is especially important in light of the smaller scale at which the new program is being launched.

During the 1992 campaign, then-candidate Clinton drew loud cheers whenever he promised to use national service to ease the financial burdens of college for "millions of American young people and their families."

And, after his election, the new President used the same justification to propose a program that would have cost more than $10 billion over 4 years.

But, recognizing today's fiscal realities, Congress was willing to commit less than 15 percent of the President's earlier $10 billion proposal and only a tiny fraction of his even larger campaign pledge.

NOT A COLLEGE EDUCATION

That means those of us who strongly support national service must acknowledge that it will never play a major role in financing higher education.

At a minimum annual cost of $15,000 to $20,000 per participant, we can't depend on this new program to help meet the rising cost of going to college. Our first priority must be to increase our commitment to currently underfunded Pell grants, and to carefully implement the student loan reforms enacted in last year's budget bill.

NOT THE CCC

Second, it is important to distinguish the new AmeriCorps program from previous national service programs like FDR's Civilian Conservation Corps and the Peace Corps and VISTA programs launched in the 1960's.

Those previous initiatives were Federal programs, totally funded and run from Washington. What this newest initiative does is authorize a decentralized infrastructure for States to use in stimulating community service by young people. It is intended to serve as a broad framework for thousands of different programs tailored to meet the diversity of America's young people and the communities they will serve.

The new AmeriCorps program should also leverage State, local, and private sector support for programs that respond to this diversity and that enjoy strong local ownership. If that happens, the impact of this new initiative will reach far beyond what's possible with the limited Federal funding that today's fiscal realities will allow.

SERVICE LEARNING

Finally, as we launch the AmeriCorps program, much greater recognition must be given to the value of other new programs also authorized last year that encourage nonstipended service learning.

In States all around the country, young Americans from kindergarten through college are demonstrating the value of community service that's creatively integrated into the school curriculum.

In Minnesota, for example, more than 100,000 young people are now participating in school-based service learning

programs. These programs are improving educational outcomes and benefiting local communities. And, they're achieving these goals at a fraction of the cost of AmeriCorps and other stipended service programs that dominated last year's national service debate.

WAYNE MEISEL, MY YOUTH SERVICE MENTOR

Mr. President, a driving force behind my own interest in national and community service has been the leadership of Minnesotans. Wayne Meisel—who grew up alongside my own four sons in South Minneapolis—is one of those individuals I have looked to as a mentor on this issue.

That's why I am pleased to report that Wayne was recently recognized for his leadership by the American Institute for Public Service through its Jefferson Award. This prestigious award is used annually to recognize outstanding public service by an individual under age 36.

Wayne Meisel is the founder of COOL—the Campus Outreach Opportunity League, an internationally known platform for students and graduates to lead, sustain, and challenge their peers to service others and to bring about positive change.

In 1983, after graduating from Harvard University, Wayne traveled from campus to campus, effectively using his vision and enthusiasm to start local youth service chapters. COOL now works with 700 colleges and universities nationwide and with international students groups throughout the world.

Working with COOL from 1983 to 1989, Wayne set the tone for organizations run by and for young people. He brought about coalitions between and among individuals, campuses, local communities, and all levels of government. As COOL's director, he conceived and developed "A Day in the Life of Youth Service," an event designed to recognize and support young people in their efforts to serve their communities.

Wayne is now serving as president of New Jersey's Bonner Foundation, where he has created and generated funding for the Bonner Scholars program. This 2,000 member corps of college students requires at least 600 hours of service per year in exchange for college scholarships. Overall, the program provides over 1 million hours of service each year to communities throughout the country.

After passage of 1990 National and Community Service Act, Wayne was appointed by President Bush to the first board of the then-Commission on National and Community Service. From that platform, Wayne argued forcefully for greater involvement of young people themselves in the design and management of youth service programs.

I agree with Wayne's premise that youth involvement is one of the key elements that will determine the long-range success of these programs in local communities all over America. And, in accepting the Jefferson Award, Wayne again made this point in his usual quiet but forceful way.

There is a great deal to be learned from the perspectives that individuals like Wayne Meisel have to offer, Mr. President. And, because of the particular insights Wayne has on the role of young people in national service, I would ask that the full text of his remarks accepting the Jefferson Award be printed at this point in the RECORD.

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

[From the Chronicle of Philanthropy, Aug. 9, 1994]

TO SERVE THE NATION, YOUTH MUST BE HEARD

(By Wayne Meisel)

National service is now a top theme on the American agenda. Large national organizations are gearing up to receive federal money through the new AmeriCorps program, which has its official kick-off next month. But in all the planning for the new service corps, one voice has been conspicuously absent: that of the young people who played a key role in promoting the national-service movement. It is impossible to have a successful service corps without youth leadership.

The Corporation for National Service—which is in charge of overseeing AmeriCorps and other volunteerism efforts—has yet to give young people a serious role in policy making. Just as one can be a friend of agriculture without being a friend of farmers, so to can the corporation be a friend of youth service without being a friend of young people.

Youth leadership is not just a nice idea. It is a critical element to assuring not only that national service will be a success, but that its participants are motivated by a vibrant and powerful vision of social change and justice. Our ability to make youth leadership a key element of all types of service programs will determine whether the newfound interest in national service will be an inspiration and source of support for young people everywhere—or whether it will end up crushing the spirit and creativity of a young people's movement.

Though well-intentioned, the Corporation for National Service has not given young people the opportunity to lead the movement they created. The federal Commission on National and Community Service—the body that led to the formation of the corporation—had recommended unanimously that applicants be required to demonstrate that young people were involved in creating, operating, and evaluating service programs. Yet when the grantmaking regulations were published and sent out, no mention was made of that requirement. A year and a half later, the requirement has yet to work its way into any of the corporation's regulations or guidelines.

In a move that further limited youth involvement, the corporation dissolved the Youth Voice Committee, which the commission had created to make sure that young people had an opportunity to be involved in the policy-making process. Although corporation officials promised to setup some kind of structure to perform the same tasks as the youth committee, they have not yet done so.

Before it was dismantled, the committee oversaw the creation of "From the Hip," a photojournalistic effort to get young people to define and express what youth service was and what it meant. Hundreds of young people teamed up with adult mentors to take photographs and write stories about youth service. The stories that came back were not just about traditional kinds of service like tutoring kids and serving the elderly; they were also about race, sexuality, politics, and religion.

To create a national-service corps that is relevant to young people, we need to know what they think. But the corporation has not taken any action to figure out what young people value.

Federal officials have done further damage to the youth movement by taking over projects that were designed and run by young people. Case in point: the Road Scholars program run by the Campus Outreach Opportunity League.

For the past decade, COOL has sent staff members out to towns and cities across the country that wanted help developing and strengthening campus-based community-service efforts. Initially, the Commission on National and Community Service made a grant to the Road Scholars program that would have allowed many more communities to be served by COOL. But instead of continuing the league's tradition of getting young people to advise and inspire their peers, the Corporation for National Service withdrew federal support and established its own program to provide the same services as COOL.

You cannot hire someone else to implement another person's or group's vision. Through COOL, Road Scholars were able to lead with authority. They were all recent college graduates with experience building successful service efforts. They were accountable not to a large institution or a government entity but to an idea, a common vision, and a shared value. Perhaps that was threatening to federal leaders. The real question is whether in its new training program, which borrows the techniques developed by COOL, the Corporation for National Service will give young people adequate authority.

Officials of the Corporation for National Service have emphatically denied that they are trying to discourage the youth voice.

But they must realize that the corporation, through its influence and sheer size, controls the youth-service movement. The greatest tragedy in all this is that after working so hard to get to the place we are now, the movement finds itself at its most vulnerable point. The corporation's takeover could leave us with uninspired leadership that fails to articulate a clear and powerful message while creating a bureaucracy that becomes an expression of institutionalized mediocrity.

Although I am critical of what has happened so far, there is much that the Corporation for National Service and the foundation world can do to make national service flourish. Among the steps they can take to bring life, vision, and youth back to what can be the most powerful movement of this decade:

The corporation must put into its regulations a requirement that all its grantees have young people involved in the creation, implementation, operation, and evaluation of their programs.

The corporation and foundations need to realize that for community service to have meaning to a broad range of young people, it has to deal openly with issues of race, gender, class, sexual orientation, politics, justice, and power.

Foundations should take a close look at projects the corporation does not support. Private grant makers should consider giving money to efforts that have the potential to break new ground in the way youth-service efforts are run.

The corporation should be encouraged to identify, develop, and support programs that educate non-profit organizations about the importance of youth involvement in policy making and that train them in ways to win youth participation.

Foundations should be inspired to follow the lead of the Lyndhurst and Echoing Green Foundations, which provide fellowships to young people who want to pursue careers in community service and activism.

Many people have worked hard for national service to become a reality. National service is a call to all Americans—regardless of their age—to serve in their communities and to build the country we all dream about. But for youth service to work, young people must have opportunities to be heard. Youth is the leadership of tomorrow only if we procrastinate.

TRIBUTE TO NEIL HAIGHT

Mr. BAUCUS. Mr. President, I rise in recognition of an outstanding public servant, Neil Haight of Helena, MT.

Neil will soon celebrate 25 years of working for Montana Legal Services Association and low-income Montanans. He started with legal services by managing the Lewistown office from 1969–73, circuit riding through the small rural counties in the heartland of Montana. In 1973, he became the director of the association, a position he still holds today.

As director of Montana Legal Services, Neil has capably steered the organization through those difficult years when its very existence was threatened. Today, Montana Legal Services stands on much more secure ground. Neil now faces the challenge of starting to rebuild the strong statewide organization which he managed to maintain during the 1980's. I cannot think of a better person for the job.

Perhaps Neil's greatest contribution to Montana Legal Services Association has been his constant support for its employees. Even though he likens leading legal services lawyers to herding cats, his strong support of their work has motivated them to achieve major legal advances on behalf of low-income Montanans.

Neil Haight is a class act. He is a credit to the Legal Services Association. And he stands for the very best of public service and the legal profession. Throughout his career, he has put the good of the people of Montana before making money. And, through it all, his wife Betty has stood by his side.

On behalf of the people of Montana, I want to say thank you to Neil and Betty Haight. You have made a difference.

ST. PETERSBURG COMMISSION: CATALYZING BOTTOMS-UP REFORM IN RUSSIA

Mr. WARNER. Mr. President, I want to invite the attention of my colleagues in Congress to a unique international partnership formed by the Center for Strategic and International Studies [CSIS], a distinguished policy research institution in Washington, DC. I refer to the International Action Commission for St. Petersburg, on which I serve, and which is successfully increasing investment and business growth and speeding the process of economic conversion in St. Petersburg city and region. Working under the joint leadership of Dr. Henry Kissinger and Mayor Anatoly Sobchak, the 71 commissioners, comprising leaders of business, government and universities from six nations, play an aggressive and direct role in bringing about an impressive number of positive changes in northwest Russia.

Commission actions are developed and implemented through a framework for cooperation involving 11 joint Russian-Western working groups and a consortium of international universities. These working groups have 26 concrete actions completed or underway in areas ranging from arbitration court development to defense industry conversion and energy conservation. Through these actions, and through the partnership that has created them, the commission has sparked joint venture development, growing private and public investment in the St. Petersburg region, job growth, business education, technical assistance, and the building of structures necessary for a functioning free market economy and stable economic growth. These significant and tangible results not only provide clear benefits to the St. Petersburg region, but they also serve as a model for economic conversion for other Russian cities and regions, and cement a healthy working relationship between American and Russian leaders.

The intense activity taking place in St. Petersburg through this commission, the enthusiastic involvement of so many senior leaders, and the early successes already achieved in this effort, underscore the critical importance—to both Russia and the United States—of strong, bottoms-up change in this strategic region of Russia to accompany top-down reform efforts led from Moscow.

Under the leadership of its president, Ambassador David M. Abshire, CSIS's effort on this project merits our admiration and support. I ask unanimous consent to insert in the CONGRESSIONAL RECORD descriptive information about the commission's work.

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

[From the Center for Strategic and International Studies, Washington, DC]

INTERNATIONAL ACTION COMMISSION FOR ST. PETERSBURG

BRIEF OVERVIEW

The International Action Commission for St. Petersburg has moved aggressively to develop and advocate concrete actions which are leading to near-term increases in foreign investment and in Russian and Western business growth in St. Petersburg and the Leningrad Oblast. The commission is co-chaired by Dr. Henry Kissinger and Mayor Anatoly Sobchak. The 71 commissioners are senior leaders of business, government and universities, and are from St. Petersburg, President Yeltsin's cabinet, the U.S., Finland, Sweden, France and the U.K.

The work of the commission is being accomplished by joint Russian-Western working groups which develop promising actions and assist the city, oblast, business community and universities in the timely introduction of these actions. Over 200 persons are involved in the current eight working groups and in a consortium of 26 international and St. Petersburg universities. These eight working groups have 30 actions completed or underway addressing the following areas critical to economic growth and conversion:

Public Education for Business Growth;
Infrastructure Improvement;
Modernization and Development of the Port;
Energy Conservation and Management;
Unstable Business Conditions;
Defense Diversification;
Banking and Investment; and
Agribusiness Development.

The full commission has met in plenary session on three occasions beginning in October 1992 in St. Petersburg, at a 1993 meeting in Baltimore, Maryland and Washington, DC, and returning to St. Petersburg for a June 1994 meeting.

During the June, 1994 plenary session, the commission set a priority on securing needed investment funding for 21 projects developed by the commission working groups over the past year. The commission also agreed to form three new Russian-Western working groups to act on:

Small and Medium Sized Business Growth;
Health Care Improvement; and
Strengthening of Government Processes under New Local and Regional Government.

The three new working groups will meet in St. Petersburg in September 1994, and will propose new actions to be developed, acted upon as quickly as possible. The original eight working groups will guide the funding and execution of developed projects. The commissioners will meet to measure commission progress at a fourth plenary session, scheduled for July, 1995.

This commission is organized by CSIS with Mr. George W. Handy as director and Mr. David A. Pepper as assistant director. Funding is from corporate contributions and a U.S. AID grant.

Cochairs

Henry A. Kissinger and Anatoly Sobchak.

COMMISSION MEMBERS

Europe & the United States

Krister Ahlstrom, President and CEO, A. Ahlstrom Corporation.

Anders Aslund, Director, Stockholm Institute of East European Economics.

Percy Barnevik, President and CEO, ABB Asea Brown Boveri.

Per Benemar, CEO, Petersburg Products International.

Carl Bjornberg, President and CEO, Myllykoski Oy.
Michael R. Bonsignore, Chairman and CEO, Honeywell Inc.
Fred L. Cipriano, Senior Vice President, Booz-Allen & Hamilton.
Robert W. Cox, Chairman, Baker & McKenzie.
Robert Davies, Executive Director, The Prince of Wales Business Leaders Forum.
Georg Ehrnrooth, President and CEO, Metra Corporation.
Bruno Grob, President, Otis Elevator International.
Jukka Harmala, President and CEO, Enso-Gutzeit Oy.
Robert D. Hormats, Vice Chairman, Goldman Sachs International.
Jaakko Ihamoutila, Chairman and CEO, Neste Oy.
Jaakko Iloniemi, Managing Director, EVA.
James D. Jameson, Chairman, Glenair.
Harry Johnston (D–FL), U.S. House of Representatives.
L.J. Jouhki, President, Thomesto Trading Company Ltd.
Seppo Kauppila, Consul General, St. Petersburg, Embassy of Finland.
Jarl Kohler, President, Finnish Forest Industries Federation.
Eugene Lawson, President, U.S.-Russia Business Council.
Joseph I. Lieberman (D–CT), United States Senate.
Harald B. Malmgren, President, Malmgren Group.
Thomas E. Marsh, Regional President, R.J. Reynolds Tobacco International.
Dave McCurdy (D–OK), U.S. House of Representatives.
Jean-Marie Mérillon, Chairman, Crédit Lyonnais Russia.
Jan Meyers (R–KS), U.S. House of Representatives.
Kalevi Numminen, President and CEO, Imatra Power.
Jorma Ollila, President, Nokia Group.
William H. Orton (D–UT), U.S. House of Representatives.
Ambassador Henry Owen, Consultants International.
Milan Panic, President, ICN Pharmaceuticals.
John E. Pepper, President, The Procter & Gamble Company.
Ogden R. Reid, Director, National Patent Development Corporation.
John J. Roberts, Vice Chairman, American International Group.
Blair A. Ruble, Director, Kennen Institute for Advanced Russian Studies.
Robert Rutford, President, University of Texas at Dallas.
Ambassador John D. Scanlan, ICN Pharmaceuticals.
William Donald Schaefer, Governor of Maryland.
S. Frederick Starr, President, Aspen Institute.
Matti Sundberg, CEO, Valmet Corporation.
Peter Wallenberg, First Vice Chairman, Skandinaviska Enskilda Banken.
John Warner (R–VA), United States Senate.
Thomas Wheelock, Chairman, Comspan.

Russia

Vladimir Alexandrov, General Director, Shipbuilding.
Alexander Belyaev, Member, Federal Council.
Alexander Belyakov, Governor, Leningrad Oblast, Member, Federal Council.
Yuri Bokov, General Director, Shipbuilding.
Alexei Bolshakov, Chairman, Railway Project.
Anatoly Chubais, Deputy Prime Minister, Chairman, Committee for Privatization, Russian Federation.
Boris Fedorov, Deputy, State Duma.
Vladimir Gorodniy, Vice President and General Director, Lenvest.
Viktor Ivanov, General Director, Union Industrial & Building Enterprises.
Victor Khalansky, Chief Representative for St. Petersburg, Central Bank of Russia.
Igor Klioutchnikov, Chairman of the Board, St. Petersburg Stock Exchange.
Alexei Kudrin, First Deputy Chairman, of St. Petersburg Government, Chairman, Committee on Economy and Finance.
Vyacheslav Larin, General Director, LenTEK.
Yuri Lvov, Chairman of the Board, St. Petersburg Bank.
Liubov Ogneva, General Director, St. Petersburg Clothes Manufactory.
Vyacheslav Petrov, General Director, Arsenal Production Association.
Vladimir Putin, First Deputy Director, of St. Petersburg Government, Chairman, Committee on External Relations.
Alexander A. Sarkisov, President, Klimov Works.
Peotr G. Semenenco, President, Klimov Plant.
Vladimir Semenov, General Director, Industry and Construction Bank.
Dmitry V. Sergeyev, Deputy Minister of Transportation, Russian Federation.
Anatoly A. Turchak, President, Concern Leninets.
Ludmilla Verbitskaya, Rector, St. Petersburg University.
Vladimir Yakovlev, First Deputy Chairman, of St. Petersburg Government, Chairman, City Development Committee.
Eugene Yelin, President, Currency Stock Exchange.
Valentin P. Zanin, Manager General, Signal.

OVERVIEW

The International Action Commission for St. Petersburg is organized under the co-leadership of Dr. Henry Kissinger and Mayor Anatoly Sobchak to support actions which will increase investment and business growth and speed the process of economic conversion in St. Petersburg city and region. The 71 commissioners, senior leaders of business, government and universities from six nations, work through 11 joint Russian-Western working groups and a consortium of international universities to undertake concrete actions having a near term impact on this strategic city and region of Russia. Periodic plenary sessions bring the commissioners together to assess progress, eliminate obstacles and decide on new directions for action.

THIRD PLENARY SESSION

On June 10 and 11, 1994, the International Action Commission for St. Petersburg met in St. Petersburg for its Third Plenary Session. The highly successful session was hosted by co-chairman, Mayor Anatoly Sobchak, and was preceded on June 9 and 10 by a meeting of the commission's international university consortium. The commissioners assessed and agreed upon 33 concrete decisions contributing to investment and business growth in St. Petersburg city and region; highlights included:

$1.6 million dollars in investments to support 12 actions which have been developed by commission working groups and proposed to the U.S. Agency for International Development for funding.

Continued progress on major investment projects in energy, port, agribusiness and other infrastructure areas totaling potentially several hundred million dollars.

Commission agreement to form three new working groups in the areas of small and medium-sized business growth, improved health care and strengthened government processes (the latter with an emphasis on tax and investment incentives, creation of an ombudsman office and law and order).

Approval by commissioners of a schedule for the year ahead with a meeting of commission and working group co-chairmen in February 1995 and a fourth plenary session in July 1995.

Agreement that the priority effort of the commission in the year ahead would be to help secure needed investments and to support their rapid application, in St. Petersburg city and region.

MAJOR ACCOMPLISHMENTS AMONG 30 CURRENT COMMISSION ACTIONS

Television program on Russian-Western cooperation broadcast on June 11 to the 14 million viewers of the St. Petersburg channel.

Voice of America Radio broadcasts across Russia of commission experience.

Guidelines, sponsors and charters for International Arbitration Court organized; registration expected in several months.

One stop shop agency to assist businesses and investors and to speed city development organized.

U.S. Russia-Exchange programs underway with full St. Petersburg participation.

Russian-American Enterprise Fund introduced to St. Petersburg personally by fund chairman, Mr. G. Corrigan.

International School and Medical Center open and operating successfully.

Leninets award of a U.S. government grant for defense industry conversion of $1 to 5 million scheduled for July; all commission defense enterprises are well positioned for additional grants.

University Consortium expanded to 26 international universities with work underway on distance learning, new courses, exchanges and creation of business schools.

PROJECTS DEVELOPED AND READY FOR INVESTMENT ACTION

The following 12 projects ready for funding have been developed from working group actions and proposed to U.S. AID:

Television program follow-on;
Arbitration court start-up;
Investment and Development Agency public relations plan;
Central historic district development;
Technology park business plan and prospectus;
Bank card system start-up;
General banking training;
Energy efficiency zone and company formation;
Business plan for agribusiness wholesale terminal market;
Agricultural skill training;
Feasibility study for port operations improvement; and
Port operations training program.

Negotiations for major funding are underway with commission working group support for projects developed from joint Russian-Western actions in the following areas:

Infrastructure Improvement Program (World Bank);
Stock Exchange Clearing House;
District Heating Project (World Bank);
Energy Efficiency Center & Zone (World Bank);
Energy Master Plan (Finnish Government, World Bank);

Nuclear Energy Project (World Bank);
Agribusiness Wholesale Market (World Bank, EBRD);
Port Operations Improvements (World Bank, EBRD); and
Guarantee Fund for Environmental Improvements.

RETIREMENT OF DORA JEAN PHILLIPS MALACHI

Mr. McCONNELL. Mr. President, the autumnal equinox will bring the onset of dark days to the Congressional Budget Office, for on September 22, Dora Jean Phillips Malachi will retire. Ms. Malachi is completing 28 years of splendid service on Capitol Hill and she will be sorely missed.

Dora Jean left her home in Louisville, KY, to join the staff of Senator John Sherman Cooper in 1966. She served, also with distinction, on the staff of Senator Marlow Cook before joining CBO as one of its earliest employees in 1975. At CBO she has served in a variety of administrative positions, and is currently the administrative secretary to the Assistant Director for Special Studies. Unlike the shorter days ahead, Ms. Malachi, in all her tasks, has been the embodiment of ample sunshine, bringing light and warmth to all those who have had contact with her. Beyond that, her ability to procure the most obscure bit of Hill information with a single well-directed phone call, or to secure for her colleagues entree to almost any event in a city in which entree is the coin of the realm, is legendary. The CBO is a much better place as a result of her service; she leaves behind many friends and admirers.

Mr. President, I can assure you that although Dora Jean Malachi will end her 28th year of Federal service a day short of the 39th birthday, after a decade of work for the city of Louisville and Jefferson County and for the Domestic Insurance Co., no child labor law was broken. I have Ms. Malachi's word on this, and that is good enough for me. This government has been well served by this Kentucky Colonel and we salute her and wish her Godspeed on her well-earned retirement.

GUN VIOLENCE

Mr. LAUTENBERG. Mr. President, I rise today to once again call to the attention of my colleagues a fact that the country is all too aware of: gun violence is destroying America's brightest hope for the future—our children.

Here are just two examples taken from the last month. Just two stories that tell us what can happen when children get their hands on guns.

In High Bridge, NJ, a 13-year-old boy shot and killed an 11-year-old friend over a silly, childhood argument.

In Chicago, IL, an 11-year-old boy shot into a crowd, murdered a girl, and was then killed himself—by a 14-year-old and a 16-year-old.

Both tragedies demonstrate what happens when kids can gain easy access to guns in our streets and in our homes.

At a time when our children should be playing in little league, studying algebra, or going to high school dances, they are engaged in deadly street warfare.

Instead of notebooks and pencils, they carry guns and bullets.

Instead of dreaming about college, 15-year-old boys dream of streets, of gangs, and of semiautomatic handguns.

Instead of planning their sweet 16's, 15-year-old girls sit around and plan their funerals.

One woman brought her grandson to 11-year-old Robert Sandifer's funeral in Chicago. She wanted her grandson to see what could happen if he drifted into the world of gangs and guns. She wanted to teach him a lesson. I hope she did; but I know she taught all of us a lesson. She went up to pay her respects and saw how tiny the body was, how strange it was to see this small corpse dressed for eternity in a coffin. "That's a baby in there," she said.

In the words of a New York Times editorial last week—and I ask for unanimous consent that this editorial be placed in the RECORD:

People too young to comprehend death's finality have easy access to death's machines. It gives them status and power. No formula for change will work without a plan to reduce the number of guns on America's streets and in children's hands.

That is what we are trying to do, Mr. President: to get the guns out of our neighborhoods and out of our schools. But each time we try to do it, regressive forces get in the way.

Every day 14 American children—14 kids here in America—are killed by guns.

But every day, the National Rifle Organization gives more than $14 to politicians, orchestrates more than 14 letters, inspires more than 14 phone calls. Few politicians are willing to stand up to such a powerful special interest. So little gets done.

It took us years to pass the Brady bill—a bill which has already proven to be effective and would have saved thousands of lives if it had been passed when it was proposed 10 years ago.

It took us 6 years to get a ban on selected semiautomatic weapons passed. And even then, the NRA wanted to scuttle the entire crime bill—all that money for cops and prisons—if that was the price of keeping semi's in their homes and on our streets.

Well, Mr. President, this time they lost. And we won. Today, President Clinton will sign the crime bill, enacting a ban on 19 different assault weapons and prohibiting gun possession by minors. It is a giant step in the right direction, but we cannot forget that it was almost derailed by the NRA.

We can celebrate today. But we also have to make a commitment today. A commitment to keep going. To keep fighting.

Here is one reason: according to the National Education Association, more than 100,000 students pack a gun with their school things every morning.

Our response was the Gun-Free School Zones Act of 1990 which prohibits the possession of firearms within 1,000 feet of a school. It is a law that can and does work. But it is also a law that is being challenged in the courts.

Next month, the Supreme Court will decide if this law is constitutional. Along with 16 colleagues in the Senate, I have signed a legal brief urging the Court to uphold the law.

We know that guns do not belong in or near America's school yards, and we will continue fighting to keep them away.

We must remember, Mr. President, that this crime bill is not an end to our fight against guns and crime. It is a beginning.

We must restore traditional ideals and the sense of family values. We must give our children the hope and guidance they need to grow up and reject a life of crime. We must continue to fight for reasonable gun control: to stand up to those who put their ideology above the safety of our children.

We have made a start, Mr. President. The crime bill is a step forward. But we have a long way to go. Together, we can get there.

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

[From the New York Times]
"THAT'S A BABY IN THERE"

The speaker of those words was not, we know, referring to a stroller but to a coffin. She was talking about Robert Sandifer, an 11-year-old accused of murdering another child, who was murdered in turn, probably by his own colleagues in crime. The woman had brought her grandson to look at Robert—as had many other adults in this Chicago neighborhood—in hopes that his small body would serve as a warning: Death is permanent. This is where gangs will take you. Beware.

Much has been made in the media this week of Robert's sad story: Abused and abandoned at 3, cared for variously by a grandmother and child welfare agencies, a gang member at 9. But that neglect cannot be the entire explanation. Neighbors and schoolmates of Robert's alleged killers—brothers aged 14 and 16—say those two had good parents. "Their mother and father are real good, nice people," said one. "They just can't control them." Others talked of losing sons and friends to the streets. Children spoke openly of being thankful each day to make it home from school.

Robert Sandifer has quickly become the symbol of something very big and very wrong in America. His alleged crime, his age and his death have combined to provoke a universal revulsion, a feeling that things have gone too far. The question now is: How to harness this moment?

Last month Congress passed a crime bill aimed at making a dent in the appalling conditions in American cities that lead to tragedies like Robert's. It was the culmination of

months of furious debate. Conservatives called for more jail cells and more certain punishment; liberals wanted prevention programs to give kids alternatives to the street culture. A ban on a small number of deadly assault weapons barely passed. The bill itself was mired for weeks in the partisan confusion of competing philosophies on crime. It was saved only by legislators' fear that failure to act would bring disaster on Election Day, since crime has become their constituents' chief preoccupation.

Americans like symbols. Sometimes it takes a particular tragedy to galvanize us, to remove the partisan blinkers from an issue and make it human. Jim Brady's wounding turned the gun debate around, making it respectable for conservatives to support gun control, bringing home the message that gun violence in America needed attention.

Can Robert Sandifer's tragedy do something similar? And if so, what?

Clearly, simply building more jail cells cannot help an 11-year-old so alienated that he must seek approval and kinship from a gang of thugs. Robert's story is as complicated as America's urban disaster. More certain punishment—and, yes, more police and more jail cells—might help to counter the atmosphere of impunity in which urban gangs operate. But just as clearly, city children need a community in which to grow up, some adult structure that will chasten them for doing wrong and show them how to do something right. Too many American children of all races now lack functional families. Boys need career paths other than the drug business; girls need one other than teen-age motherhood that produces more neglected children. No amount of partisan or scholarly disparagement of traditional social programs can change that fact.

Part of what makes this social chemistry volatile is the gun culture. People too young to comprehend death's finality have easy access to death's machines. It gives them status and power. No formula for change will work without a plan to reduce the number of guns on America's streets and in children's hands.

Robert Sandifer's short life and pitiful death—along with the strangers who mourned beside his coffin—illustrate the awful state of America's cities, where even loving parents cannot save children. If they cry out for anything, it is to abandon the demagoguery and partisanship that have characterized the crime debate so far, and to focus some real resources on the neglected cities where the children struggle every day to survive.

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 11:44 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 1, 11, 17, 32, 33, 38, 47, 48, 49, 50, 52, 53, 54, 55, 65, 66, 77, 80, 82, 86, 87, 97, 103, 104, and 105, and agrees thereto, that the House recedes from its disagreement to the amendments of the numbered 5, 14, 19, 20, 28, 30, 51, 56, 58, 60, 64, 71, 72, 84, 98, 100, 111, 117, and 123 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

At 6:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3300. An act to amend the act popularly known as the "Sikes Act" to enhance fish and wildlife conservation and natural resources management programs on military installations.

H.R. 4391. An act to authorize appropriations for the Federal Maritime Commission for fiscal year 1995, and to amend the Shipping Act of 1984 to require that conference agreements authorize members of conferences to take certain independent actions and to prohibit conferences and groups of common carriers from denying or limiting in export foreign commerce compensation to ocean freight forwarders.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4554) making appropriations of Agriculture, Rural Development, Food and Drug Administration, and related agencies programs 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. DURBIN, Mr. WHITTEN, Ms. KAPTUR, Mr. THORNTON, Ms. DELAURO, Mr. PETERSON of Florida, Mr. PASTOR, Mr. SMITH of Iowa, Mr. OBEY, Mr. SKEEN, Mr. MYERS of Indiana, Mrs. VUCANOVICH, Mr. WALSH, and Mr. MCDADE as the managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies 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. YATES, Mr. MURTHA, Mr. DICKS, Mr. BEVILL, Mr. SKAGGS, Mr. COLEMAN, Mr. OBEY, Mr. REGULA, Mr. MCDADE, Mr. KOLBE, and Mr. PACKARD 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. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, 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. SMITH of Iowa, Mr. OBEY, Mr. STOKES, Mr. HOYER, Ms. PELOSI, Mrs. LOWEY, Mr. SERRANO, Ms. DELAURO, Mr. SABO, Mr. PORTER, Mr. YOUNG of Florida, Mrs. BENTLEY, Mr. BONILLA, and Mr. MCDADE as the mangers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4650) a bill making appropriations for the Department of Defense 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. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. SABO, Mr. DIXON, Mr. VISCLOSKY, Mr. DARDEN, Mr. OBEY, Mr. MCDADE, Mr. YOUNG of Florida, Mr. LIVINGSTON, Mr. LEWIS of California, and Mr. SKEEN as the managers of the conference on the part of the House.

The message also announced that House disagrees to the amendment of the Senate to the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and agrees to the conference on the disagreeing votes to the two Houses thereon; and orders the following Members as the managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. GLICKMAN, Mr. RICHARDSON, Mr. DICKS, Mr. DIXON, Mr. TORRICELLI, Mr. COLEMAN, Mr. SKAGGS, Mr. BILBRAY, Ms. PELOSI, Mr. LAUGHLIN, Mr. CRAMER, Mr. REED, Mr. COMBEST, Mr. BEREUTER, Mr. DORNAN, Mr. YOUNG of Florida, Mr. GEKAS, Mr. HANSEN, and Mr. LEWIS of California.

From the Committee on Armed Services, for consideration of the defense tactical intelligence and related activities: Mr. DELLUMS, Mr. SISISKY, and Mr. SPENCE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 601 and 704 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. KENNEDY, Mr. LAROCCO, Mr. MCCANDLESS, and Mr. CASTLE.

As additional conferees from the Committee on Government Operations, for consideration of section 601 of the House bill, and modifications committed to conference: Mr. CONYERS, Mr. TOWNS, and Mr. CLINGER.

As additional conferees from the Committee on the Judiciary, for consideration of sections 802–804 of the House bill and section 601, 703–707, and 709–712 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, and Mr. HYDE.

The message further announced that pursuant to the provisions of 22 U.S.C. 276a–1, and the order of the House of Sunday, August 21, 1994, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on September 8, 1994, did appoint Mr. WILSON to the delegation to attend the Conference of the Interparliamentary Union to be held in Copenhagen, Denmark, from September 12, 1994, to September 17, 1994, on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 3300. An act to amend the Act popularly known as the "Sikes Act" to enhance fish and wildlife conservation and natural resources management programs on military installations; to the Committee on Environment and Public Works.

H.R. 4391. An act to authorize appropriations for the Federal Maritime Commission for fiscal year 1995, and to amend the Shipping Act of 1984 to require that conference agreements authorize members of conferences to take certain independent actions and to prohibit conferences and groups of common carriers from denying or limiting in export foreign commerce compensation to ocean freight forwarders; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 3508. An act to provide for tribal self-governance, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 13, 1994 she had presented to the President of the United States, the following enrolled bill:

S. 859. An act to reduce the restrictions on lands conveyed by deed under the Act of June 8, 1926.

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–3269. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 93-02; to the Committee on Appropriations.

EC–3270. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 92-81; to the Committee on Appropriations.

EC–3271. A communication from Acting Director of the Office of Dependents Education, Department of Defense, transmitting, pursuant to law, the annual test report of dependents schools for the school year 1993–1994; to the Committee on Armed Services.

EC–3272. A communication from the Assistant to the Secretary of Defense (Atomic Energy), transmitting, pursuant to law, the report relative to the Chemical and Biological Defense Program; to the Committee on Armed Services.

EC–3273. A communication from the President of the United States, transmitting, pursuant to law, notice relative to the U.S. Munitions List articles; to the Committee on Banking, Housing, and Urban Affairs.

EC–3274. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the credit card operations of depository institutions for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted on September 12, 1994:

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 3672: A bill to authorize appropriations to expand implementation of the Junior Duck Stamp Conservation Program conducted by the United States Fish and Wildlife Service (Rept. No. 103–363).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1629. A bill to amend the Public Health Service Act to provide for expanding and intensifying activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases with respect to lupus, and for other purposes (Rept. No. 103–364).

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. DOLE (for himself, Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. GRAMM, Mr. LOTT, Mr. BURNS, Mr. D'AMATO, Mr. NICKLES, Mr. COCHRAN, Mr. MCCONNELL, and Mr. PRESSLER):

S. 2431. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to reduce the amount of social spending, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself and Mr. STEVENS):

S. 2432. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for Fiscal Year 1995, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S. 2433. A bill to amend title VIII of the Public Health Service Act to consolidate and reauthorize nursing education programs under such title, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NUNN:

S. 2434. A bill to increase the amount authorized to be appropriated for assistance for highway relocation regarding the Chickamauga and Chattanooga National Military Park in Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 2435. A bill to amend title 28, United States Code, regarding appointment of an independent counsel; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. GRAMM, Mr. LOTT, Mr. BURNS, Mr. D'AMATO, Mr. NICKLES, Mr. COCHRAN, Mr. MCCONNELL, and Mr. PRESSLER):

S. 2431. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to reduce the amount of social spending, and for other purposes; to the Committee on the Judiciary.

THE CRIME CONTROL IMPROVEMENT ACT

Mr. DOLE. Mr. President, instead of signing the so-called crime bill, President Clinton should have used today's White House ceremony to send the bill back to Congress marked with four simple letters: V-E-T-O. Veto.

The President should have told Congress to cut out the billions and billions of dollars in wasteful social spending, toughen up the penalties, and send him a new-and-improved crime bill that matches his own tough-on-crime rhetoric.

And that is exactly what Senate Republicans tried to do last month, when we were ready to offer a series of 10 amendments, all designed to improve the crime bill by stripping out the pork and toughening up the weakest parts of the watered-down conference report.

Republicans tried to save the taxpayers nearly $5 billion by cutting such phony crime-fighting measures as the Local Partnership Act, the Model Intensive Grants Program, the National

Community Economic Partnership—even something called the Ounce of Prevention Program, which in reality is not an ounce, but a multimillion dollar ton of pure, unadulterated pork-barrel spending.

Republicans sought to establish mandatory minimum penalties for those vicious criminals who use a gun in the commission of a crime and who sell illegal drugs to children.

Republicans tried to ensure the swift deportation of illegal aliens who have committed violent crimes while in the United States.

Republicans attempted to tighten up the crime bill's prison language so that funds will be used to build "brick and mortar" prison cells, rather than warm-and-fuzzy prison "alternatives" such as half-way houses and juvenile detention centers. Believe it or not, there is no guarantee that one dime of the crime bill's $30 billion will be used to build a single prison cell.

And, Mr. President, last month, Republicans sought to ensure that first-time violent offenders are kept behind bars by encouraging States to adopt real, meaningful truth-in-sentencing reform.

Although a full 2 weeks have elapsed since the Senate's passage of the conference report and today's signing ceremony, Republicans were nonetheless blocked—shut out is the word—from using just several hours to debate our 10 amendments, toughen up the crime bill in the process, and potentially save the taxpayers nearly $5 billion.

So, Mr. President, today's signing ceremony may be a legislative victory for President Clinton, but it is a very expensive lesson for the American people.

The American people are not dumb. They know that the crime bill is more hype than tough-on-crime substances. They know that it fully funds only 20,000 new police officers, not the 100,000 claimed by the administration.

And the American people understand that the most effective way to prevent crime is not with the pork-barrell, but with the prison cell.

Although Senate Republicans came up a bit short last month, this temporary set-back does not mean we have given up. On the contrary: Republicans will continue to push ahead—with greater effort and with even greater resolve—until the American people get the kind of tough, no-nonsense, crime-fighting plan they deserve, and one that is 100 percent fat free.

That is why I am introducing a bill today—the Crime Control Improvement Act—that incorporates all 10 amendments proposed by Republicans during the debate last month: a $5 billion cut in wasteful social spending, tough mandatory minimum penalties for those who use a gun while committing a crime, tough mandatory minimums for those who peddle drugs to minors and employ minors to sell drugs, the swift deportation of criminal aliens. And real truth-in-sentencing for first-time violent offenders, not for the second-time offenders, as the crime bill now provides.

The Senate should have adopted these amendments more than 2 weeks ago. The crime bill would have been vastly improved as a result, and the American people would not be so skeptical today of the overblown claims made by President Clinton and by the bill's most ardent supporters.

No doubt about it, the Senate missed a golden opportunity by preventing Republicans from offering our amendments. But one lost opportunity does not mean we should not keep on trying, and that is exactly what Republicans intend to do in the weeks and months ahead.

Mr. President, I ask unanimous consent that the full text of the Crime Control Improvement Act, as well as a section-by-section analysis, be reprinted in the RECORD.

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

S. 2431

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 "Crime Control Improvement Act of 1994".

SEC. 2. ELIMINATION OF MODEL INTENSIVE GRANT PROGRAM.

Title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking subtitle C.

SEC. 3. ELIMINATION OF LOCAL PARTNERSHIP GRANT PROGRAM.

Title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking subtitle J.

SEC. 4. ELIMINATION OF LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM, FAMILY AND COMMUNITY ENDEAVOR SCHOOLS PROGRAM, COMMUNITY-BASED JUSTICE GRANT PROGRAM, URBAN RECREATION PROGRAM, AT-RISK YOUTH PROGRAM, AND POLICE RECRUITMENT PROGRAM.

Title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking section 30402, section 30403(b)(2), and subtitles B, G, H, O, and Q.

SEC. 5. ELIMINATION OF NATIONAL COMMUNITY ECONOMIC PARTNERSHIP PROGRAM, COMMUNITY SCHOOLS PROGRAM, OUNCE OF PREVENTION PROGRAM, FAMILY UNITY DEMONSTRATION PROJECT, GANG RESISTANCE EDUCATION AND TRAINING PROGRAM, AND DRUG COURTS PROGRAM.

The Violent Crime Control and Law Enforcement Act of 1994 is amended—

(1) in title III by striking section 30401, section 30403(b)(1), and subtitles A, D, K, S, and X; and

(2) by striking title V.

SEC. 6. AMENDMENT OF VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING INCENTIVE GRANT PROGRAM.

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

"SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.

"(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States organized as multi-State compacts to construct, develop, expand, modify, operate, or improve conventional prisons to ensure that prison cell space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this subtitle, a State or States organized as multi-State compacts shall submit an application to the Attorney General that includes—

"(1) assurances that the State or States have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

"(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

"(3) assurances that funds received under this section will be used to construct, develop, expand, modify, operate, or improve conventional correctional facilities to ensure that prison cell space is available for the confinement of violent offenders;

"(4) assurances that the State or States have involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation or improvement of correctional facilities designed to ensure the incarceration of violent offenders, and that the State or States will share funds received under this section with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in State prison facilities;

"(5) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds;

"(6) assurances that the State or States have implemented, or will implement within 18 months after the date of the enactment of this Act, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veteran's benefits to which they are entitled; and

"(7) if applicable, documentation of the multi-State compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

"SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.

"(a) TRUTH IN SENTENCING GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Truth in Sentencing Incentive Grants. To be eligible to receive such a grant, a State must meet the requirements of section 20101(b) and shall demonstrate that the State—

"(1) has in effect laws which require that persons convicted of violent crimes serve not

less than 85 percent of the sentence imposed; or

"(2) since 1993—

"(A) has increased the percentage of convicted violent offenders sentenced to prison;

"(B) has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

"(C) has increased the percentage of sentence which will be served inprison by violent offenders sentenced to prison; and

"(D) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed.

"(b) ALLOCATION OF TRUTH IN SENTENCING INCENTIVE FUNDS.—The amount available to carry out this section for any fiscal year under subsection (a) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

"SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.

"(a) VIOLENT OFFENDER INCARCERATION GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Violent Offender Incarceration Grants. To be eligible to receive such a grant, a State or States must meet the requirements of section 20101(b).

"(b) ALLOCATION OF VIOLENT OFFENDER INCARCERATION FUNDS.—

"(1) FORMULA ALLOCATION.—Eighty-five percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) for that fiscal year shall be allocated as follows:

"(A) 0.25 percent shall be allocated to each eligible State except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.05 percent.

"(B) The amount remaining after application of subparagraph (A) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

"(2) DISCRETIONARY ALLOCATION.—Fifteen percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) shall be allocated at the discretion of the Attorney General to States that have demonstrated the greatest need for such grants and the ability to best utilize the funds to meet the objectives of the grant program and ensure that prison cell space is available for the confinement of violent offenders.

"SEC. 20104. MATCHING REQUIREMENT.

"The Federal share of a grant received under this subtitle may not exceed 75 percent of the costs of a proposal described in an application approved under this subtitle.

"SEC. 20105. RULES AND REGULATIONS.

"(a) The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this subtitle not later than 90 days after the date of enactment of this Act.

"(b) If data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for that State for the purposes of allocation of any funds under this subtitle.

"SEC. 20106. TECHNICAL ASSISTANCE AND TRAINING.

"The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this subtitle to achieve the purposes of this subtitle.

"SEC. 20107. EVALUATION.

"The Attorney General may request the Director of the National Institute of Corrections to assist with an evaluation of programs established with funds under this subtitle.

"SEC. 20108. DEFINITIONS.

"In this subtitle—

" 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

" 'State' or 'States' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

"SEC. 20109. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle—

"(1) $175,000,000 for fiscal year 1995;

"(2) $750,000,000 for fiscal year 1996;

"(3) $1,000,000,000 for fiscal year 1997;

"(4) $1,900,000,000 for fiscal year 1998;

"(5) $2,000,000,000 for fiscal year 1999; and

"(6) $2,070,000,000 for fiscal year 2000.".

SEC. 7. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.".

SEC. 8. MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) EMPLOYMENT OF PERSONS UNDER-18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) In subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be not less than 10 years. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SEC. 9. MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.'."

SEC. 10. DEPORTATION OF CRIMINAL ALIENS.

(a) EXPANSION OF DEFINITION OF AGGRAVATED FELONY.—

(1) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or

(i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 33 months;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense relating to perjury or subornation of perjury if the offense involved causing or threatening to cause physical injury to a person or damage to property;

"(M) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(N) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(O) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(P) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section;

"(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(R) an attempt or conspiracy to commit an offense described in this paragraph,

including any such offense under Federal or State law or the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to convictions entered on or after the date of enactment of this Act.

(b) DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

(1) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(f) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216 or 216A) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(5) Pending a determination of deportability under this section, the Attorney General shall not release the alien. An order of deportation entered pursuant to this section shall be executed by the Attorney General in accordance with section 243. Proceedings before the Attorney General under this section shall be in accordance with such regulations as the Attorney General shall prescribe and shall include requirements that provide that—

"(A) the alien is given reasonable notice of the charges;

"(B) the alien has an opportunity to have assistance of counsel at no expense to the government and in a manner that does not unduly delay the proceedings;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by reasonable, substantial, and probative evidence; and

"(E) the final order of deportation is not adjudicated by the same person who issued such order.".

(2) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(A) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(B) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(C) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(3) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(A) in subsection (a)—

(i) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(B) in subsection (b)—

(i) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(ii) by striking "respect to an" and inserting "respect to a permanent resident";

(C) by striking subsection (c);

(D) in subsection (d)—

(i) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(ii) by inserting "permanent resident" after "in the case of any"; and

(iii) by striking "(2)" and inserting "(B)";

(E) in subsection (e)—

(i) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(ii) by striking the second sentence; and

(iii) by striking "(2)" and inserting "(B)";

(F) by redesignating subsection (f), as added by paragraph (1) of this subsection, as subsection (c);

(G) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be deportable from the United States."; and

(H) by amending the section heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

(c) JUDICIAL DEPORTATION.—

(1) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the Service, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief

from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(2) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to alter the privilege of being represented at no expense to the Government set forth in section 292 of the Immigration and Nationality Act.

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

(d) RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.—

(1) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final. For purposes of this section, the term 'sentence' does not include a sentence the execution of which was suspended in its entirety.".

(2) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(A) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(B) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

(e) ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.—

(1) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(A) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(B) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(2) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(A) in paragraph (1)—

(i) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(ii) by striking "5" and inserting "10";

(B) in paragraph (2), by striking "15" and inserting "20"; and

(C) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(3) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(f) CRIMINAL ALIEN TRACKING CENTER.—

(1) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(2) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1995 and $6,000,000 for each of fiscal years 1996, 1997, 1998, and 1999.

(g) MISCELLANEOUS AND TECHNICAL CHANGES.—

(1) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media, in the discretion of the special inquiry officer, or, where waived or agreed to by the parties, in the absence of the alien.".

(2) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(3) AMENDMENT OF THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Sections 130001, 130002, and 130004 of the Violent Crime Control and Law Enforcement Act of 1994 and the amendments made by those sections are repealed effective as of the date of enactment of this Act.

SEC. 11. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) any criminal history points under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense;

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense;

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs; and

"(H) the Government certifies that the defendant has timely and truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) EMERGENCY AMENDMENTS.—If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other law, a defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act, or of a crime of violence for which imposition of a mandatory minimum term of imprisonment is required, shall be sentenced to an additional 5 years' imprisonment.

(d) REPEAL OF TITLE VIII OF VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Title VIII of Violent Crime Control and Law Enforcement Act of 1994 and the amendment made by that title are repealed effective as of the effective date specified in subsection (c).

SEC. 12. EQUITABLE DISTRIBUTION OF DISCRETIONARY GRANTS.

It is the sense of the Congress that all grants authorized under the Violent Crime Control and Law Enforcement Act of 1994 and not required to be distributed according to a formula prescribed by law shall be distributed in a fair and equitable manner that ensures that rural states receive a fair and proportional share of the funds.

THE CRIME CONTROL IMPROVEMENT ACT
SECTION-BY-SECTION ANALYSIS

Section One. Short Title. The Act may be cited as the "Crime Control Improvement Act of 1994."

Section Two. Elimination of the Model Intensive Grant Program. This section strikes the $625.5 million Model Intensive grant program, contained in subtitle C of Title III of the Violent Crime Control and Law Enforcement Act of 1994. Under this program, 15 cities are hand-picked by the Administration and given complete discretion over how to spend the funding. Program funds may be spent for any purpose loosely tied to crime reduction. The Model Cities Intensive grant program was not part of the Senate-passed crime bill.

Section Three. Elimination of Local Partnership Grant Program. This section strikes the $1.62 billion "Local Partnership Act," contained in subtitle J of Title III of the Violent Crime Control and Law Enforcement Act of 1994. The Local Partnership Act was not part of the Senate-passed crime bill.

Section Four. Elimination of House-passed Social Spending. This section strikes approximately $737 million in social spending programs, contained in subtitles B, D, G, H, O, and Q of Title III of the Violent Crime Control and Law Enforcement Act of 1994. The programs eliminated by this section include the Local Crime Prevention Block Grant program, the Family and Endeavor Schools program, the Community-based Justice Grants program, the Urban Recreation program, the At-Risk Youth program, and the Police Recruitment program.

Section Five. Elimination of Senate-passed Social Spending. This section strikes over $1.9 billion in social spending programs, contained in subtitles A, D, K, S, and X of Title III and Title V of the Violent Crime Control and Law Enforcement Act of 1994. All of the programs eliminated by this section had passed the Senate as part of the Senate crime bill. However, in some instances the authorization levels for the programs were increased in conference. The programs eliminated by this section include the National Community Economic Partnership, the Community Schools program, the Ounce of Prevention program, the Family Unity Demonstration Project, the Gang Resistance Education and Training program, and the Drug Courts program.

Section Six. Prison Grants. This section amends subtitle A of Title II of the Violent Crime Control and Law Enforcement Act as follows:

The Act currently allows prison funds to be spent on alternative correctional facilities in order "to free conventional prison space." This section requires that prison grants be spent on conventional prisons to house violent offenders, not on alternative facilities.

This section removes from the Act a provision which would have conditioned state receipt of the prison grants on adoption of a comprehensive correctional plan that would include diversion programs, jobs skills programs for prisoners, and post-release assistance. Accordingly, these grants will be used exclusively to build and operate prisons.

This section also amends the Act to condition prison grants on state adoption of truth-in-sentencing for first-time violent offenders. The Act only requires that states adopt truth-in-sentencing for second-time violent offenders.

Finally, this section amends the Act by deleting a "reverter clause" which provides that truth-in-sentencing grants that are not quickly spent will revert back to non-incentive grants. This reverter clause essentially removes any incentive for states to adopt truth-in-sentencing reform.

Section Seven. Increased Mandatory Minimum Sentences for Criminals Using Firearms. This section establishes a mandatory minimum penalty of 10 years' imprisonment for anyone who uses or carries a firearm during a crime of violence or drug trafficking crime. If the firearm is discharged, the person faces a mandatory minimum penalty of 20 years' imprisonment. If death results, the penalty is death or life imprisonment.

Section Eight. Mandatory Minimum Prison Sentences for Those who Use Minors in Drug Trafficking Activities. This section establishes a mandatory minimum sentence of 10 years' imprisonment for anyone who employs a minor in drug trafficking activities. The section also establishes a sentence of mandatory life imprisonment for a second offense.

Section Nine. Mandatory Minimum Sentences for Those who Sell Illegal Drugs to Minors. This section establishes a mandatory minimum sentence of 10 years' imprisonment for anyone 21 years of age or older who sells drugs to a minor. The section also establishes a sentence of mandatory life imprisonment for a second offense.

Section Ten. Deportation of Criminal Aliens. This section provides for the expedited deportation of non-permanent resident aliens convicted of certain violent felonies upon completion of the prison sentence. The amendment would also allow federal judges to enter deportation orders at the time of sentencing. Once the sentence is served, the criminal is automatically deported.

This section, originally proposed by Senator Simpson, was included in the Senate-passed crime bill.

Section Eleven. Flexibility in Application of Mandatory Minimum Sentence Provisions in Certain Circumstances. The Senate-passed crime bill contained a narrowly circumscribed mandatory minimum reform measure that returned a small degree of discretion to the federal courts in the sentencing of truly first-time, non-violent drug offenders. To deviate from the mandatory minimum, the court would have to find that the defendant did not finance the drug sale, did not sell the drugs, and did not act as a leader or organizer.

This section restores the Senate-passed measure and also adds a section ensuring that the so-called "safety valve" will not be abused by the courts. This added improvement requires certification by federal prosecutors that the defendant cooperated with law enforcement authorities.

Section Twelve. Equitable Distribution of Discretionary Funds. This section expresses the Sense of Congress that all grants authorized under the Violent Crime Control and Law Enforcement Act of 1994 and not required to be distributed according to a formula prescribed by law shall be distributed in a fair and equitable manner that ensures that rural states receive a fair and proportional share of the funds.

Mr. MITCHELL. Mr. President, I had hoped that the debate on the crime bill was a thing of the past now that the Senate has acted. But, in light of the comments made by the distinguished Republican leader, I feel constrained to reply.

The first point made and the point repeatedly made during debate on the bill was on the level of spending in the bill, popularly called by our Republican colleagues pork. But the fact of the matter is, of course, that is not the reason why they opposed the bill.

The fact of the matter is that when the Senate passed the crime bill just a few months ago, 42 out of 44 Republican Senators voted for the bill even though it had more spending in each of the years that were common to the two bills.

I want to repeat that. Forty-two out of forty-four Republican Senators voted for a crime bill that had higher levels of spending, more money, than was included in the bill that the Senate passed a few weeks ago in those years which were common to the two bills.

If they are so concerned about spending, why did they all vote for a bill that had more money in it in each of the years common to the two bills than was in the bill they now criticize? The answer is, of course, that is not their concern. That was a made-up excuse at the last minute. Everybody knows that. Every Member of the Senate knows that. The reasons for their opposition to the bill had nothing to do with the spending.

Second, if their concern was about spending, why did they reject the offer that we made which would have permitted a vote on the conference report to cut out $5 billion of the spending? We offered to them, even though conference reports are not ordinarily amendable, that we would permit an amendment to this conference report which would eliminate $5 billion of the spending, and they rejected the offer. They do not want a vote to cut it. They want to talk about voting to cut it.

Finally, Mr. President, I want to make a prediction. When the grants are made for police officers, for prisons, for prevention programs back in each of the 50 States under this crime bill, I predict to you that our Republican colleagues will be right there in the front of the parade, standing there next to the police chief, standing there next to the mayor, holding the scissors in their hands to cut the ribbons for the very programs which they now deride.

I made that prediction a year and a half ago when we took up the economic stimulus program and Republican Senator after Republican Senator got up and denounced the programs in that bill—the community development block grants, for one. I predicted that our Republican colleagues, after standing here on the Senate floor and denouncing the program and the bill, would be out there at home taking credit for the grants made under the CDBG program through the regular appropriations process.

And my prediction proved to be accurate. In case after case, our colleagues, after standing here and calling the CDBG program pork barrel, go back home and say to their constituents, "Look what I got for you." They cut the ribbons, they wave to the crowd, they shake hands with the mayor, they embrace the police chief to take credit for the very things which they stand here and oppose.

I ask all Americans to check your local television news and check your local newspapers when the grants are made under this crime bill. You will see right there, banging into the microphones and brushing up against the photographers and running down the mayors and the police chiefs on the way to get in the front line, our very colleagues who spent so much time here opposing the bill.

But, finally, I want to repeat: Every American should know this has nothing to do with the level of spending.

And I want to repeat this fact over and over and over again: 42 out of 44 Republican Senators voted for a crime bill just a few months ago that had higher levels of spending in it in each of the years that were common to that bill and the bill which passed the Senate a couple of weeks ago—higher levels of spending in each of the years that were common to that bill and the bill that passed the Senate. And the reason this bill that finally passed had more money than the earlier one is that it covered more years.

It is obvious, if you have one bill that covers 5 years and one bill that covers 6 years, and the levels of spending are about the same, the 6-year bill is going to add up to more than the 5-year bill. And, of course, that is what happened in this case. And our colleagues seized upon that, because they obviously did not want to stand up and acknowledge a complete reversal of position as a rationale for reversing their position.

So no American should be fooled by this discussion. The crime bill was a good bill. It was a solid bill. I did not agree with every single provision. I doubt that any one Senator or any one American would agree with every single provision. But, on balance, it will do something for this country.

Most of all, anybody who attended that ceremony this morning could not fail to observe and be struck by the fact that there were so many obviously police men and women there to celebrate this legislation. And police official after police official came up to me and said, "Thank you for what you did for our men and women."

The police men and women of this country form a thin blue line between a civilized and orderly society and the chaos of the human jungle. Every day and every night, thousands of men and women put on a blue uniform, pin the police badge on, and go out and risk their lives so that the rest of use can have some sense of security.

When we voted for that crime bill, we voted for those police men and women. We said to them, "We support you. We know that you risk your lives every day and night. And we know that when you leave home in the morning, your spouse and children don't know if you are going to be back that night."

Every major police organization in this country supported that crime bill enthusiastically, strongly, because they recognize that their men and women are at risk in this society. They are exposed to great risk. They are underpaid. They are not sufficiently recognized. And we chose this one time to say to the police men and women of this country: "We support you. We want to help you. We admire what your are doing."

This bill represents something for them. I hope every Member of the Senate will recognize that.

Mr. President, I yield the floor.

By Mr. KERRY (for himself and Mr. STEVENS):

S. 2432. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1995, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT OF 1994

Mr. KERRY. Mr. President, I am pleased to join today with Senator STEVENS to introduce the National Oceanic and Atmospheric Administration [NOAA] Authorization Act of 1994. This bill provides a 1-year authorization for those atmospheric, coastal, ocean, and fishery programs and activities conducted by NOAA that are not authorized specifically by separate statutes such as the Magnuson Fishery Conservation and Management Act or the Coastal Zone Management Act. In addition to the authorization of appropriations for NOAA programs, this bill also contains several legislative provisions. The most noteworthy of these provisions is the mandate for a study of the responsibilities and activities of the NOAA Corps in supporting the missions of NOAA.

Mr. President, NOAA's fundamental mission, stated simply, is to "promote global environmental stewardship." Such a mission, however, is no easy task to achieve. The components of NOAA's mission include: First, conservation, protection, and management of the Nation's fishery resources, marine mammals, and endangered marine mammals; second, protection of the coastal environment including the management of developing coastal economies; third, weather forecasting; and four reliable science-based predictions of climate and global change. NOAA's activities have a direct impact on the Nation's economy whether it is coastal zone management or climate assessment for farmers. We also rely on NOAA to ensure public safety in the protection of coastal communities

against hurricanes, and inland communities against tornadoes.

In order to carry out its mission, NOAA identifies three broad priorities for fiscal year 1995 in its strategic plan: First, continued modernization of the Nation's weather services; second, management of our marine resources including maintaining and enhancing coastal ecosystems health management; and third, investment in global change research. After years of underfunding, the budget submitted for fiscal year 1995 finally provides NOAA with the much-needed funding to carry out the priorities set forth by the Agency's strategic plan.

In short, Mr. President, this bill authorizes funding for NOAA's atmospheric responsibilities such as the continuation of weather service modernization, satellite observing systems, and climate and air quality research, and the Agency's oceanic responsibilities such as mapping, charting, geodesy activities, undersea research activities, and fishery programs. Funding also is authorized for necessary program support including construction, operation, and maintenance of facilities, and operations and maintenance of NOAA's ships and aircraft.

NOAA's programs meet many critical environmental and economic needs of this country. I urge my colleagues to support the reauthorization of these vital NOAA programs, and to join Senator STEVENS and me, and the entire Commerce Committee in moving this legislation to enactment.

Mr. STEVENS. Mr. President, I am pleased to cosponsor this bill with Senator KERRY to authorize important National Oceanic and Atmospheric Administration [NOAA] programs for fiscal year 1995.

NOAA's activities are vital to the people of Alaska.

From the information provided by the National Weather Service, to the fishery management efforts of the National Marine Fisheries Service, to the charts provided by the National Ocean Service, Alaskans depend heavily on the services provided by the agencies within NOAA.

In addition to authorizing the broad programs within NOAA, the bill we are introducing today also authorizes two specific projects important to Alaska.

The bill would authorize the Secretary to acquire and install a new weather buoy and three new weather stations in Prince William Sound, AK.

Currently, much of the weather information in Prince William Sound is provided by private vessels operating in the sound.

Much of the time, captains and skippers cannot find out what the weather is like in the sound until they are out in it.

The equipment our bill authorizes would dramatically improve the real-time weather information available to fishermen and to tank vessels operating in Prince William Sound.

It will prevent the loss of life as well as the potential for oilspills.

I would like to thank the Prince William Sound Regional Citizen's Advisory Council for its help in making the need for the new stations known.

The bill also includes language to authorize the Secretary of Commerce to clean up sites and facilities abandoned or conveyed by the Federal Government on the Pribilof Islands.

This property, formerly used by NOAA, contains dump sites, debris, storage tanks, and other hazardous conditions and contaminants, many of which pose risks to public health and to the vast bird and wildlife concentrations on the Pribilofs.

The provision will help to make the cleanup of the Pribilofs the priority that it should be.

It authorizes the Secretary to contract with, and to provide financial and technical assistance and training to the State of Alaska and to local entities in order to obtain their services for the cleanup.

This should help speed up the completion of NOAA's cleanup responsibilities on the Pribilofs.

Our bill would also require the Secretary to contract with local entities to the maximum extent feasible.

The agency can save considerable money by hiring local workers rather than flying in outside workers and paying expensive transportation and housing expenses in these remote islands.

I would like to thank Senator KERRY for his work on this bill.

We hope that our colleagues will support the reauthorization of the important NOAA programs in our bill, and that we can pass the bill into law before the 103d Congress adjourns.

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S. 2433. A bill to amend title VIII of the Public Health Service Act to consolidate and reauthorize nursing education programs under such title, and for other purposes; to the Committee on Labor and Human Resources.

THE NURSING EDUCATION CONSOLIDATION AND REAUTHORIZATION ACT OF 1994

Mr. KENNEDY. Mr. President, today, I am introducing the Nursing Education Consolidation and Reauthorization Act of 1994. This legislation reauthorizes several vital nursing education and training programs.

In the half century since the Federal nursing scholarship program began in 1943, Federal support for nursing education has made a continuing contribution to the Nation's supply of professionally trained nurses and the enhancement of the nursing profession.

The Nursing Training Act of 1964 authorized support for nursing schools and students. The support included grants for construction of new nursing education facilities or renovating existing facilities; project grants to strengthen, improve, or expand nursing education programs, and student scholarships, loans, and loan repayment programs.

In 1983, a report by the Institute of Medicine urged greater attention to recruitment, retention, career mobility, and educational outreach to alleviate the maldistribution of nurses. It also urged advanced training in clinical specialties and primary health care.

In the 1990 report by the Health Resources and Services Administration, the States identified the top two major problem areas in health personnel as the shortage of registered nurses and the shortage of primary care practitioners. There were 49 States that had a shortage of registered nurses, 22 States had an inadequate supply of nurse practitioners, and almost a third of the States reported a shortage of nurse midwives.

One of the main objectives of health reform is to place greater emphasis on primary care and prevention. Nurses will play an increasingly important role as health providers under all of the reform proposals that Congress is considering.

A major source of primary care for medically underserved and rural communities is nurse practitioners and certified nurse midwives. Many hospitals rely solely on nurses for anesthesia services. In fact, they are the only providers of these services in 85 percent of rural hospitals. Without their presence important surgical procedures must often be postponed. Clearly, we need to train more advanced practice nurses, and we need to train them in shorter periods of time.

In light of the growing role of nurses in providing quality health care services, Congress has consistently sought to alleviate the shortage of nurses through the Nursing Training Act.

This legislation will assure attention to high-priority national nursing needs, while allowing flexibility to pursue special initiatives to meet new requirements for nursing services. The multiple existing grant and contract authorities would be consolidated under three headings to achieve this flexibility.

Funds can be used for development and support of training programs, faculty development, model demonstrations, and scholarship and loan assistance. The bill authorizes $67 million for fiscal year 1995 and such sums as may be necessary for the next 2 years.

Investment in nursing education will pay off many times in the availability of better health care, and the delivery of a wide range of health care services. I look forward to working with Congress and the administration to enact this legislation.

I ask unanimous consent that the full text of the legislation may be placed in the RECORD.

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

S. 2433

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 "Nursing Education Consolidation and Reauthorization Act of 1994".

SEC. 2. PURPOSE.

It is the purpose of this Act restructure the nurse education authorities of title VIII of the Public Health Service Act to permit a comprehensive, flexible, and effective approach to Federal support for nursing workforce development.

SEC. 3. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title VIII of the Public Health Service Act (42 U.S.C. 296k et seq.) is amended—

(1) by striking the title heading and all that follows except for subparts II and III of part B and section 855; and inserting the following:

"TITLE VIII—NURSING WORKFORCE DEVELOPMENT";

(2) in subpart II of part B, by striking the subpart heading and inserting the following:

"PART E—STUDENT LOANS

"Subpart I—General Program";

(3) by redesignating subpart III as subpart II;

(4) by striking section 837;

(5) in section 846, by striking subsection (d) and inserting the following new subsection:

"(d) BREACH OF AGREEMENTS FOR OBLIGATED SERVICE.—

"(1) IN GENERAL.—In the case of any program under this section under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

"(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of nursing (in this subsection referred to as a 'nursing program'), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the nursing program for disciplinary reasons; or

"(iii) voluntarily terminates the nursing program.

"(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such paragraph if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

"(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.";

(6) by inserting after the title heading the following new parts:

"PART A—GENERAL PROVISIONS

"SEC. 801. DEFINITIONS.

"As used in this title:

"(1) ELIGIBLE ENTITIES.—The term 'eligible entities' means schools of nursing, nursing centers, State or local governments, and other public or nonprofit private entities determined appropriate by the Secretary that submit to the Secretary an application in accordance with section 802.

"(2) SCHOOL OF NURSING.—The term 'school of nursing' means a collegiate, associate degree, or diploma school of nursing in a State.

"(3) COLLEGIATE SCHOOL OF NURSING.—The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

"(4) ASSOCIATE DEGREE SCHOOL OF NURSING.—The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

"(5) DIPLOMA SCHOOL OF NURSING.—The term 'diploma school of nursing' means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

"(6) ACCREDITED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.

"(B) NEW PROGRAMS.—A new school of nursing that, by reason of an insufficient period of operation, is not, at the time of the submission of an application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students of the first entering class in such school.

"(7) NONPROFIT.—The term 'nonprofit' as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(8) STATE.—The term 'State' means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"SEC. 802. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant or contract under this title, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

"(b) PLAN.—An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this title. Such plan shall be consistent with relevant Federal, State, or regional program plans.

"(c) PERFORMANCE OUTCOME STANDARDS.—An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant national nursing needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

"(d) LINKAGES.—An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish.

"SEC. 803. USE OF FUNDS.

"(a) IN GENERAL.—Amounts provided under a grant or contract awarded under this title may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, and dissemination of information, as appropriate to meet recognized nursing objectives, in accordance with this title.

"(b) MAINTENANCE OF EFFORT.—With respect to activities for which a grant awarded

under this title is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

"SEC. 804. MATCHING REQUIREMENT.

"The Secretary may require that an entity that applies for a grant or contract under this title provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"SEC. 805. PREFERENCE.

"In awarding grants or contracts under this title, the Secretary shall give preference to applicants with projects that will substantially benefit rural or underserved populations.

"SEC. 806. GENERALLY APPLICABLE PROVISIONS.

"(a) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall ensure that grants and contracts under this title are awarded on a competitive basis to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet national nursing service goals and in accordance with this title.

"(b) INFORMATION REQUIREMENTS.—Recipients of grants and contracts under this title shall meet information requirements as specified by the Secretary.

"(c) TRAINING PROGRAMS.—Training programs conducted with amounts received under this title shall meet applicable accreditation and quality standards.

"(d) DURATION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

"(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

"(e) PEER REVIEW REGARDING CERTAIN PROGRAMS.—Each application for a grant under this title, except advanced nurse traineeship grants under section 811(e), shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"SEC. 807. NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE.

"(a) ESTABLISHMENT.—There is hereby established a National Advisory Council on Nurse Education and Practice (in this section referred to as the 'Council'), consisting of the Secretary or the delegate of the Secretary (who shall be an ex officio member and shall serve as the Chairperson), and 15 members appointed by the Secretary without regard to the Federal civil service laws, of which—

"(1) 2 shall be selected from full-time students enrolled in schools of nursing;

"(2) 3 shall be selected from the general public;

"(3) 2 shall be selected from practicing professional nurses; and

"(4) 8 shall be selected from among the leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services.

A majority of the members shall be nurses. The student-members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council.

"(b) DUTIES.—The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the range of issues relating to nurse supply, education and practice improvement.

"(c) FUNDING.—Amounts appropriated under this title may be utilized by the Secretary to support the nurse education and practice activities of the Council.

"SEC. 809. TECHNICAL ASSISTANCE.

"Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.

"SEC. 810. RECOVERY FOR CONSTRUCTION ASSISTANCE.

"(a) IN GENERAL.—If at any time within 20 years (or within such shorter period as the Secretary may prescribe by regulation for an interim facility) after the completion of construction of a facility with respect to which funds have been paid under subpart I of part A (as such subpart was in effect on September 30, 1985)—

"(1) the owner of the facility ceases to be a public or nonprofit school,

"(2) the facility ceases to be used for the training purposes for which it was constructed, or

"(3) the facility is used for sectarian instruction or as a place for religious worship, the United States shall be entitled to recover from the owner of the facility the base amount prescribed by subsection (c)(1) plus the interest (if any) prescribed by subsection (c)(2).

"(b) NOTICE OF CHANGE IN STATUS.—The owner of a facility which ceases to be a public or nonprofit school as described in paragraph (1) of subsection (a), or the owner of a facility the use of which changes as described in paragraph (2) or (3) of such subsection shall provide the Secretary written notice of such cessation or change of use within 10 days after the date on which such cessation or change of use occurs or within 30 days after the date of enactment of the Health Professions Training Assistance Act of 1985, whichever is later.

"(c) AMOUNT OF RECOVERY.—

"(1) BASE AMOUNT.—The base amount that the United States is entitled to recover under subsection (a) is the amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district in which the facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction.

"(2) INTEREST.—

"(A) IN GENERAL.—The interest that the United States is entitled to recover under subsection (a) is the interest for the period (if any) described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of 91-day Treasury bills auctioned during such period.

"(B) TIME PERIOD.—The period referred to in subparagraph (A) is the period beginning—

"(i) if notice is provided as prescribed by subsection (b), 191 days after the date on which the owner of the facility ceases to be a public or nonprofit school as described in paragraph (1) of subsection (a), or 191 days after the date on which the use of the facility changes as described in paragraph (2) or (3) of such subsection, or

"(ii) if notice is not provided as prescribed by subsection (b), 11 days after the date on which such cessation or change of use occurs,

and ending on the date the amount the United States is entitled to recover if collected.

"(d) WAIVER OF RIGHTS.—The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

"(e) LIMITATION ON LIENS.—The right of recovery of the United States under subsection (a) shall not, prior to judgment, constitute a lien on any facility.

"PART B—NURSE PRACTITIONERS, NURSE MIDWIVES, AND OTHER ADVANCED PRACTICE NURSES

"SEC. 811. ADVANCED PRACTICE NURSING GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of—

"(1) projects that support the enhancement of advanced practice nursing education; and

"(2) traineeships for individuals in advanced practice nursing programs.

"(b) DEFINITION OF ADVANCED PRACTICE NURSES.—For purposes of this section, the term 'advanced practice nurses' means individuals trained in advanced degree programs, post-nursing master's certificate programs, or, in the case of nurse midwives or nurse anesthetists, in certificate programs that received funding under this title on the date that is one day prior to the date of enactment of this section, to serve as nurse practitioners, nurse midwives, nurse anesthetists, nurse educators, or public health nurses, or in other nurse specialties determined by the secretary to require advanced education.

"(c) AUTHORIZED NURSE PRACTITIONER AND NURSE-MIDWIFERY PROGRAMS.—

"(1) IN GENERAL.—Nurse practitioner and nurse midwifery programs eligible for support under this section are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

"(A) meet guidelines prescribed by the Secretary in accordance with paragraph (2); and

"(B) have as their objective the education of nurses who will upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities and other health care institutions.

"(2) GUIDELINES.—After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs described in paragraph (1).

Such guidelines shall, as a minimum, require that such a program—

"(A) extend for at least one academic year and consist of—

"(i) supervised clinical practice directed toward preparing nurses to deliver primary health care; and

"(ii) at least four months (in the aggregate) of classroom instruction that is so directed; and

"(B) have an enrollment of not less than six full-time equivalent students.

"(d) OTHER AUTHORIZED EDUCATIONAL PROGRAMS.—The Secretary shall prescribe guidelines as appropriate for other advanced practice nurse education programs eligible for support under this section.

"(e) TRAINEESHIPS.—

"(1) IN GENERAL.—The Secretary may not award a grant to an applicant under subsection (a) unless the applicant involved agrees that traineeships provided with the grant will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of advanced nursing practice with respect to which the traineeship is provided; and

"(B) the reasonable living expenses of the individual during the period for which the traineeship is provided.

"(2) DOCTORAL PROGRAMS.—The Secretary may not obligate more than 10 percent of the traineeships under subsection (a) for individuals in doctorate degree programs.

"(3) SPECIAL CONSIDERATION.—In making awards of grants and contracts under subsection (a)(2), the Secretary shall give special consideration to an eligible entity that agrees to expend the award to train advanced practice nurses who will practice in health professional shortage areas designated under section 332.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(2) SET ASIDES.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) not less than 60 percent of such amount shall be made available for projects to enhance the training and practice of nurse practitioners and nurse midwives; and

"(B) not less than 6 percent of such amounts shall be made available for projects to enhance the training and practice of nurse anesthetists.

"PART C—INCREASING NURSING WORKFORCE DIVERSITY

"SEC. 821. WORKFORCE DIVERSITY GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of special projects to increase nursing education opportunities for individuals who are from disadvantaged racial and ethnic backgrounds underrepresented among registered nurses by providing student scholarships or stipends, pre-entry preparation, and retention activities.

"(b) GUIDANCE.—In carrying out subsection (a), the Secretary shall take into consideration the recommendations of the First and Second Invitational Congresses for Minority Nurse Leaders on 'Caring for the Emerging Majority,' in 1992 and 1993, and consult with nursing associations including the American Nurses Association, the National League of Nursing, the Association of American Colleges of Nursing, and the Black Nurses Association.

"(c) REQUIRED INFORMATION AND CONDITIONS FOR AWARD RECIPIENTS.—

"(1) IN GENERAL.—Recipients of awards under this section may be required, where requested, to report to the Secretary concerning the annual admission, retention, and graduation rates for ethnic and racial minorities in the school or schools involved in the projects.

"(2) FALLING RATES.—If any of the rates reported under paragraph (1) fall below the average of the two previous years, the grant or contract recipient shall provide the Secretary with plans for immediately improving such rates.

"(3) INELIGIBILITY.—A recipient described in paragraph (2) shall be ineligible for continued funding under this section if the plan of the recipient fails to improve the rates within the 1-year period beginning on the date such plan is implemented.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"PART D—STRENGTHENING CAPACITY FOR BASIC NURSE EDUCATION AND PRACTICE

"SEC. 831. BASIC NURSE EDUCATION AND PRACTICE GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities for projects to strengthen capacity for basic nurse education and practice.

"(b) PRIORITY AREAS.—In awarding grants or contracts under this section the Secretary shall give priority to entities that will use amounts provided under such a grant or contract to enhance the education mix and utilization of the basic nursing workforce by strengthening programs that provide basic nurse education for purposes of—

"(1) improving nursing services in schools and other community settings;

"(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, homeless, and battered women;

"(3) providing case management, quality improvement, delegation and supervision, other skills needed under new health care systems;

"(4) developing cultural competencies among nurses;

"(5) providing emergency health services;

"(6) promoting career mobility for nursing personnel in a variety of training settings cross training or specialty training, and among diverse population groups; or

"(7) other priority areas as determined by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $12,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997."; and

(8) by redesignating section 855 as section 808, and transferring such section so as to appear after section 807 (as added by the amendment made by paragraph (7)).

SEC. 4. SAVINGS PROVISION AND TECHNICAL AMENDMENTS.

(a) SAVINGS PROVISION.—In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by section 3, the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

(b) CLINICAL RESEARCHERS.—Paragraph (3) of section 487E(a) of the Public Health Service Act (42 U.S.C. 288-5(a)(3)) is amended to read as follows:

"(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—With respect to the National Health Service Corps loan repayment program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps loan repayment programs.".

(c) TECHNICAL AMENDMENTS.—Section 839 of such Act (42 U.S.C. 297e) is amended—

(1) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(a) If a school terminates a loan fund established under an agreement pursuant to section 835(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:"; and

(B) in paragraph (1), by striking "at the close of September 30, 1999," and inserting "on the date of termination of the fund"; and

(2) in subsection (b), to read as follows:

"(b) If a capital distribution is made under subsection (a), the school involved shall, after such capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established under section 835(b) as determined by the Secretary under subsection (a).".

SEC. 5. EFFECTIVE DATE.

This Act shall take effect on October 1, 1994, or the date of enactment of this Act, whichever is later.

By Mr. LEVIN:

S. 2435. A bill to amend title 28, United States Code, regarding appointment of an independent counsel; to the Committee on Governmental Affairs.

INDEPENDENT COUNSEL APPOINTMENT AMENDMENT ACT OF 1994

• Mr. LEVIN. Mr. President, on August 5, 1994, the division of the court of appeals which appoints independent counsels selected Kenneth Starr to assume control of the Madison Guaranty investigation. Questions immediately arose about Mr. Starr's recent partisan political activity and whether because of it, he lacked the necessary appearance of independence to handle this matter.

Mr. Starr has recently participated in and cochaired a highly partisan Republican congressional campaign in Virginia. He had also recently participated in a televised debate on the Paula Jones lawsuit, one of the most politically charged cases in recent memory.

In 15 years of operation of the law, no independent counsel appointment has evoked such public skepticism and concern. Ironically, the court had decided

against retaining Robert Fiske, the regulatory independent counsel who, by necessity, has been appointed by the Attorney General, because it wanted to ensure, as the court put it, "an apparent as well as an actual independence on the part of the counsel."

On August 12, I wrote the court asking it to apply the same standard to Mr. Starr that it had applied to Mr. Fiske by obtaining a complete accounting of Mr. Starr's recent partisan political activities and issuing a supplemental opinion determining whether these activities impaired the appearance of independence critical to public confidence in the independent counsel process. By formal order, the court responded on August 18 that, because the appointment had already been made, the court has no authority to request additional information from Mr. Starr or to address the appearance issue.

I believe the court chose an excessively narrow reading of its appointment authority. In so doing, it has not only left unanswered the appearance problem of Mr. Starr, but also raised questions about the scope of its authority to reconsider its appointments in light of new and important information.

Because the law does not spell out how an appeal of a court ruling in this area may proceed, legal research was needed to determine the feasibility of filing an appeal to the Supreme Court. A review of the relevant case law suggests, however, that it is highly unlikely that, as a Member of Congress, I have the necessary legal standing to bring such an appeal. Moreover, the question of standing would require months of litigation to resolve, and the pending proceedings could possibly placed a cloud on Mr. Starr's authority to operate. For these reasons, I have decided not to appeal the court's August 18 order.

An alternative to prevent similar problems in the future is to make explicit in the independent counsel law what has been implicit until now—that the court has the obligation to select a person to serve as independent counsel who has no actual or apparent personal, financial, or political conflict of interest. That is the purpose of the legislation I am introducing today. A similar bill has been introduced by Congressman JOHN BRYANT in the House. It is my hope that such a statutory clarification of the court's legal obligation in the appointment process will receive bipartisan support.

I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 2435

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

SECTION 1. CONFLICT OF INTEREST.

Section 593(b)(2) of title 28, United States Code, is amended by inserting after the second sentence the following: "The division of the court shall appoint as independent counsel an individual who is without an actual or apparent personal, financial, or political conflict of interest.".●

ADDITIONAL COSPONSORS

The following were added as additional cosponsors on September 12, 1994:

S. 1933

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1933, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 2046

At the request of Mr. COCHRAN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2046, a bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health research centers regarding movement disorders, and for other purposes.

S. 2410

At the request of Mr. GRAMM, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2410, a bill to provide appropriate protection for the constitutional guarantee of private property rights, and for other purposes.

S. 2411

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

SENATE JOINT RESOLUTION 184

At the request of Mr. THURMOND, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Mr. SARBANES], the Senator from Indiana [Mr. COATS], the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from West Virginia [Mr. BYRD], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating September 18, 1994, through September 24, 1994, as "Iron Overload Diseases Awareness Week".

SENATE JOINT RESOLUTION 186

At the request of Mr. PACKWOOD, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Joint Resolution 186, a joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 218

1At the request of Mr. WARNER, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Massachusetts [Mr. KENNEDY], the Senator from North Dakota [Mr. DORGAN], the Senator from Arizona [Mr. DECONCINI], the Senator from Rhode Island [Mr. PELL], the Senator from Rhode Island [Mr. CHAFEE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Ohio [Mr. GLENN], the Senator from Alaska [Mr. STEVENS], the Senator from Alabama [Mr. HEFLIN], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 218, a joint resolution designating January 16, 1995, as "Religious Freedom Day."

SENATE CONCURRENT RESOLUTION 64

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Concurrent Resolution 64, a concurrent resolution expressing the sense of the Congress regarding the Guatemalan peace process and the need for greater protection of human rights in Guatemala.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 74, a concurrent resolution concerning the ban on the use of United States passports in Lebanon.

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

ADDITIONAL COSPONSORS

The following were added as additional cosponsors on September 13, 1994:

S. 575

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 575, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1881

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1881, a bill to establish and implement a technology investment policy for aeronautical and space activities of the National Aeronautics

and Space Administration, and for other purposes.

S. 1887

At the request of Mr. BAUCUS, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Wisconsin [Mr. KOHL], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Hawaii [Mr. AKAKA] 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 Utah [Mr. HATCH] 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. 2257

At the request of Mr. BAUCUS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

S. 2312

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2312, a bill to maintain the ability of United States agriculture to remain viable and competitive in domestic and international markets, to meet the food and fiber needs of United States and international consumers, and for other purposes.

SENATE JOINT RESOLUTION 189

At the request of Mr. ROTH, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution designating October 1994 as "National Decorative Painting Month."

SENATE JOINT RESOLUTION 211

At the request of Mr. GRAHAM, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Louisiana [Mr. BREAUX], the Senator from West Virginia [Mr. BYRD], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maine [Mr. COHEN], the Senator from North Dakota [Mr. CONRAD], the Senator from Idaho [Mr. CRAIG], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from North Dakota [Mr. DORGAN], the Senator from Nebraska [Mr. EXON], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Mississippi [Mr. LOTT], the Senator from Tennessee [Mr. MATHEWS], the Senator from Arizona [Mr. MCCAIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from Delaware [Mr. ROTH], the Senator from Maryland [Mr. SARBANES], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 211, a joint resolution to designate the second Sunday in October of 1994 as "National Children's Day."

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 219, a joint resolution to commend the United States rice industry, and for other purposes.

SENATE RESOLUTION 70

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of Senate Resolution 70, a resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights of the Child.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. ROTH. Mr. President, the Committee on Veteran's Affairs would like to request unanimous consent to hold a hearing on the nomination of Kenneth W. Kizer to be Under Secretary for health of the Department of Veterans Affairs. The hearing will be held in room 418 of the Russell Senate Office Building at 2:30 p.m. on Tuesday, September 13, 1994.

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

ADDITIONAL STATEMENTS

THE "CENTURION"

• Mr. D'AMATO. Mr. President, the *Centurion*, our new attack submarine, is a child of Congress. We initiated it, and we established affordability as the primary goal of development.

Unfortunately, the design trade-offs that have shaped the gross characteristics of the ship have cast doubt on the affordability of the program.

I ask that excerpts from the House and Senate Defense Appropriations reports be inserted in the RECORD at this point, so that I may comment on the language.

The material follows:

EXCERPT FROM HOUSE REPORT 103-562

NEW ATTACK SUBMARINE

The budget request includes $508 million in fiscal year 1995 for development of the New Attack Submarine (NAS). The Department of the Navy has reported to the Congress that the total development cost of the NAS is expected to be $3.5 billion and procurement costs are expected to be $57.8 billion. The Committee believes that an investment of this scope must be very carefully reviewed to achieve the highest possible return in capability at the most realistic cost. The Committee further believes that a program of this magnitude deserves special attention early in its development phase to ensure that the Congress and the Department are fully aware of financial implications for the future, in particular the potential drain on budgetary resources available for other Navy shipbuilding programs as well as overall Department of Defense requirements.

Much of the testimony and correspondence received by the Committee this year has concentrated on preservation of the submarine industrial base. The Committee recognizes the importance of this aspect of the NAS program and also notes that the end of the Cold War has not resulted in an end to submarine mission requirements.

At this time the Committee is prepared to offer a limited endorsement of the role NAS plays in the Navy's overall plan for preservation of the submarine industrial base. However, the Committee is concerned that the current plan needs to be refined to control total program cost while keeping open the option for improvements to adequately address the threats of the future.

First and foremost, the Committee has added $100,000,000 to the fiscal year 1995 budget request for Advanced Submarine System Development (P.E. 0603561N). The funding is to be dedicated to improvements in "producibility" with the overall goals to be (1) a reduction in risk associated with the program, (2) a reduction in follow-ship procurement cost to no more than $1.2 billion versus the current estimate of $1.54 billion, and (3) allow for future insertion of new technology. Along these lines, the Committee directs the Navy to incorporate full modular reconfigurability into the design for NAS. Such reconfigurability at a minimum must allow for insertion of large-scale new technologies that become available or adapt the design to shifts in mission focus or operating environment. Such modularity must also include the ability to accept replacement of machinery plant, entire propulsion plant (machinery and reactor), sail, and the forward end, as well as insertion of special mid-hull mission modules forward of the reactor plant.

Second, the Committee recommends a reduction of $137,322,000 for Ship Contract Design (P.E. 0604567N). This is the total amount specified in project F2199 for New Design SSN. The Committee has deferred embarking on the new design effort until completion of producibility studies to reduce future costs. The Committee further recommends a reduction of $62,678,000 for New Design SSN Development (P.E. 0604558N) for similar reasons. The Committee has recommended no reduction to the funding request of $82,412,000 for S9G nuclear propulsion plant development (P.E. 0603570N) since this effort is essentially in its sixth year of development and the Committee believes it is too late to re-think

the size and power of the system. However, the Committee directs the Navy to use a portion of the funding requested to continue efforts to find better and cheaper ways to produce the propulsion plant.

The Committee advises the Department of Defense that future funding for NAS will be dependent upon the Secretary of Defense certifying that the follow-ship procurement cost goal of $1.2 billion in constant dollars will be met and that the Navy cost estimate has been verified by an independent Department of Defense cost estimate. In addition, the Committee directs the Secretary of Defense to submit detailed quarterly reports to the Congress on the efforts being undertaken to reduce the cost of the submarine. The first report is to be submitted on March 31, 1995.

EXCERPT FROM HOUSE REPORT 103-321

Submarine plans—Over the next 5 years, in constant fiscal year 1995 dollars, the Navy plans to spend $7,690,000,000 to develop and produce the first new attack submarine and to complete payment on the SSN-23. Over 10 years, the costs would be $18,600,000,000. The Navy plans would develop the new attack submarine as a lower cost alternative to the seawolf program. The Navy argues, that production of one Seawolf every other year is adequate to sustain the nuclear submarine industrial base in the near term, but it must purchase the new attack submarine to lower total costs and, because continuing Seawolf production at this rate would be insufficient to sustain a force structure of between 40 and 55 attack submarines in the long term. Further it argues, that a new submarine design is needed to sustain the industrial base for submarine design capability.

Clearly the concerns expressed by the Navy while not inconsequential are based on costs and future force structure requirements. It appears, based on the 30-year life of the Navy's SSN-688 class submarines, that a shortfall will not begin until the middle of the second decade of the next century, raising questions about the need to finance a new low-cost alternative to the Seawolf during the current 5-year plan. The quandary is how can DOD best protect the industrial base at the lowest cost until it is time to purchase a relatively large number of SSN-688 replacements.

The cost of the Seawolf, at approximately $2,500,000,000, is expensive. However, the first new attack submarine will cost more than $3,100,000,000 to produce, in 1995 constant dollars. This is about 25 percent more than the SSN-23 is expected to cost. Furthermore, in conjunction with ordering the first NAS, the Congress will need to provide an additional $2,068,000,000 to complete development of this alternative submarine. Recently, Deputy Secretary Deutch instructed the Navy to reduce its NAS spending by $1,000,000,000 over the 5-year plan. One alternative would be to delay the NAS. The Committee finds that the NAS program could be delayed 8 years and still satisfy the requirement to maintain an acceptable attack submarine force structure. However, this alone will not sustain the submarine industrial base.

If an alternative submarine construction program continued during this 8-year period, the industrial base could be sustained. The Committee notes, for example, that purchasing one Seawolf every other year through 2004 while delaying continued NAS development until 2003 would cost approximately $4,700,000,000 over the 5-year plan, and $14,400,000,000 over the next 10 years. This amounts to a savings of nearly $3,000,000,000 over the next 5 years and nearly $5,000,000,000 over the 10-year period compared to the current plan. Such an approach would minimize the financial burdens facing the Navy and the Defense Department over this period, and could allow for the much needed recapitalization in other areas, such as Marine Corps amphibious ships.

The Committee shares the Navy's concern that the submarine design base would not be entirely safeguarded by this type of approach. The Committee believes continuation of a technology demonstration program studying advanced submarine concepts, especially with the objective of reducing the costs of the new attack submarine would be a useful and cost-effective method for sustaining these design skills. A $1,000,000,000 program over the 8-year period could offset this need. Together, this approach would still save the Navy nearly $2,400,000,000 over the next 5 years, including more than $900,000,000 next year alone.

The Committee directs the Navy to consider an alternative to the new attack submarine program before going forward to milestone III. The Committee expects this review to be completed before the Navy will need to obligate more than 50 percent of the fiscal year 1995 development funding associated with the new attack submarine. It therefore, directs the Navy to withhold from obligating 50 percent of the fiscal year 1995 new attack submarine funds until the review has been completed and a report on the review has been submitted to the congressional Defense committees.

* * * * *

New attack submarine combat system.—The Committee supports the Navy's stated goal of employing an open hardware and software architecture to connect and operate the 15 command and surveillance subsystems comprising the combat system for the new attack submarine. This goal also attempts to maximize affordability, flexibility, and performance of the combat system. The Committee further believes that an open competition for the combat system should ensure the greatest possible use of open system interfaces and commercial electronics.

The Committee has been informed that the Navy is reconsidering the strategy for developing this combat system. Previous Navy plans to use only current combat systems as the baseline for the new submarine's system were criticized convincingly by an independent panel (the Reynolds panel) chartered by the service. The Committee believes that competition for the new attack submarine combat system at the system level must be pursued to optimize private sector expertise to develop and integrate an affordable, open system architecture using advanced technology. Therefore, the Committee prohibits the use of any fiscal year 1995 funds to develop, modify, or otherwise evolve the current Navy submarine combat systems as candidate systems for the new submarine, except as part of a fully competitive process.

The Committee further directs that no fiscal year 1995 funds shall be obligated for design, development, or integration of a combat system for the new attack submarine until the Assistant Secretary of the Navy (research, development, and acquisition) reports to the congressional defense committees on the service's revised strategy for a competition for a combat system integrator. This report, which shall be submitted no later than December 31, 1994, also shall describe how the service is responding to the specific recommendations and conclusions of the independent panel with respect to development of the combat system.

Mr. D'AMATO. Ultimately, the *Centurion* debate will turn on the definition of affordability. The Navy defines an affordable *Centurion* as anything less expensive than the *Seawolf*. Congress defines an affordable *Centurion* as a submarine that will fit within the shipbuilding and conversion budgets of the future, both the Congressional Research Service and the Pentagon's Cost Analysis Improvement Group have raised this issue. I believe ours is the proper perspective.

If we want to avoid a repeat of the *Seawolf* debacle, we must impose budget discipline now. With the release of fiscal year 1995 funds, and the onset of detailed design, Congress will cede control of the cost and character of the *Centurion* to the Naval Sea Systems Command. Unless we tie the release of fiscal year 1995 funds to specific cost caps, we are likely to find ourselves anguishing over the termination of yet another unaffordable submarine in the not too distant future.•

WE AREN'T DOING MUCH TO KEEP THE PEACE—IT'S UP TO US TO DEFUSE THE RWANDAN TIME BOMB

• Mr. SIMON. Mr. President, during the Labor Day recess, Prof. Ivo H. Daalder of the University of Maryland, and S. Frederick Starr, president of the Aspen Institute and former president of Oberlin College, had excellent op ed pieces on the situation in Rwanda.

The reality is we are responding too late and too feebly to this kind of crisis.

We must learn our lesson.

I wish the Rwanda situation could be the end of this kind of crisis.

We will face more crises along this line, and we have to learn to move more speedily and more effectively.

In that connection, I am also asking to insert into the RECORD an op ed piece I did for the St. Louis Post-Dispatch commenting about how we got where we are and the inadequacy of our response.

I ask to insert all three items into the CONGRESSIONAL RECORD at this point.

The material follows:

[From the Washington Post, Sept. 6, 1994]

WE AREN'T DOING MUCH TO KEEP THE PEACE

(By Ivo H. Daalder)

In Central Africa, the United States launches a massive aid operation to alleviate the suffering of 1.2 million Rwandan refugees. But this only after the Clinton administration had done nothing to stop the genocidal massacre of a half-million people that led to the exodus in the first place. In Bosnia, the United States and its four partners in the "contact group" can only muster agreement on a weak plan for new sanctions. This after the Bosnian Serbs responded to an ultimatum to reach a settlement of the brutal conflict by resuming the strangulation of Sarajevo, with U.N. acquiescence at that.

What's going on here? The most powerful nation on earth stands paralyzed as the

world around it is enveloped in chaos. Writing in The Post [op-ed, July 31], Brian Atwood, Clinton's Agency for International Development administrator, suggests that this sudden emergence of chaos represents "a strategic threat that increasingly defines America's foreign policy challenges." His proposed cure: "crisis prevention."

He's right, of course. But what are we to do with those crises that are not prevented? Should we stand by and watch as the terror accompanying chaos unfolds? Is sending transport aircraft and small contingents of military forces on humanitarian operations all the United States can do? Should we deal only with the symptoms and not the causes of today's multiplying crises?

At one-quarter of a trillion dollars annually, the United States spends more on its military than the rest of the world combined. Yet even the limited use of these resources in Rwanda is sufficient cause for the American military to fret about the cost (at less than 0.2 percent of its annual budget) and worry about the impact on the military's fighting edge. No sooner were American forces on the ground in Goma, Zaire, than Gen. Gordon Sullivan, the Army chief of staff, cautioned that "everyone has to recognize that the ultimate purpose of the Army is to fight and win the nation's wars."

And there's the nub of the problem. The failure of the United States to act more forcefully in stemming chaos around the world is not because of the incompetence of President Clinton's leadership as Republicans charge, though incompetent that leadership has been. Nor is it because of the supposed reluctance of the American public to get involved abroad. Polls have shown that most Americans support U.S. intervention along with others to end genocide and other massive violations of human rights. It is rather that the political leadership in this country has accepted the military's insistence that it cannot use even a small portion of the military's abundant resources to engage in what are, after all, small operations, for these are not "the nation's wars."

Becoming involved isn't part of the military's mission statement: to fight not one, but two major wars nearly simultaneously. But after the Cold War, where are these wars to come from? Korea? Perhaps, and the United States should stand ready to fight and win should war come on the peninsula. The Persian Gulf? Maybe, but with the defeat of Iraq and continued containment of Iran, not on a scale of even three years ago. Both at the same time? Highly improbable.

In the meantime, chaos is all around us. Societies are disintegrating, states are failing and innocent people everywhere are the victims of terror, genocide and mass starvation. The United States has the means to do something about many of these crises. Once engaged, the U.S. military performs the tasks of humanitarian relief superbly, and it has unique capabilities to support these operations. The United States also has a singular ability to lead, for once it gets involved, others invariably follow.

But the political leaders in Washington have failed to use the means at their disposal. Like its predecessor, the Clinton administration has blithely accepted the military's longstanding view that the use of force is a question of all or nothing. And since all is too risky and costly, Washington has mostly done nothing. That's unconscionable and a betrayal of the values Americans supposedly hold dear. It's also a massive waste of resources. How long can we afford spending a fifth of the nation's budget on capabilities we're not willing to use?

The fact is, the U.S. faces a critical choice in deciding how to deal with the new strategic threat of chaos: Either we use the military forces we have, or we don't. But if we're just going to stand by watching chaos unfold, let's at the least not waste billions on capabilities we never plan to use.

[From the Washington Post, Sept. 6, 1994]

IT'S UP TO US TO DEFUSE THE RWANDAN TIME BOMB

(By S. Frederick Starr)

The cycle of horror in Rwanda is far from over. This became clear last week to members of a presidential mission touring the region. Led by Rep. Donald Payne (D–NJ.) and C. Payne Lucas of Africare, the multiracial delegation, of which I was a part, inspected the vast refugee camps at Goma, Zaire; met with leaders of the U.N.'s High Commissioner for Refugees and visited hospital and aid facilities in the war-battered Rwandan capital of Kigali. The group also met with the president and prime minister of the new government formed by the Popular Front of Rwanda and interviewed the president and minister of defense of Burundi, the country adjoining Rwanda that could be swept into the holocaust of remorseless killing that cost some 1 million lives in Rwanda itself.

True, the picture we saw had a few bright spots. Americans can take pride in the way the U.S. armed forces and private groups opened supply routes to Rwanada and provided water and sanitation that cut the death rate at the sprawling refugee camps from several thousand a day to barely 100. Beyond this, the Tutsi-dominated government in Kigali seems ready to welcome Hutus into positions of leadership and to discipline members of its army who engage in reprisals against those suspected of having participated in this April's genocide. And in Burundi, a few sober voices genuinely seek reconciliation and democracy as an alternative to a further blood bath in their country.

Yet we also detected danger signs on every side. More than 2 million Hutu refugees from Rwanda have created makeshift "cities" not only in Zaire but in Tanzania, Uganda and Burundi. Among them are thousands who participated in the genocide. The former government of Rwanda never surrendered and instead called for tactical retreat across the border. Its leaders are now in the camps. They have enough money to pay the 25,000-man Hutu army, which is also in the camps and still partially armed. This government in exile also is able to maintain a network of tens of thousands of militiamen throughout the camp system. It clearly intends to return to Rwanda and eventually reclaim the reins of power. Until then, the Hutu army and militia forces have shown themselves to be ready to murder anyone who sets out for home on his own.

Many may soon choose to do so. The approach of the rainy season is threatening to reverse recent gains in sanitation in the camps. Disease-bearing flies already are resistant to several powerful pesticides. Thus, the refugees are caught in a deadly grip between their own exile government and the forces of nature.

The new government within Rwanda can offer little encouragement to those in the camps who yearn to return to a normal life rather than participate in a fresh round of butchery. With neither electricity nor working telephones in its half-deserted capital, it is incapable of providing even the most rudimentary services to the traumatized population. And if further strife erupts, can this Kigali government really control its army of AK–47-wielding 16-year-olds?

Burundi too, remains a tinderbox. Only last October some 100,000 people were slaughtered in this beautiful country adjoining Lake Tanganyika. The international community scarcely took notice. Members of the mission sensed that Burundi's acting president, Pasteur Bizimungu, understands the need for ethnic reconciliation and democracy in his country. But only days before we arrived in the capital of Bujumbura, there were rumors of a coup, and nightly murders in both the city and the countryside have continued for months. These acts of violence are the work of rival ethnic bands, many inflamed by calls for genocide spread by a clandestine Hutu radio station.

What, if anything, can the United States do to avert further horrors in Rwanda and Burundi? It already may be too late, but at least five steps could make a difference.

The former Rwandan army ensconced in the refugee camp near Goma in Zaire must be disarmed. United Nations forces are not authorized to carry out this mission, which will require the cooperation of Zaire's dictator, Mobutu Sese Seko. The United States must work to broker this deal, distasteful though it may be.

Leaders of the former government and army must be separated from the camps at Goma in order to prevent further intimidation of those seeking to leave peacefully and repatriate themselves.

The United States and other countries must provide the aid to reestablish rudimentary infrastructures in Rwanda.

Private organizations should redouble their efforts to improve sanitation in the camps. The U.S. Air Force should again be charged with ferrying supplies as needed.

The United States must work with other countries to establish an international tribunal to bring those responsible for the genocide to justice. This is an essential for social reconciliation among the ethnically divided population of Rwanda. It would provide the strongest possible signal to Burundi as well. The Rwandan government has promised to cooperate with this effort, but genocide should be the concern of all countries.

Our government can and should undertake each of these tasks in consort with other countries, whether through the United Nations or other groupings. This should not be America's responsibility alone, but with both practical and moral issues at stake, the United States should be willing to provide leadership. This country, after all, sat on the sidelines while a million people were hacked to death in April. Our passivity in turn crippled the United Nations' ability to take action when it was most needed.

Now our national attention has shifted to Haiti and Cuba, as if we have somehow fulfilled our moral and political obligations in Central Africa. Nothing could be further from the truth. To walk away from Rwanda and Burundi would be to admit that we have learned nothing from the other instances of genocide in our century, whether in Armenia, under the Third Reich or in Cambodia. It is time to say "never again" and to mean it.

[From the St. Louis Post-Dispatch, Aug. 28, 1994]

OUR NATIONAL RESPONSIBILITY—U.S. SHOULD WORK TO PREVENT TRAGEDY

(By Paul Simon)

The world watches French troops leave southwestern Rwanda in the care of U.N. peacekeeping forces, but few noted another

landmark turnover in the Rwanda saga. Aug. 20 marked the departure of Canadian Major-Gen. Romeo Dallaire, who had served as force commander of the U.N. Assistance Mission in Rwanda since its creation last October. He handed the mission's baton to a fellow Canadian and major-general, Guy Tousignant.

Dallaire first came to Rwanda in June 1993 as chief U.N. military observer to a country entering into a shaky peace. Fourteen months and hundreds of thousands of lives later, he leaves behind yet another shaky peace.

Some say the atrocities in Rwanda were permitted to drag on without international response because of U.N. ineptitude. In fact, in Dallaire and his force, the United Nations had a capable team that understood the situation in Rwanda but whose hands were tied by decision-makers in New York and Washington.

The general's pleas for U.N. troop reinforcements fell on deaf ears. His 2,500-strong force, employed to monitor implementation of a peace agreement between the Rwandan Patriotic Front and the government of President Juvenal Habaryimana, had orders to engage in combat only in self defense.

When 10 Belgian peacekeepers were slaughtered in early April, "It ripped the heart out of the operation," said Dallaire. Belgium and Bangladesh pulled out their troops. The 500 or so soldiers who remained, mostly Ghanaians, were forced to look on helplessly as civilians were abducted and murdered. At last, the Canadian had to admit that the lives of his U.N. troops were in significant danger. By the end of April, the U.N. Security Council voted to strip the mission to a bare-bones force of 270.

In a telephone conversation with Sen. James Jeffords, a Vermont Republican, and me on May 12, Dallaire said that if he could get 5,000 to 8,000 troops on the ground quickly he could stabilize the situation inside Rwanda and bring an end to the massacres. A few days later, the Security Council finally agreed to an enhanced force of 5,500. U.S. concerns over "getting bogged down in another Somalia," however, led to a further month-long delay in redefining the mission's strategy and scope. On June 22, U.N. Secretary General Boutros Boutros-Ghali told The New York Times that deployment was still three months away.

That report stunned me. I called the State Department, and it said that the United States would be willing to fly a battalion (800 men) of African forces to Rwanda, but that there were technical hangups. The secretary general for the Organization for African Unity, Salim Salim, visited my office and appealed for help, saying he had commitments from Mali, Ghana, Senegal, Tunisia and Ethiopia for the necessary troops, but no means to get them to Rwanda. His sense of urgency was not shared by many.

In the meantime, Dallaire stretched our thinking about what a U.N. force can do with minimal resources. He came up with his own definition of the rules of engagement—between traditional peacekeeping and more muscular peace enforcement. His lightly armed forces undertook daring rescue operations of civilians across frontlines; he and his staff were tenacious negotiators. He experimented with joint patrols of U.N. and Patriotic Front soldiers to enhance his limited U.N. capacity, allowing a measured transfer of security responsibility.

The United States at last fully reacted to Rwanda—after hundreds of thousands of deaths—when television pictures of the refugees' plight brought the issue into the living rooms of America. Dallaire was then given the opportunity to make his appeal for more troops in person to Defense Secretary William Perry, who, to his credit, visited Rwanda. Suddenly what had been insurmountable administrative and legal obstacles to the deployment of African forces to join the U.N. mission were set aside in the interest of saving lives.

Dallair supported the Clinton administration's decision to move U.S. troops into the region to enhance and safeguard Kigali airport and to set up water purification systems, both critical steps in the humanitarian response. He remained frustrated, however, by the U.S. reluctance to play a larger role. The United States kept its troop mission narrow, in light of post-Somalia considerations about troop security and "mission creep," as well as concern about congressional reaction.

Meanwhile, thousands of relief agency personnel and U.N. troops are operating throughout Rwanda without incident. Many critical needs such as overland distribution of aid and rehabilitation of utilities—items that will increase stability and encourage people to return home—still go unmet for lack of adequate personnel and resources. Approximately 2,000 U.S. troops are in the region, many sitting on their hands.

Rwanda shows us that we need to rethink our mechanisms for crisis response and—more important—crisis prevention. We must examine the changing role for the U.S. military in these efforts, and that means re-evaluating the perceived threats to our national security. If, as I believe, the greatest threat to the world today is instability, then the U.S. role within the United Nations potentially represents the greatest hope for stability. Our continued failure to quicken and strengthen the U.N. mechanism exposes our Achilles heel to would-be aggressors. U.S. leadership and resources are critical to creating an effective multilateral crisis response.

Our political leadership must make a case to the American people that deterring these situations is a cause worth our involvement—sometimes with our troops, sometimes without. We owe it to a future Gen. Dallaire—and to the hundreds of thousands of Rwandans who might have been saved.•

TRIBUTE TO VIETNAM ERA SERVICEMEN FROM CANADA

• Mr. SMITH. Mr. President, I rise today to commemorate the service of Canadians who served in the United States Armed Forces during the Vietnam war.

The United States and Canada have a long history of friendship and cooperation in both peacetime and in war. New Hampshire, with our strong French-Canadian heritage, has for over two centuries held a strong cultural bond with our northern neighbors. As former Canadian Prime Minister MacKenzie King spoke in 1925 regarding Americans who served in the Canadian forces in World War I, "Few countries enjoy the bonds of goodwill and friendship that the United States and Canada share. Our common border remains the largest unguarded frontier on Earth, and our nations have shared triumphs and tragedies throughout history."

Approximately 40,000 Canadians served in the U.S. Armed Forces during the Vietnam war. Many of these men and women volunteered to serve for they had no obligation to military service in this country. Estimates run as high as 400 Canadians killed in action and 4,000 wounded. Of the 58,132 men and women who are listed on the Vietnam Veterans Memorial in Washington, DC, 113 are Canadians. To this day, there are still servicemen of Canadian descent unaccounted for from this conflict.

I am proud to highlight the service of two Canadian resident aliens who served in Vietnam: Gaetan Jean Guy Beudoin and Guy Andre Blanchette, both of Manchester, NH.

Gaetan Jean Guy Beudoin and Guy Andre Blanchette served in the New Hampshire National Guard, 3d Battalion, 197th Artillery during the Vietnam war. In September 1968, the New Hampshire National Guard was activated into Federal service for a year-long tour of duty. During its tour, the 197th Artillery suffered six combat deaths. Five of these deaths occurred on the same day when an Army vehicle struck an enemy land mine. Gaetan Jean Guy Beudoin and Guy Andre Blanchette were killed on that day 1 week before they were scheduled to return home to New Hampshire. New Hampshire and, indeed, their adopted country are proud and grateful for their courageous service.

On July 15, 1995, the Canadian Vietnam Veterans Coalition is hoping to dedicate a memorial to Canadians who gave the supreme sacrifice in Southeast Asia. As a Vietnam veteran, I applaud the efforts by Canadian veterans to memorialize their fallen comrades. I look forward to the day when Canadian citizens will have the opportunity to pay tribute in their capital to their friends and relatives who unselfishly joined forces with the United States during the Vietnam war.•

"THE ARMENIANS IN ETHIOPIA: A COMMUNITY OF SURVIVORS"

• Mr. SIMON. Mr. President, one of the ethnic groups that is not a large group in our country but contributes in a significant way are the Armenians.

Like the Jews, they have been a persecuted people over the years and experienced their own holocaust almost 80 years ago.

Also, like the Jews, they are a scattered people. And recently in the magazine published by the Armenian General Benevolent Union, I read an article about the Armenians of Ethiopia. Because it presents an insight into how a small group survives in another country and in another culture, I thought it might be of interest to my colleagues, and I ask to insert it into the RECORD at this point.

THE ARMENIANS OF ETHIOPIA

(By David Zenian)

ADDIS ABABA.—A Boeing 757 passenger jet has more seats than the number of Armenians living in Ethiopia, but there is more to what a community means than simple arithmetic.

From a high 1,200 to a low of less than 150, the Armenian community today functions despite the drastic loss of manpower. It's school is open, and so is the Armenian church and club.

A handful of activists are keeping the community infrastructures alive in Ethiopia. Prominent businessman Vahag Karibian is busy revitalizing the AGBU which has already financed the purchase of new furniture for the Armenian community school. Others like Arakel Sakadjian are involved with the academic well-being of the school and various aspects of community life.

"It's all a matter of faith in why you need to preserve your culture and heritage. There is nothing old fashioned about this," Archdeacon Vartkes Nalbandian said in a recent interview.

Once a community of influential traders, factory owners and goldsmiths, the Armenians of Ethiopia are gradually resembling a lost tribe, effectively isolated from fellow Armenians not only in such nearby African countries as Egypt and Sudan, but also the rest of the Diaspora and even Armenia.

"We have no newspapers and no organized communication with other Armenian communities. Most of us do not know what is happening in Armenia, and the very little we hear is from the Armenian broadcasts of *Voice of America*.

"We are like a lost tribe which has survived hundreds of years simply by faith and a lot of hard work . . . but the question is for how much longer?" community elder Avedis Terzian said.

"You might find this strange coming from a 90-year-old Armenian born in Ethiopia, but with the wave of emigration the New Armenians are the Armenians of the United States, France, Canada, Australia and other western nations where people have a chance to develop into a new breed of Diaspora Armenians," Terzian said.

Hundreds of Ethiopian-born Armenians have already settled in California and Canada, but for those who have chosen to stay "in the land of our grandfathers", the battle of survival continues.

And given the size of the community, the battle sometimes resembles a full-fledged war.

Take the Armenian Kevorkoff Community School. Opened in 1935, the K-to-elementary school today has about 100 students of which only 11 are Armenians—including six children of mixed parents.

"Our annual budget is 12,000 dollars, and if we were to keep non-Armenians out of the school, we should have closed and gone home a long time ago," says school principal Emma Gueverian.

"Our kids need an Armenian education, and we can sustain that by accepting people from outside the community," she says. The school's weekly schedule includes ample hours of instruction in the Armenian language, history, geography and religion.

Today, the school has a multi-national student body—including the children of several Egyptian embassy diplomats who prefer the Armenian community school over other private institutions because of "the clean family atmosphere at Kevorkoff."

For the academic year ending June, 1994, three Armenian children will graduate from the Armenian elementary school and will, like others before them, hopefully make their way to the Melkonian Educational Institute of the Armenian General Benevolent Union in Nicosia, Cyprus.

But the number of graduates will drop in the coming years if the demographic structure of the community does not improve with new births and less deaths.

According to available figures, two Armenian youngsters will graduate from Kevorkoff in 1995, but none in 1996 and 1997, and only one in 1998, two in the year 1999 and up to three again in the year 2000. Not an encouraging picture, as Archdeacon Vartkes Nalbandian sees it.

The community today consists of about half a dozen under 12 years old, five over 12 years old, 10 between the ages of 20–25, some in their mid-40's and a majority of 60 to 80 year olds.

According to church records for the period 1979–1994, there have been nine Armenian weddings in Addis Ababa, 37 births and 55 deaths.

"This community is not growing in numbers. We are facing a very difficult future," says the electromechanical engineer turned Archdeacon.

The St. Kevork Armenian Church, built in 1934, lost its last "real" clergyman in 1980, leaving the parish in limbo.

"The Armenian and Ethiopian Orthodox churches are very close, but this community was not ready to get a clergyman from a non-Armenian church to bury its dead or baptize its children," Nalbandian said.

"For a while after the last priest left we used a tape recording of Holy Badarak as the centerpiece of our Sunday service. Imagine a handful of people sitting in church listening to the Devine Liturgy on tape," he said.

"This was not adequate, and as an ordained Archdeacon, I somehow took over. Now, for the past 14 years, I am a chemical engineer during the week and a man of the frock on Sundays.

"I do the occasional baptisms and a lot of funerals—and weddings if I am sure of the background of the couples involved. I also do the Holy Badarak every Sunday of the year—without any exceptions," the forty something Nalbandian said after a recent Sunday service at which his wife led the choir and his teenage son played the electronic organ.

"The last wedding was in 1990, and it involved a couple from Canada who wanted to get married in their place of birth for sentimental reasons," he said.

While the Armenian school and Church keep the community together, the Armenian Club helps cover the costs of maintaining the much-needed infrastructure.

And it does that with style.

The "Ararat" Armenian Community Club has in recent years been widely recognized as the "place to be" for Addis Ababa's diplomatic corps and visiting businessmen.

The Club's restaurant, also called Ararat, is "by reservation only" and foreign diplomats and others gladly pay annual membership fees to join.

"This is one of the few places you can eat in Addis Ababa. It serves authentic Armenian food, and it is home cooking at its best," a Swiss diplomat commented recently.

A good income generating enterprise, the Ararat Club and restaurant pay for the facility to stay open, and produce enough cash to help the Armenian school and church balance their budget.

"With such a small community, we have learned to improvise. The old rich Armenians left many years ago, and now we have to take care of ourselves without a single cent of financial aid from outside. It is not easy, but we do it," Nalbandian said.•

KING HUSSEIN AND THE ROAD TO PEACE

• Mr. DURENBERGER. Mr. President, as citizens of the world's only superpower it is sometimes difficult for us as Americans to relate to the traditional problems of statecraft. For over two centuries, we were protected by two oceans, and subsequently by the status of being a nearly unchallengeable superpower.

Indeed, one of the most searing experiences of our lifetime was to recognize—in Vietnam—that even our power had its limits.

For most of the world, the United States exists in a state of unimaginable geopolitical luxury. They know that in order to relate to their struggles, we have to invest an enormous effort of the imagination. And too often, we fail to make that effort.

I think that our foreign policies are often weaker as a result of this failure of sympathetic imagination—and I would like today to discuss one particular area in which I have noticed this problem.

The Middle East is legendary for the harshness and complexity of its politics. In this political landscape, survival itself is a virtue, an indication that one has the strength and the prudence to do what's necessary to keep oneself alive.

The State of Israel is an excellent case in point. Surrounded by hostile forces, this island of democracy has succeeded through sheer toughness in bringing its region to the brink of a lasting peace. Our country's emotional ties to the Sate of Israel have made its struggles relatively well known to Americans, though even here our appreciation is somewhat short of being adequate. Another example of strength of character in this region has received even less attention. I am referring to the statesmanship of Hussein ibn Talal, the Hashemite King of Jordan.

It is my contention that the historic Rabin-Arafat peace accord of 1993—and the whole peace process that is currently making progress in the region—would not have been possible without the quite, deliberate, and often misunderstood leadership of King Hussein.

The secret meetings with Israeli officials are now well known. But the interest of King Hussein in a comprehensive peace long predates these relatively recent contacts.

As long ago as the 1950's, Hussein was being branded a "tool of the West" by confrontational pan-Arab nationalists like Nasser of Egypt. And by the late 1960's, radical Palestinian activists were using the territory of Jordan as a staging area for guerrilla raids into Israel.

It is against this background of Arab suspicions King Hussein put down the PLO forces with full-scale military action. In 1970 and 1971, he succeeded in driving the radicals out of Jordan.

His actions brought him to the brink of war with Syria—but he knew that that was a chance worth taking. Though he had treated his Palestinian subjects liberally, he judged correctly that there was no future for guerrilla warfare against Israel. And he would not let Jordan be a party to it.

The Arab community punished him by denying him a role as spokesman for the Palestinians. Again, he judged this a chance worth taking. By expelling the Palestinians, he let the Israeli presence in the region ripen into a fait accompli, decreasing the risk in an eventual recognition of Israel's right to exist.

If King Hussein had launched himself into a primarily rhetorical role, he could easily have expanded his own regional importance, but at the expense of both the long-term interests of the Palestinians and the long-range prospects for peace in the region.

The true statesman must make time his greatest ally. And King Hussein's foreign policy has indeed been based on the principle that was best expressed in English by Shakespeare: "Ripeness is all."

In 1979, recognizing the political lay of the land, he was unreceptive to the idea of playing a role in the Camp David peace process. This established his bona fides with the Arabs.

But 3 years later, in 1982, he was willing to take on a role in the Reagan Middle East peace proposals. On President Reagan's behalf, King Hussein entreated the PLO to accept U.N. Resolution 242 and recognize Israel, or at least allow Jordan to negotiate with Israel on its behalf.

The emotional climate in which Hussein undertook this initiative is perhaps best illustrated by Abu Jihad's shout to reporters: "What's in it for the PLO?"

This is psychologically illuminating. At a time when the PLO was concerned about itself, King Hussein was concerned about the Palestinians.

By this time, he was strong enough to risk failure—so that when Yasser Arafat backed out of the proposed joint Jordanian-Palestinian delegation, thereby dooming the Reagan plan, King Hussein was confident that this would not be he end of the peace process.

Events have proved him correct. And now that the glimmer of hope for the Middle East is getting stronger—and self-rule for the Palestinians is becoming a reality, along with the recognition by the Arab nations that Israel has the right to exist in peace—let us take a moment to thank somebody who played a largely unsung role in making it happen.

Future generations in the Middle East should be grateful to King Hussein for his perseverance. And we in the West would do well to study the example of this Jordanian King who was born in a Jewish hospital, and helped bring to fragile birth a new era in the history of the Middle East.•

SENATE INACTION THREATENS BIODIVERSITY TREATY

• Mr. SIMON. Mr. President, one of the recent pluses that has taken place for the State of Illinois was when Howard Buffett moved from Nebraska to Illinois. He is now serving as vice president and assistant to the chairman for the Archer Daniels Midland Co. of Decatur, IL.

Recently, Howard Buffett had an oped piece in the St. Louis Post-Dispatch that merits wider distribution.

Real candidly, until I read his commentary about the need for follow-through on the Rio Earth summit, I was not aware of what is taking place and about the lack of U.S. participation in the follow-through on the Rio Earth summit.

I do recall that at the Rio Earth summit, among the people who were there were Senators ALBERT GORE and JOHN KERRY, both of whom provided leadership.

I know that both these Government leaders continue their interest in this issue, but both in the administration and in Congress, we should make sure we follow through.

I ask to insert Howard Buffett's observations into the RECORD at this point.

The article follows:

[From the St. Louis Post-Dispatch, Aug. 31, 1994]

SENATE INACTION THREATENS BIODIVERSITY TREATY

(By Howard G. Buffett)

A powerful, far-reaching agricultural issue was overlooked by the U.S. Senate, an issue that affects all humankind—the conservation and sustainable use of the world's animals, plants and ecosystems. The world is getting smaller and needs a global effort to preserve its biological diversity; unfortunately, due to inaction, the United States will not participate fully in this effort.

It has been two years since the Convention on Biodiversity was unveiled at the Rio Earth Summit. This November, a conference of the signing parties will convene to finalize the rules of procedure and debate biosafety protocol. However, the United States will be a silent bystander because the Senate recessed without ratifying the treaty by its Aug. 30 deadline. Knowing the impact of biodiversity on medicine, biotechnology, agriculture and pharmaceuticals, it is incomprehensible that the United States has relinquished its negotiating position.

Decisions affecting rules of procedure and biosafety protocol will be made without our input or influence. The Senate may have left Washington without acting on this important issue, but make no mistake about it—the rest of the world will not stand still because we failed to act. This conference will move forward, and our decision not to be at the table reflects poorly on our commitment to future generations.

Every year, the U.S. government spends billions of dollars to idle fertile cropland in an effort to support prices. At the same time, countless developing nations subsidize intensive production on fragile soils. The resources necessary to produce food for the world's nearly 6 billion people are literally eroding daily, even in countries with strong conservation traditions.

We live in a world where fewer than 20 plant species produce 90 percent of the food supply, and we live in a country where more than 99 percent of commercial crop acres are planted with plant species introduced from foreign countries. We are dependent on our ability to constantly adapt varieties of plants and animals to overcome disease and enhance yields necessary to fee our rapidly expanding population. As a country, we rely on the world's supply of diverse plant and animal genetic material. World interdependence has never been more evident than in the struggle to produce food.

Given our country's position among world producers, does U.S. agriculture have anything to fear at the Convention on Biological Diversity? I think the answer is clearly no. Under the convention, we maintain sovereign control over our natural resources and are not subject to binding dispute resolution procedures. The convention provides a framework for developing stores of strategic genetic resources here and abroad.

The foreign germ plasma that boosted the soybean from a green manure crop 50 years ago to one of the nation's leading cash crops today is just one example of material that will find greater protection and development. Hybrid vigor in both plants and animals will be enhanced through increased cooperation under this agreement.

Our position as the world leader in biotechnology requires that we be in a position to educate the rest of the world about the safety of new products and the economic benefits of improved varieties. We cannot influence other nations on these issues if we remain isolated and refuse to embrace this attempt to generate additional understanding.

The greatest benefit to U.S. agriculture, however, might just as well accrue in the area of soil and water conservation. The convention will not force any constraining new conservation regulations on U.S. farmers. U.S. producers have for years been out front on voluntary adoption of conservation practices. Witness the extensive use of no-till farming and the reduction of nitrogen levels in row crop systems. The benefits will come as developing nations reduce unsound farming practices and reliance on monoculture.

If the world's food supply is to keep pace with population growth, the emphasis must shift to producing more on fertile, well-managed soils and less on fragile areas. The United States stands to gain significantly under such a shift. Any move to transfer the billions being paid to idle our most fertile acres into more productive ventures will not only add to the viability of agriculture but boost the U.S. economy as well.

The economy will not be the only area affected. The consumer, when looking at availability of products, quality of products, maintaining reasonable price levels and having access to more nutritious varieties, will also be effected. Whether you observe from a global perspective and are concerned with general food security or whether you localize the impact, the conclusion is the same: Biodiversity is critical to our future.

Examples can vary greatly. When you walk into a store, one out of four drug-related items that you pick off the shelf is derived from a living organism, a product of biodiversity.

We don't always think about biodiversity when eating french fries, but the connection is very real. At least 13 species of potatoes have been used in developing the varieties currently grown in the United States. And the next time you grab a handful of peanuts, remember that this popular food is largely dependent upon germ plasm from abroad.

In the 1970s, U.S. farmers were devastated by a severe disease epidemic referred to as southern leaf blight fungus. The salvation of our corn crop was found in diverse varieties resistant to the disease. It is the closet we have come to breakfast without cornflakes.

Today, the U.S. wheat crop is under siege from a foreign insect known as the Russian wheat aphid. Our only sources of resistance is this pest originated from countries of southwestern Asia and Eastern Europe.

Soybeans, one of the most important agricultural products and exports from the United States, could tremendously benefit from a stronger, disease-resistant variety. Other industries—from walnuts to grapes—depend heavily on the contribution made from biodiversity. The products affected cover every shelf in a grocery store. The consumer should look to the Senate to provide this biological diversity insurance policy.

It is quite clear that U.S. participation in the Convention on Biological Diversity offers no realistic threat to American agriculture. The real fear should come from a lack of cooperation among the world's food-producing nations as we enter the 21st century.•

ADMINISTRATION CODDLING OF FOREIGN DICTATORS

• Mr. D'AMATO. Mr. President, I rise today to again address some very disturbing practices of the Clinton administration in the realm of foreign policy.

In President Clinton and Vice President GORE's campaign book, "Putting People First, How We can all Change America," they write, "A Clinton-Gore administration will never forge strategic relationships with dangerous, despotic regimes." Yet, one need only look back through the first 2 years of this administration's foreign policy to see the beginning of a contrary policy. With six countries which by most standards are recognized as "dangerous, despotic regimes," the administration has held dialogs, contradicted its previous hands-off policy in regard to, or taken preliminary steps toward establishing relations with in some form or another.

With regard to Cuba, at the beginning of the recent refugee crisis, the President said that he would not negotiate with Fidel Castro. Over this past weekend, the United States did just that and allowed Castro to dictate our immigration policy by forcing us to greatly increase the number of Cubans allowed to enter the country, despite claims by the President and the Attorney General that they would not allow Castro to do so.

With regard to Vietnam, the President, over the objections of a great many Vietnam veterans, lifted United States trade sanctions against that country and established liaison offices in both capitals. Vietnam's human rights record is certainly nothing to brag about, and for an administration that claims to be very concerned about the progress of human rights, they seem to be off the mark.

In China, another human rights disaster, the President, when he was a candidate, criticized the Bush administration for its dealings with China. Despite China's human rights record, the Clinton administration has now done just the same. In publicly decoupling human rights practice from trade relations, the President chose to ignore the thousands, perhaps millions of Chinese political prisoners languishing in the Chinese gulags. This is a dangerous step. The linking of human rights with trade has been a well established tenet of American foreign policy for over 20 years. This linkage worked with the former Soviet Union and while China is not the same, China certainly should not be rewarded for its horrible record of abuses.

North Korea, another despotic regime, has been courted by this administration. While the circumstances are different, instead of dealing tough with the Communist thugs in Pyongyang, the administration at first offered economic aid, then trade relations, and now is negotiating with this dictatorship on some form of diplomatic relations. So much for rhetoric on acting tough with Communist tyrants.

Candidate Clinton attacked President Bush for coddling Syria. Well, the President's December 1993 meeting with Hafez al-Asad did little to convince this Senator that the President meant what he said when he vowed to not "cast a blind eye on Syria's human rights abuses and its support for terrorism."

Finally, in Serbia, the administration is talking about partially lifting sanctions on that country, in return for the placement of foreign monitors on its borders. The administration is forgetting that it has been Serbia that has been providing comfort and support to the genocidal murderers in Bosnia.

All told, President Clinton's main foreign policy dealings have been concessions to dangerous, despotic regimes. This is unfortunate considering the fact that his main attacks against President Bush during the campaign were accusations of coddling dictators.

Apparently, this President feels that coddling dictators is more important than condemning them.•

"IS GAMBLING EXPANSION NEVER-ENDING?"

• Mr. SIMON. Mr. President, municipalities, States, Indian reservations, and other entities are desperate for funds, so desperate that more and more are looking to gambling as a source of revenue.

We know from our own history that there are problems with that, exactly how serious the problems are and to what extent we should view this as a serious problem for the future, I do not know.

I do believe it is a subject that ought to be examined and is not now seriously being examined.

Recently, my hometown newspaper, the Southern Illinoisan, had an editorial titled, "Is Gambling Expansion Never-Ending?"

It asks some questions about the State of Illinois that we should be asking around the country.

We cannot expect governments to forego a desperately needed source of revenue, but we also have to recognize that we are creating some future problems for our Nation.

I ask to insert the editorial into the RECORD at this point.

The editorial follows:

IS GAMBLING EXPANSION NEVER-ENDING?

If electronic gambling really attracts bettors to the tracks, then how long will it be before horse-racing becomes an afterthought to the track owners, who now are de facto casino operators? If that occurs, then horse-racing as we know it may no longer exist anyway.

In the never-ending quest for more and more gambling, there's a proposal afloat to put video poker games and slot machines at racetracks to help the horse racing industry compete with riverboat casinos.

Whao! Hold your horses. It's time to stop this upward spiral of anything-goes-to-make-a-buck gambling.

Represetatives for racehorse owners and other racetracks told a legislative panel recently that riverboat gambling has severely cut into their profits since its introduction in 1990. The legislature currently is studying proposals to add more licenses for riverboats.

The horse-racing industry has also opposed casino gambling in Chicago on the grounds that it would further erode the ability to make money.

We recognize that horse racing is the grandaddy of Illinois gambling and that it helps support agriculture in downstate Illinois. But at some point, someone has to develop the intestinal fortitude to say, "the buck stops here."

Givig racetrack operators more gambling tools to compete with other sources makes little sense. It only continues escalating the promise of easy money. And that easy-money appeal that grabs the gambler also grabbed a lot of our state officials along the way.

The horse-racing industry makes a valid point when it says that riverboats have an unfair advantage over racetracks because they can operate 24 hours a day all year. The answer isn't to go hog-wild with yet another tier of gambling in the state.

Horse-racing interests complained in 1986 that the lottery was hurting them. Tracks then received tax cuts and the ability to operate off-track betting parlors. Now riverboats are the villains. Perhaps a combination of revising some restrictions that exist, plus the horse-racing industry itself developing comprehensive marketing strategies,

would serve us better than new toys. If electronic gambling really attracts bettors to the tracks, then how long will it be before horse-racing becomes an afterthought to the track owners, who now are de facto casino operators? If that occurs, then horse-racing as we know it may no longer exist anyway.

While many lines have been crossed in the continuing spread of gambling, that doesn't mean a total abandonment of standards. And those standards don't necessarily have to be grounded on morality.

More to the point is the state's willingness to promise grandiose results from "just one more" form of gambling. Heck, we've saved education with the state-run numbers racket; we've saved tourism with riverboat gambling; and we may yet save Chicago with some sort of expanded casino gambling. Surely, we must be fair and save horse-racing as it's existed for 100 years.

The state has yet to realize that the gambling revenue is finite. If we put electronic gaming at horse-tracks, that vicious circle will only continue. Maybe riverboat gamblers will want to wager on animals racing around the decks.

Proponents of all these different measures see dollar signs. More money if we expand, the end of this or that industry if we don't. It's time to call a bluff or two and figure out exactly what the stakes are before we're in over our heads.•

A BIRTHDAY TRIBUTE TO JOHN W. KLUGE

• Mr. BREAUX. Mr. President, if I had to choose one thing about America which makes our country great, it is the ability of a single individual to use his or her God-given talents to the maximum and succeed beyond anyone's wildest expectations. This individual success, of course, is the basis for the overall success of the country.

Far too little attention is paid to the role that individual investors and entrepreneurs play in America's success. We often fail to fully appreciate that these individual investors and entrepreneurs create most of the jobs in this country; they are also frequently on the cutting edge of new technologies and innovation. The genius of the American free enterprise system is that it allows, and even provides the incentives, for an individual to take business risks which reward the individual, at the same time creating opportunities for a better life for all citizens.

Having said this, I would like to salute today perhaps the best living example of the American entrepreneurial spirit. The individual to whom I refer is John W. Kluge, who on September 21 will celebrate his 80th birthday.

No novelist could have created a better example of the American dream come true. John Kluge immigrated to this country with his mother at the age of 8 from Germany. He worked three jobs to pay for his college education.

Mr. Kluge began his remarkable career in communications by acquiring his first radio station in 1946. He eventually purchased 13 radio stations and 7 UHF television stations, and in 1959 he acquired an interest in Metropolitan Broadcasting Corp.—formerly Dumont Broadcasting Corp. Metropolitan Broadcasting Corp., of course, became Metromedia.

Mr. Kluge's interests did not stop with broadcasting; he later became a giant in the cellular and outdoor advertising businesses. His privately held company has been active in the motion picture, hospitality and restaurant businesses, automotive equipment, medical equipment, as well as in computer software and information technology, such as interactive multimedia networks.

The breadth of his undertakings and accomplishments over the years is truly a marvel to behold. How many people have been so successful in so many different fields for so long a period of time? Not very many. And how many people have created as many good jobs for his fellow countrymen? Very, very few.

What is just as remarkable are the simple, basic principles which have guided him. These are captured in his own words:

If I have any advice it would be don't go into something just for the sake of going into it. Go into something because you really like it, and then do it with a drive and enthusiasm so that it isn't work.

My philosophy all my life has been the pursuit of excellence.

Young entrepreneurs should spend an awful lot of time thinking about what they want to get into. The last thing you want to do, unless it's a very unusual situation, is to invest money. You should have a fund of knowledge of something and out of that you make up your mind. Money is not a fund of knowledge.

Work isn't really work for me. I don't think I have ever "worked" in my life, because "work" to me means that you are really doing something that you don't like.

If we have had any success, it's because we are people-oriented. Assets are cold. What brings them to life are the people who operate those assets. So we have a commitment to the business and to its people.

There is a simplicity and clarity to those quotes that represent the essence of John Kluge. Despite his success, his wealth, and all the honors, he remains unimpressed with himself. "I wouldn't write a book," he once said in an interview, "because saying the word 'I' over and over again would nauseate me."

But Mr. Kluge is more than an incredible successful businessman; he also takes seriously his responsibility to the larger community. Over the years, he has given generously to many good causes, in particular education by endowing many millions of dollars to scholarship funds for minority students.

In short, Mr. President, John Kluge represents the very best of the American dream—hard work, dedication, the willingness to take calculated risks, humility, generosity, and devotion and allegiance to friends and employees who have made possible his success.

So it is with great pleasure that I salute John W. Kluge on his upcoming 80th birthday.•

"RACE AND PERSONAL STANDARDS" SKILLS AND VIRTUE TRANSCEND INFURIATING STEREOTYPES

• Mr. SIMON. Mr. President, recently, my hometown newspaper ran an article by Rachel L. Jones, an alumna of Southern Illinois University in Carbondale, that appeared originally in the Detroit Free Press.

Rachel Jones' article speaks candidly about something that is usually not discussed but should be.

We want to create opportunities for everyone in our society, but we cannot do that by lowering standards. In fact, some of the attempts at lowering standards, clearly, are patronizing attempts at charity that do not recognize that all people have ability, regardless of race, religion, or ethnic background.

I ask to insert the Rachel Jones article into the RECORD at this point.

The article follows:

[From the Southern Illinoisan, Sept. 1, 1994]

RACE AND PERSONAL STANDARDS: SKILLS AND VIRTUE TRANSCEND INFURIATING STEREOTYPES

(By Rachel L. Jones)

Twelve years ago, Newsweek magazine literally gave me my journalistic calling card, the proverbial foot in the door, by publishing my opinion about the use of Black English in America.

I was 21 years old on Dec. 27, 1982, and the only valuable possessions I owned were my mind and the ability to order my thoughts in persuasive, cogent style. In that issue's My Turn column, I wrote that although Black English is a valid part of African-American history, young blacks must be proficient in standard English to succeed in this society.

I ended that column by saying, "I don't think I 'talk white,' I think I talk right."

Then, I was a sophomore at Southern Illinois University in Carbondale. More than a decade later, I'm left shocked by this week's Newsweek cover story on Simpson, called "Day & Night." A so-called psychological profile, it is filled with characterizations of O.J. Simpson's poise, charm and drive for success as "trying to act white."

Make no mistake. I'm not defending Simpson, and stopped being interested in the minutiae of his murder case weeks ago. But whether Simpson committed a double homicide or not, that Newsweek allowed dubious, unnamed sources to decry his fame and wealth as "trying to act white" makes me ashamed I was ever published in that magazine.

As a black woman who has spent my life immersed in language, who has polished and developed my communications skills to advance my career, I'm left thinking that maybe Newsweek never really got it, never really understood what I was trying to say, or forgot over the passing years.

Even at 21, I had a strong sense that race was not the defining issue when it comes to mastering communication in this country. I consider myself very anchored to my ethnicity, proud to be African American. I'm also determined to exploit the tools this society designates as mandatory for success.

Because I was bucking the prevailing Afrocentric, black pride sentiment surrounding the Black English issue, Newsweek editors may have suspected that my heartfelt, youthful opinion would help sell magazines. And maybe they were right. I received almost 500 letters about that column, and virtually all were positive. I spoke on radio talk shows and worked as a student reporter at the New York Times and the Washington Post because of that column. I still receive reprint requests for it, for inclusion in college textbooks.

I read this week's Newsweek cover story with a mixture of dread and disgust. As a child, I heard the same chant over and over: "Why are you trying to act like a white person?" I was threatened and harassed because I liked to read, for using correct English, and for striving to articulate my words as my older brothers and sisters had taught me. To this day, I'm grateful to them for darn near smacking me upside my head to make me think and speak clearly, to communicate my thoughts with confidence and clarity.

UGLY ASSERTIONS

But then as now, the idea that these skills are the domain of white people infuriates me. And if I get started on my diatribe about how this mind-set is rooted in white supremacy, and how labeling the standards of success in this society as "white' does irreversible damage to the self-esteem of young blacks, I know I'll be branded a neo-revolutionary.

So be it. Painting American success as a white attribute smacks of white supremacy. It's another not-so-subtle message to blacks that being black, in whatever guise, will never be good enough in this country, and that the only way to even approach the pinnacle of success is to strip away that blackness and mimic the ultimate standard—white people.

The Newsweek editor who wrote the article, Evan Thomas, says it was not meant to be a commentary on race. Instead, he called it little more than a character sketch based on "a lot of reporting from a lot of O.J.'s friends and acquaintances."

Two lead reporters were black, and based on two months of interviews with several dozen people, Thomas says, he wrote a piece "intended to be a picture of a guy who was tormented."

"We weren't placing a value judgment on the way he was behaving," Thomas says. "But his attempt to fit into a white corporate world where he had to change his style and his manner of speaking was perceived by his friends as an attempt to be white."

But the article went too far. Publishing anonymous criticism of Simpson because he took diction lessons and went to private country clubs is an absolute abomination. Mentioning his "taste for white women" in such a tawdry manner (Unnamed Source: "Most womanizers I know go for any woman, but not O.J.—it was white or nothing") was so far beneath what I used to think were Newsweek's standards that I cringed.

If we follow that logic—that everything he did was to mimic whiteness—where does it stop? Was Simpson's penchant for cocaine and random sex "white" behavior? Are his ego and his domineering, violent nature acting white? And if he's found guilty of the crimes he is charged with, was his homicidal rage another offshoot of his manic drive for whiteness?

That's the irony of this issue. Because after you read that article, you don't come away with the impression that the violent parts of his behavior were attempts to act white. Instead, all the negatives, the pathological, poverty-rooted underpinnings, the drugs and wild sex, are decidedly black.

Thomas doesn't see it that way. Newsweek reporters concluded from their reporting that all this pressure to erase his poor black background and fit into the "white" world, and the attendant rejection by blacks, indirectly contributed to his cracking up.

"O.J. lived two lives, and the constant switching back and forth was an enormous strain," Thomas says.

But I couldn't pin Thomas down on just what the two lives were. Was the charming, affable, articulate Simpson white, and the druggie, sexual predator black? He strenuously denies that Newsweek had that intention, but you'd be forgiven for drawing that conclusion, based on the reporting and writing.

A PROUD HERITAGE

I've wanted an answer to this question all my life: Who's setting the standards? Most of my success as a journalist has come because I've insisted on writing about African Americans wherever I've worked. In health and fitness columns for this newspaper, I make a concerted effort to write about black professionals, and blacks who are active fitness enthusiasts, because it's important to me that our images are prominent and positive, and that our voices are included at the table.

And while I haven't worn my dashiki recently, I consider myself quite Afrocentric, quite aware of my blackness. I'm certainly no Whoopi Goldberg, chafing at the "African-American" label and insisting on being "Just American." One look at my deep, dark skin, and it's obvious that a whole lot of my ancestors came from somewhere on the African continent. I don't need to unearth some Native American, or Asian or slave owner's blood to try and make my blackness more acceptable to white America.

Basically, what I am is an articulate, professional black woman who, like Simpson, pulled herself out of poverty. I wasn't a gang member, nor have I ever had many violent obsessions, but in some ways we were in the same boat at birth.

So am I trying to act white?

I thought I was through answering that question after I left junior high in 1975. I thought I was through even having to think about that question. But the writers at Newsweek felt comfortable presenting this flawed perception that Simpson's rush toward success was "white."

I don't know whether O.J. Simpson is guilty of murder or not. But Newsweek is definitely guilty of setting the issue of what's black behavior and what's white behavior back about 20 years. Following in Time Magazine's clumsy footsteps, Newsweek has lent further credence to W.E.B. DuBois' assertion that the biggest challenge we face today is "the problem of the color line."

And you can't whitewash that issue.•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise to announce to the Senate that over the last 21 days, there were 54 homicides by gunshot in New York City. That brings this year's total to 698.

Three weeks ago, in my last report on the death toll by gun violence in New York City, I praised my colleagues in the Senate for passing a crime bill that, among other things, places a ban on 19 types of semiautomatic assault weapons. Six days after the bill passed, an heroic employee of the NBC "Today Show" was murdered on West 49th Street in Manhattan by a crazed North Carolinian with a Chinese-made model of the AK–47. The man had tried to get into the set of the "Today Show" where the whole Nation might have witnessed a massacre. Thank God that did not happen.

Mr. President, assault weapons are designed to fire the greatest number of bullets in the shortest period of time. An Uzi can fire 30 rounds in 5 seconds. These guns are weapons of war; they have no legitimate sporting purposes. They are merely the weapons of choice in this country for terrorists and drug traffickers. It is time we disarm our criminals.

Today I joined the President on the south lawn of the White House as he signed into law the Violent Crime Control and Law Enforcement Act of 1994, thus putting into effect the long-overdue ban on these pernicious weapons. This is a vital step in our fight against the crime epidemic, and it will make a difference.•

GRIDLOCK, GREEDLOCK, OR DEMOCRACY?

• Mr. SIMON. Mr. President, I have reluctantly come to the conclusion that some modification of our filibuster rules are in order.

There should be occasions when more than a majority is needed to pass something. The Constitution spells out eight of those different types of occasions, and I favor a ninth, when we create deficits.

But the filibuster has been so abused that it is used on things that totally lack a major significance.

Recently, our former colleague, Charles "Mac" Mathias, has an op-ed piece in the Washington Post that explains his position. I ask to insert it into the RECORD at the end of my remarks.

If we were to change the rule to 55 to have cloture or something like that, or a requirement that a certain number of people has to sign before 41 Members of the Senate could block consideration for 3 weeks, so that Congress would not, in an emotional frenzy, do something unwise.

I don't know what the modification should be, but I do believe we have abused the filibuster and change is in order.

The article follows:

[From the Washington Post, June 27, 1994]

GRIDLOCK, GREEDLOCK OR DEMOCRACY?

(By Charles McC. Mathias)

When I came to the Senate in 1969, a filibuster was a major event. In order to prevent a majority from voting to pass a bill, determined opponents would refuse to end debate.

Their strategy was to bring all Senate action to a halt until the Senate gave up its attempt to pass the legislation.

It was a rare and awesome maneuver played on the national stage in full glare of the spotlights. It focused national attention on the issue being considered while it reduced the Senate legislative schedule to shreds. Drama mounted as filibustering senators talked through the night and troops brought Army cots to Senate corridors so beleaguered senators could camp on the job for days at a time.

Today, filibusters are far less visible but far more frequent. The filibuster has become an epidemic, used whenever a coalition can find 41 votes to oppose legislation. The distinction between voting against legislation and blocking a vote, between opposing and obstructing, has nearly disappeared. In the last four years alone, the Senate has had to attempt to end filibusters an average of 22 times per year—compared with less than once a year in the half-century before I entered the Senate.

Senators no longer need to talk through the night to sustain their filibuster; they often need not talk through the day or hour. In times past, the majority leader occasionally asked for and received unanimous consent to temporarily suspend the filibuster in order to dispatch some critical business in which time was essential. Thereafter, the filibuster resumed. This practical response to an emergency has now become routine. Today a single senator may simply inform the Senate leaders that he or she won't allow a vote on a particular bill. The Senate then typically agrees to temporarily put that bill aside and move on to other business.

Since the Senate's Rule 22 says it takes 60 senators—three-fifths of the entire Senate—to break a filibuster, 59 senators seeking to take action can be blocked by 41 or fewer. The only reminder that a filibuster is in progress may be an occasional vote on "cloture" to see whether supporters of the bill have been able to assemble the necessary 60 votes. Often the issue simply withers away in obscurity. If the public is aware of the filibuster at all, it often mistakenly assumes that the "gridlock" it sees occurs because a majority can't agree on action.

The majority must accept paralysis or meet the demands of the minority—often by agreeing to legislation so eviscerated or loaded with interest group favors that it can't begin to meet our nation's challenges.

In just the past few years, filibusters have blocked, delayed or forced changes in bills dealing with crime, campaign finance reform, gun control, environmental protection, school improvement, labor law, Head Start, National Service, Hatch Act reform, family medical leave, voting rights, inoculation of children against disease, and dozens of other issues.

Scores of other bills are changed to avoid filibusters. For example, while Americans may be unsure which health care proposal is better, they do know we need action on health care reform. Yet some senators are already suggesting they may block majority action. And in the "bidding war" to find a 60th vote to end or prevent a filibuster, corporations with millions of dollars at stake (and millions to spend) will be on the prowl to find one or two senators willing to demand favorable provisions in return for letting the Senate vote.

Last month the federal government was required by law to sell mining rights to an estimated $8 billion of gold on federal land for only $9,765. Why? Because a threatened filibuster has blocked changes in Gold Rush-era mining laws. So taxpayers convey potential billions in forced sales to mining corporations—and then pay for the cleanup when thousands of used-up mines leak dangerous toxins into streams and rivers.

No principle is more central to democracy than the principle of majority rule. Today, that fundamental principle is in grave jeopardy in the U.S. Senate. Over and over again, Congress' ability to make decisions is thwarted because a minority of senators filibuster.

As a Republican whose party was in the minority for two of my three Senate terms and my entire service in the House, I know the majority must allow adequate time for minority views to be heard. I also know the frustration that fosters the filibuster. On rare occasions, I even succumbed and voted against cloture myself. But it becomes clearer each year where this path leads.

Those who wrote our Constitution struck a delicate balance. Separation of powers, federalism, bicameralism and the Bill of Rights protect minorities. The approval of two-thirds of senators present is required for a few extraordinary actions, such as constitutional amendments and presidential impeachment. But our Founding Fathers understood, as James Madison explained, that if they required more than majority approval for other actions, "the fundamental principle of free government would be reversed. It would no longer be the majority that would rule; the power would be transferred to the minority."

Filibusters are not limited to any party or ideology. The issue is not whether particular bills are good or bad. It is whether we believe in democracy, or a tyranny of the minority. It is whether we want a government capable of making decisions, or one hamstrung by gridlock and greed.

"If the . . . smaller number can overrule the greater," warned Alexander Hamilton, the result will be "tedious delays, continual negotiation and intrigue; contemptible compromises of the public good."

Our Founding Fathers never considered Rule 22, or dreamed that some senators would circumvent majority rule by refusing to allow a vote at all.

To safeguard our democracy, each of us must look beyond our own support or opposition for any particular legislation. We must call upon all senators to respect majority rule, stop abusing the filibuster, and get on with the business of meeting America's challenges.•

BOB MICHEL'S FREEDOM MEDAL

• Mr. SIMON. Mr. President, I was pleased that President Clinton recently awarded the Medal of Freedom to Congressman BOB MICHEL.

He has been a real "class" Member of Congress, who has contributed much to his district, my State, and much more important, to the Nation.

The award was richly merited.

I ask to insert into the RECORD an editorial from the Peoria Journal Star regarding the award of the Medal of Freedom to BOB MICHEL.

The editorial follows:

BOB MICHEL'S FREEDOM MEDAL

We echo the accolades heaped upon Bob Michel by President Bill Clinton Monday in awarding the 38-year Republican congressman the Presidential Medal of Freedom, the nation's highest civilian honor. That it comes from a Democratic president, in an age when rancorous partisanship has made the public's faith in effective government almost nonexistent, makes it all the more meaningful.

Michel "served our nation well, choosing the * * * harder course of conciliation more often than the divisive but easier course of confrontation," Clinton was quoted as saying.

Indeed, we praise Michel today for the same reasons that many in his own party have snubbed him—for trying to make government work rather than fostering gridlock, for practicing pragmatism rather than politics when compromise served the greater good, for trying to be a problem solver rather than a problem maker. Given a choice between a Bob Michel and a Newt Gingrich—or even a Sen. Phil Gramm, who promised just this week to "use every power that I have" to stop a Clinton health plan from becoming law (the key word being Clinton)—we much prefer Bob Michel.

Sure, we have disagreed with Michel here and there over the last four decades, but we also believe that on matters of significance, he genuinely tried to act in the best interests of America and the Peoria area. He tried to do the right thing, and in so doing earned respect on both sides of the aisle. He did not cheapen the term "public servant," but elevated it.

That is why Michel received the Medal of Freedom this week, and why the likes of Gingrich and Gramm probably never will.•

"VIDEODROME"

• Mr. SIMON. Mr. President, recently, the August 13, 1994, issue of the Economist, a British publication, had an article titled, "Videodrome" about television violence and our conduct.

It is of interest because it goes beyond the American studies and points out that there have been similar studies in Israel. Poland, Australia, among other countries that reach the same conclusion—that television violence is a part, if only a small part, of the cause for violence in our society.

For example, the article says "the common-sense view remains that a boy who watches chainsaw massacres all day is going to be a rougher character than the one who favours romantic comedies." They also cite a British study: "Britain designed a more rigorous project in 1978, interviewing 1,500 12- to 17-year-old boys about their viewing habits, backgrounds, school and police records." The report concluded that "high exposure to television violence increases the degree to which boys engage in serious violence."

I ask that the entire article be placed into the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Economist, Aug. 13, 1994]

VIDEODROME

When a judge sentenced the two ten-year-olds who had attacked and killed James Bulger, a toddler, in Liverpool last year, he implied that violent videos might have helped to turn naughty boys into killers. Neither the police nor the prosecution ever

claimed such a thing. Nevertheless, it is popular in Britain to believe that "Child's Play 3", a violent video that was found in one of the boys' homes, did play a role in the tragedy. Thus one more exhibit in the case being built up for tightening the rules about film and TV violence.

In fact, it is almost impossible to establish that a particular TV show or video has ever led to a particular crime. "What has never been demonstrated", says James Ferman of the British Board of Film Classification, "is that media violence is either a necessary or a sufficient cause of violence in real life." The film and TV business uses this argument to fend off further restraints on what it produces, particularly in America. Television shows and films reflect society, the industry asserts, rather than influencing it—an argument that they do not, one suspects, make to advertisers. But the commonsense view remains that a boy who watches chainsaw massacres all day is going to be a rougher character than one who favours romantic comedies.

Researchers have been trying to work out the truth for more than 30 years, producing over a thousand studies in America and dozens in Europe. Does screen violence stimulate aggressive behaviour, particularly in children? If so, to what extent? Consensus is elusive in the murky world of the social sciences; but the broad answers seem respectively to be yes, and not a lot.

The best-known study tracked the viewing habits and behaviour of a group of American schoolchildren, starting in 1960 when they were eight years old. Further interviews followed in 1971 and 1982. The researchers found that there was a correlation between the amount of TV violence watched and aggression among the eight-year-olds. There was also a correlation between watching violence at eight and aggressiveness at 19. By the time the guinea-pigs had reached 30, those who had watched most TV violence as children tended to have more criminal convictions, to be more likely to batter their spouses and, in their turn, to have more aggressive children.

Similar studies by the same researchers, Rowell Huesmann and Leonard Eron, in Israel, Poland and Australia have found the same pattern. As Mr. Huesmann sums it up, "early aggression predicts later aggression; and exposure to media violence correlates with early aggression." Mr. Eron concludes that "youngsters, by consistent viewing of violence got more and more aggressive."

In 1972, when concern about rising violence in America was simmering, the surgeon-general's advisory committee on television and social behaviour decided to look further. Researchers assembled a group of four-year-olds. Some were shown violent cartoons, others neutral or positive films. When the two groups were put together, the children who had seen the violent cartoons were more likely to call other children names, hit them or take things from them.

Britain designed a more rigorous project in 1978, interviewing 1,500 12-17-year-old boys about their viewing habits, backgrounds, school and police records. The report concluded that "high exposure to television violence increases the degree to which boys engage in serious violence."

Suggestive evidence also came from a Canadian town to which television was introduced in 1974. Researchers studied the town's children and judged that two years after TV's arrival they were more aggressive than before. Similar before-and-after studies of murder rates in the United States and South Africa have come to the same conclusion. Of course, this suggests only that TV, not necessarily violent TV, has an effect; but the result remains intriguing.

An analysis of 217 studies done between 1957 and 1990 has found that they showed "positive and significant correlation between television violence and aggressive behaviour." The American Psychological Association's commission on violence and youth concluded last year that "there is absolutely no doubt that higher levels of viewing violence on television are correlated with increased acceptance of aggressive attitudes and increased aggressive behaviour."

CHICKEN AND EGG OR STORK AND BABY

It sounds pretty conclusive—and a good case for censorship for children. Yet the evidence is not in fact clear-cut, and even if it were, correlation is not the same as causality. Consider the counter-evidence first. An American attempt in 1982 to repeat the Huesmann/Eron work, and a more recent study in Holland, both found little link between watching and committing violence. Japan is famous for its nasty pornographic comics and gory cartoons, yet it suffers less than other rich countries from violence.

In April the Policy Studies Institute in London published the results of a study in which the authors had interviewed juvenile offenders about their viewing habits, comparing their responses with those of a group of schoolchildren with no criminal records. They found much more overlap than difference between the two groups. The striking thing about the offenders was how little they had in common with each other. None had seen any of the "video nasties" that have recently been provoking public concern. (Three-quarters, though, read one of the tabloid newspapers regularly.) "The most noticeable thing was the chaos and change they were living in," says Ann Hagell, one of the authors. "TV and movies played a relatively small part in their lives."

As for causality, Jonathan Freedman of the University of Toronto, perhaps the best-known sceptic about the effects of TV violence, says that even research showing that a link exists may not support many researchers' claims. Kids who like to play football will watch more football than those who don't; in the same way, aggressive kids are more likely to watch shoot-'em-ups. That says nothing about cause and effect.

Here is the nub of the debate. Even sceptics agree that most of the studies of the subject show some correlation between violence on TV and the real thing: those who watch violent shows tend to be more violent. What they question is whether the watching causes the doing. There is a correlation in Germany between the decline of the stork population and the falling human birth rate. That does not prove that storks bring babies.

Those who believe that there is a link between media and real-life violence say that it is not necessary to prove strict causality, because there are so many influences on human behaviour. An analogy is drawn with smoking. To a purist, it cannot be conclusively proved that smoking causes lung cancer: not everyone who smokes will get it, and some who do not smoke will. But the correlation between smoking and lung cancer is so strong that it is usually accepted as a causal factor. The same is true for violence, say Mr. Huesmann and most others who have looked into the subject. Not so, say Mr. Freedman and his (fewer) allies.

There is, however, a degree of common ground around the idea of "vulnerable minorities—that some media violence can affect some children some of the time. Most children can watch a violent film, or even lots of them, and not go out and fight afterwards. They may feel more aggressive, the same way they may feel like singing after watching "The Sound of Music", but not act on it. But for a few children, often those not bright enough to see clearly the difference between reality and fiction, or without the moral capacity to know right from wrong, watching may indeed be a prelude to acting.

Ron Slaby of Harvard University identifies four ways in which media violence can play itself out in a child's personality: the aggressor effect, an increase in meanness; the victim effect, an increase in fearfulness and mistrust; the bystander effect, an increase in callousness; and the appetite effect, an increase in the desire to see or commit violence. Simple imitation may also play a part. A 1988 study found that the number of railway suicides among West German boys aged 15–19 rose sharply following a TV programme that showed a teenager jumping under a train. Similarly, there was a rise in deaths from Russian roulette after the release of the film "The Deer Hunter".

It is hard to put a figure on the extent to which such an influence is felt, though some brave researchers have tried. Aletha Huston, who works at a research centre on the influence of television on children, estimates that 4–6% of violence can be accounted for by media influence. Such a number may seem significant; but it is worth remembering that violence finds its way on to TV in different guises, not all of them easy to avoid—news, sports and documentary programmes can all show strong stuff, as well as the films and drama that usually draw campaigners' fire.

The impetus to curb media violence is not, however, that it is conclusively linked to real violence; or that reducing screen violence will make much difference. It is that it is easier to regulate what goes out on the tube, or to stop youngsters renting certain videos, than to deal with the more significant social forces for producing rotten kids. Sadly, nobody has yet worked out how to prevent people from being bad parents.•

THE 12 COMMANDMENTS ON MIXING FAITH AND POLITICS

• Mr. SIMON. Mr. President, we are spending a great deal of time these days discussing church-state relations, and one of the most practical examples of balance in this field has been provided by Andrew Herrmann of the Chicago Sun-Times.

It is not a complicated treatise that people should have a hard time understanding but gives down-to-earth, practical advice that I believe Thomas Jefferson and James Madison would find sensible.

I ask to insert it into the RECORD at this point.

The article follows:

[From the Chicago Sun-Times, Aug. 27, 1994]

THE 12 COMMANDMENTS ON MIXING FAITH AND POLITICS

(By Andrew Herrmann)

Looks like God did want 100,000 more cops in America

Must have, right?

Just a few weeks ago, a panicky President Clinton was pounding the pulpit in a Maryland church, asking the congregation to pray for the resurrection of his stalled crime bill. "The will of God" was how he described it.

Well, it happened. We've got our crime bill, and that's a good thing. But Clinton's abhorrent manipulation of religion was the worst since the GOP charged the Democrats with "leaving God out" of the last Dem party platform.

Religion is a part of life; politics is a part of life. But how much should the two mix? It's slippery, indeed.

Consider: when Gov. Edgar was growing up, talking politics in his Downstate Baptist church was considered bad form, he said. But early in his political career, Edgar was invited to speak at a black, Chicago church. He started giving a speech about Martin Luther King Jr. "They said 'no, no—talk about what you're going to do if you're elected.' I said this is a pulpit. And they said, 'Well, what are you here for?' "

There are no unbreakable commandments when it comes to religion and politics. But the People for the American Way, a Washington-based liberal group, recently came up with "Twelve Rules for Mixing Religion and Politics." The word rules makes me uneasy, but the list does contain some good ideas.

1. Religious doctrine alone is not an acceptable basis for government policy. Because we all have different religions, religious reasoning is not open to reasonable debate.

2. No religious test for public office. You don't have to be religious to run.

3. Officials have the right to express their private beliefs but no right to use their office to proselytize others. Simply put, it's OK to ask for God's help in crisis but not OK to force personal religious beliefs on the public.

4. Government has a right to demand that religious institutions comply with reasonable regulation and social policy. Not only must priests pay their traffic tickets, but—and this is controversial—when religions get involved in the financial aspects of politics, they should lose their tax-exempt status.

5. Religions can cooperate with government in programs supporting the common good. Religious social agencies do tons of great work with government money.

6. No government approval or disapproval of religion.

7. Political discourse should respect religious differences. No put-downs about "Baptist thinking."

8. No politician should say he or she represents a religion. He or she shouldn't say he speaks for, say, "Christians."

9. Politicians can discuss the moral dimension of public issues. "Murder is morally wrong." But . . .

10. Morality is best applied to common good, not private conduct. "House the homeless, but stay out of their bedrooms."

11. Don't claim to speak for God. Man cannot say that God is on any political side.

12. Religion should not be used as a political club. Pols shouldn't compare religious beliefs to opponent's.

As the authors of the guide correctly conclude: "Those in our political process who use religion to divide Americans, or to create a hierarchy of faith for political purposes, do violence to the political process [*and*] the institution of religion."•

BRIDGING THE GAP

• Mr. SIMON. Mr. President, I have frequently said that one of the most stimulating and thoughtful educators on the American scene today is Albert Shanker, president of the American Federation of Teachers.

I turn to his column regularly when I read the Sunday New York Times.

Recently, he had an article titled, "Bridging the Gap," in which he quotes from an article written by Jeffrey Mirel and David Angus.

I have not seen the original article, but the general thesis that we have to be fair but tough on everyone seems to me to be absolutely sound.

I ask to insert the Albert Shanker column into the RECORD at this point.

The column follows:

[From the New York Times]

WHERE WE STAND—BRIDGING THE GAP

(By Albert Shanker)

One of our most troubling problems is the large and persistent gap between the achievement of white, middle-class students and that of poor, minority youngsters. This gap puts minority children at a terrible disadvantage. It also threatens the health of our democratic society. There is no dispute about the seriousness of the problem, but there is plenty about how to solve it.

Minority kids often go to schools with poor quality curriculums where little is expected of them. Should we set higher standards and work with these youngsters to help them meet the standards? Or is this another form of unfairness? Is it better to try to bring the youngsters along gradually by offering them a curriculum that doesn't expect too much of them?

In "High Standards for All" (American Educator, Summer 1994), Jeffrey Mirel and David Angus reveal that this debate on how to achieve equity in education is nothing new—it goes back at least 70 years. More important, they present evidence that minority youngsters are not turned off by high standards. When more is demanded of them, they produce more. Standards, Mirel and Angus say, are the most powerful lever we have to achieve equity in education.

Early in the 20th century, when large numbers of youngsters from white working-class and minority families began staying in school past the elementary grades, educators were somewhat uneasy. They believed equity demanded that they "educate" these youngsters—which meant keeping them in school until they got their diplomas. But educators had serious doubts about the youngsters' ability to master an academic curriculum—what we would now call a core curriculum—of English, history, mathematics, science and foreign languages. If the kids were pushed into these courses, educators believed, they would drop out in huge numbers.

Their solution was to differentiate and dilute the curriculum. And the result can be clearly seen in the high school course-taking patterns that Mirel and Angus follow over a 60-year period, from 1928 to 1990. The number of different courses that were offered skyrocketed from about 175 in 1922 to 2,100 in 1973—as Mirel and Angus say, "curricular expansion run amok." At the same time, the percentage of academic or core courses being taken went steadily downward. In 1928, over 67 percent of the courses taken were academic; by 1961, the number had dropped to 57 percent. This sounds like the phenomenon described in The Shopping Mall High School—when kids are offered a choice between easier courses and tougher ones, they choose the easier.

The impact on working-class and minority children was particularly significant:

"While these curricular decisions sought to promote equal educational opportunity, in reality they had a grossly unequal impact on working-class and black children. * * * Beginning in the 1930s, these students were disproportionately assigned to non-academic tracks and courses and to academic classes that had lower standards and less rigorous content."

However, that's not the end of the story. Thanks to various reform initiatives, course-taking patterns began to change direction again in the 1970s. Students started taking more academic courses, and the percentage of academic courses has risen steadily until it is now over 66 percent—close to the 1928 high. Minorities have shared in this increase in academic course taking, and it has led to some remarkable changes for African-American and Hispanic students, both in terms of the percentage of academic courses taken and improved achievement, as shown in standardized tests.

For example, in 1982 only 28 percent of African-American students took four years of English, three years of social studies and two years of math and science. By 1990, 72 percent were taking these core courses. Did this increase in the academic course work lead to a big increase in dropouts? Not at all. In fact, the dropout rate for African-American students fell from 18 percent to 13 percent. And SAT scores for these youngsters rose 21 points on the verbal section and 34 points on the math.

The gap that remains between black and Hispanic students and white students is enormous and unacceptable, but the way to close it is to ask more of minority youngsters, not less. Students will not all be able to learn exactly the same material in exactly the same way—though these differences have nothing to do with racial or ethnic background: "The idea that all students should meet high standards (and essentially follow the same curriculum) does not deny that there are educationally relevant differences among individuals in interests and abilities."

Goals 2000 offers states and communities a chance to develop standards and curriculums and assessments that take individual differences in "interests and abilities" into account while pushing all youngsters to achieve their best. As Mirel and Angus warn us, we must be sure that we don't repeat the mistake of 70 years ago and confuse being easy with being fair.•

ORDERS FOR TOMORROW

Mr. EXON. Mr. President, as the acting majority leader and on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. on Wednesday, September 14; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately thereafter, as provided for under the previous unanimous-consent agreement, the Senate proceed to executive session to consider the Mauz nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. EXON. Mr. President, I ask unanimous consent that upon the conclusion of the remarks of Senator ROTH the Senate then stand in recess as previously ordered.

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

The Senator from Delaware has 10 minutes and is recognized.

THE 1-YEAR ANNIVERSARY OF THE NATIONAL PERFORMANCE REVIEW REPORT

Mr. ROTH. Mr. President, last Wednesday marked the 1-year anniversary of the administration's publication of its National Performance Review report. Led by the Vice President, the National Performance Review was an effort to begin a process that has sometimes been described as "reinventing government."

I would like to take a few moments here to comment on the progress to date on the effort.

The NPR report contained 384 recommendations for changes in the way the Federal Government is organized and operates. At the time of its release, I commended the administration on the scope of this effort. While not necessarily agreeing with every single item in the report, I thought the NPR asked many of the right questions about how to make government do more, with less—and that the report's recommendations were generally headed in the right direction. I still feel that way today. Any concerns I have lie largely in the area of execution of the reforms.

Let me say, first, that much of what they have done is commendable—starting with the administration's enthusiastic support for my legislation, the Government Performance and Results Act. This new law, enacted last year, was described by then-OMB Director Leon Panetta as being the foundation for reinventing government. They supported my call for a series of pilot projects in program goal-setting and performance measurement, to be followed by full governmentwide implementation in 1997—and in fact have expanded the number of pilot projects to 71 Federal programs.

I am sure that the administration recognizes what was emphasized in a recent report published by the Brookings Institution, an independent Washington think tank—that the Government Performance and Results Act "may well prove to be the keystone of the Federal Government's reinvention movement," and that it is "the most promising source of glue to hold the movement together and promote the right incentives."

It may seem ironic that a Republican-authored bill is the keystone—the very foundation—of a Democratic administration's major government reform program. Perhaps, but it does show that there are indeed areas where we should be able to work in the kind of bipartisan spirit that the American people expect.

I am also pleased to have been able to work with the administration on two other reforms that rightly fall under the umbrella of reinventing government—procurement reform, and legislation mandating the downsizing of the Federal work force by 272,900 through buyouts and attrition. We are reinventing the Federal procurement system by making it more results-based, rather than process-based. And if we follow on our work force downsizing with a true reinvention of our Federal pay and personnel systems, we will indeed be able to do more, with less.

However, it is here that I must raise one concern I have about implementation of NPR recommendations. I know that the administration plans to propose soon a reform of the Federal personnel system. It is my hope that the proposal will be revolutionary—calling for a comprehensive overhaul of the way we hire, classify, promote, pay, and fire Federal employees. My fear is that what is coming will be just some marginal modifications to the existing system.

But marginal fixes are not enough. Not if we are going to eliminate management layers, giving the remaining managers and supervisors more discretion in their decision-making, while holding them more accountable for program performance. Results-oriented government requires results-oriented management, pay, and personnel systems. The Federal Government is a long way from those kinds of systems. They need reinvention, not modification.

Another concern I have is that I see the various reforms coming out of the National Performance Review as being advanced as a series of discrete, unconnected efforts. Budget process reform is unconnected to financial management reform, which is unconnected to customer service reform, which are all unconnected to civil service reform.

However, to really make reinventing government work, all of these pieces have to be interrelated. The Government Performance and Results Act envisions such an interrelationship—by trying long-term strategic planning, to annual program performance plans, which in turn should be tied directly into agency budgets. The law also encourages giving managers more flexibility, if their pay is linked to improved program performance. Improved customer service should be one key element in a program's annual performance plan.

But what I have not seen from the administration is a real understanding of the need for connecting, in a meaningful way, all of these pieces of government reform. NPR implementation is beginning to look like a scattershot effort—a laundry list of good ideas, but no coherent plan for tying them together into a comprehensive, interconnected scheme. And there does not seem to be an effective strategy for getting congressional support.

As a result, we see things unraveling at times. For example, last October the administration had introduced into Congress H.R. 3400, a 150-page bill containing 70 miscellaneous proposals from the NPR. That has now been whittled-down to a 17-page bill, with a small handful of items, that is still in the process of working its way through Congress.

As I said at the beginning, Mr. President, I applaud the administration—and particularly the Vice President—for the effort begun by the National Performance Review. I know they remain committed to this effort. And I want to help them get it enacted and make it work. But doing so will require more comprehensive policy coordination, better legislative strategizing, and closer cooperation with both sides of the aisle in Congress. And most of all, we must remain bold in our vision of how to reinvent the Federal Government.

Mr. President, I yield the floor.

RECESS UNTIL TOMORROW AT 9 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 9 a.m., Wednesday, September 14.

Thereupon, at 7:16 p.m., the Senate recessed until Wednesday, September 14, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 13, 1994:

DEPARTMENT OF STATE

THOMAS E. MCNAMARA, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE, VICE ROBERT L. GALLUCCI.

JEROME GARY COOPER, OF ALABAMA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAMAICA.

GERALDINE A. FERRARO, OF NEW YORK, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

DEPARTMENT OF COMMERCE

MARTHA F. RICHE, OF MARYLAND, TO BE DIRECTOR OF THE CENSUS, VICE BARBARA EVERITT BRYANT, RESIGNED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RUTH Y. TAMURA, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1996, VICE JAMES H. DUFF, TERM EXPIRED.

INTER-AMERICAN FOUNDATION

PATRICIA HILL WILLIAMS, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2000, VICE JAMES R. WHELAN, TERM EXPIRED.

IN THE AIR FORCE

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:

To be general

LT. GEN. JOHN G. LORBER, 482-48-7661

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. HOWELL M. ESTES III, 578-56-5497

THE FOLLOWING-NAMED OFFICERS 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:

To be lieutenant general

MAJ. GEN. EVERETT H. PRATT, JR., 257-64-0526
MAJ. GEN. RONALD W. IVERSON, 518-46-6582

IN THE ARMY

THE FOLLOWING-NAMED MEDICAL CORPS COMPETITIVE CATEGORY OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent brigadier general

COL. WARREN A. TODD, JR., 426-82-6098
COL. STEPHEN N. XENAKIS, 149-38-1499
COL. HAROLD L. TIMBOE, 569-58-9807

EXTENSIONS OF REMARKS

THE ROC'S NAME: SERIOUS BUSINESS

HON. DAN BURTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. BURTON of Indiana. Mr. Speaker, on October 25, 1971, the U.N. General Assembly passed Resolution 2758 shifting representation for the people of China from the Republic of China [ROC] headquartered on the island of Taiwan, to the Communist government of the People's Republic of China [PRC] in Beijing. Since this time, the ROC and its 21 million people have been treated as second class citizens in most diplomatic circles.

This July, two subcommittees of the House Foreign Affairs Committee in the United States Congress held a joint hearing to discuss a topic that is receiving an increasing amount of international attention: Whether the Republic of China on Taiwan should be admitted to the United Nations. Such a hearing was long overdue. Unfortunately, one important point was never made: That the likelihood of securing this seat will remain slim until the international community starts to embrace the name "Republic of China"—the ROC's official name—instead of the name "Taiwan."

In his opening remarks, Representative TOM LANTOS, the chairman of the Foreign Affairs Subcommittee on International Security, International Organizations and Human Rights, attempted to sidestep the important name question. Lantos said,

> There is a debate among the citizens of Taiwan regarding whether the correct name of their country is the Republic of China on Taiwan or simply Taiwan. Our purpose today is not to get bogged down in internal partisan debate, but rather to promote Taiwan's participation in the international system in a manner that benefits both Taiwan and the international community.

Despite his initial preference to avoid the name question, LANTOS later acknowledged its importance. He conceded,

> You cannot place a proposal before a body, whether this is the Congress of the United States or the United Nations, without referring to an entity by some name. So while it may be an uncomfortable and awkward dilemma, it is a dilemma that needs to be resolved.

He concluded,

> The name issue has to be resolved before steps can be taken to deal with the entity represented by a name.

Like Representative LANTOS, Representative GARY ACKERMAN, the chairman of the Foreign Affairs Asia and Pacific Affairs Subcommittee, also attempted to avoid the important name question. He remarked,

> This hearing is not intended to stake out a position on the name Taiwan may eventually wish to use should it be permitted to join the United Nations. Such questions are best left to the people of Taiwan.

I agree with Representative LANTOS. We have to deal with the name question before we start plotting a strategy to get the ROC a U.N. seat. I also agree with Representative ACKERMAN. The name question should be left to the ROC people. What both Chairmen have missed, however, is that the ROC people have answered the name question. In two recent elections, ROC voters have kept in power the Kuomintang [KMT], a political party which prefers the name "Republic of China" and seeks reunification with China. Yet on both occasions, they could have voted for the Democratic Progressive Party [DPP], which openly endorses the use of the name "Taiwan" and advocates independence. Representative LANTOS and Representative ACKERMAN ignore this reality.

Mr. Speaker, a close look at these elections reveal that support for the name "Taiwan" and independence is marginal. On December 21, 1991, the KMT captured 318 seats—79 percent of the vote—in the 403-seat National Assembly, while the DPP captured just 75 seats. While its margin of victory was smaller, the KMT captured 103 seats in the 161-seat Legislative Yuan elections the following December. The DPP captured 50 seats—30 percent of the vote. Robert Sutter, a specialist in international politics at the Congressional Research Service, offered an explanation for the modest DPP pickup. According to Sutter,

> Heavy publicity focused on so-called money politics and related features, including vote buying.

He added,

> Unlike in 1991, when DPP candidates strongly stressed the issue of Taiwan independence, this year the opposition party handled the question in a low-keyed manner.

So, the DPP actually gained votes by avoiding the independence issue.

According to Nat Bellochi, the chairman and managing director of the American Institute in Taiwan, America's equivalent of a consulate in Taipei,

> Over the last 3 to 4 years, polls have demonstrated that the position of the majority has not changed significantly on the question of independence as a feasible option.

He also noted,

> The pragmatism of the people on Taiwan is evident in how carefully they have approached the issues of independence and the use of the name Taiwan. There is much more vocal support for these two issues here in the Taiwanese-American community, than one finds in Taiwan.

Mr. Speaker, if the name question was a pressing topic "among the citizens of Taiwan" as Representative LANTOS suggested in his opening remarks, then the DPP would have made this question and the independence issue the centerpieces of their campaign in 1992. If changing the Government's name from the "Republic of China" to "Taiwan" and declaring independence were priorities for the ROC people, the DPP would be in power.

While I am disappointed that few of my colleagues in Congress have recognized this reality, it is more disturbing that some have introduced resolutions which identify the ROC as "Taiwan" instead of the "Republic of China." To date, seven different resolutions have been introduced to express Congress' support for giving the ROC representation at the United Nations. Unfortunately, four use the name "Taiwan" instead of the "ROC."

The July hearing focused considerable attention on two resolutions. They were House Concurrent Resolution 148 introduced by Representative GERALD SOLOMON, Republican from New York; and House Concurrent Resolution 166 introduced by Representative ROBERT TORRICELLI, Democrat from New Jersey. The Solomon resolution expresses the sense of Congress that "the Republic of China on Taiwan deserves full participation, including a seat in the United Nations." It currently has 112 cosponsors. The Torricelli resolution says only that, "the 21 million people on Taiwan should be represented in the United Nations." It has 98 cosponsors.

Mr. Speaker, if the United States Congress wants to advance the ROC's admission to the United Nations, it should reject resolutions like Representative TORRICELLI's. While it is well-intentioned, it sends all the wrong signals to Beijing. By not asking for a U.N. seat, it implies that Congress supports other types of representation, such as U.N. observer status. The Palestine Liberation Organization has been represented at the United Nations for years, but it has never had a vote. The ROC does not deserve to be thrown in the same category.

Furthermore, by using the name "Taiwan," the Torricelli resolution creates the impression that Congress supports the independence movement and its supporters in the United States. Beijing has made clear that it will respond to any declaration of independence with military force. With 3 million men in its armed forces and a nuclear stockpile, this threat should be taken seriously. Beijing will never accept the name "Taiwan," because it is the name embraced by the independence advocates and it suggests that the ROC is not part of China.

While Beijing has also objected to the use of the name "ROC," it is clearly more acceptable to them than "Taiwan." First, it does not challenge Beijing's assertion that the ROC is part of China. The ROC also supports unification. Second, ROC is no longer the nameplate of a government which questions Beijing's authority to rule the mainland. In 1991, the ROC abandoned its claim to be the sole legitimate authority on the mainland.

With the recent thaw in ROC–PRC relations, it is not unreasonable to think that Beijing may someday soften its opposition to the "ROC"

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

name. Even if it does not, we should begin our U.N. efforts using the ROC name, because it has the support of their people. Lastly, its usage may compel Beijing to give the ROC a seat under a compromise name. Currently, the ROC uses the name "Chinese-Taipei" in the Olympics, "Taipei, China," in the Asian Development Bank, and "Chinese Taipei" in the Asia-Pacific Economic Cooperation forum. Each name suggests that the ROC on Taiwan is still part of China. The name "Taiwan" does not.

According to section 4(2) of the U.N. Charter, new members to the United Nations are elected by decision of the U.N. General Assembly upon the recommendation of the Security Council. If the ROC were to seek admission as a new member, using the name "ROC" or "Taiwan," it would most certainly be vetoed by the Communist regime in Beijing. Fortunately, there is another avenue to U.N. admission. A resolution could be drafted which simply repeals Resolution 2758—the resolution which gave Beijing a seat at the United Nations—and provides dual representation for China. By modifying China's U.N. representation, instead of asking for new membership, this resolution would go directly to the General Assembly and escape a certain PRC veto on the Security Council. The ROC would get representation in the General Assembly and the PRC would retain its seat on the Security Council. This avenue was proposed by John R. Bolton, former Assistant Secretary of State for International Organizations from 1989 to 1993, at the July hearing.

The real obstacle is to make ROC admission palatable to Beijing and dissuade it from withdrawing from the United Nations. To overcome it, the U.N. resolution must clearly state that China consists of both the mainland and the island of Taiwan. It must also state that the objective of providing dual representation for Beijing and the ROC is to facilitate the eventual reunification of their two territories, not prevent it. Such language would assure Beijing about U.N. intentions and reflect the majority opinion in the ROC. It would not, however, preclude the ROC from declaring independence if that course of action ever gained acceptance among the majority of its people.

Mr. Speaker, the United Nations must also make a concerted effort to show Beijing that its own long-term interests will be served by allowing the ROC a place in the world community. Jason C. Hu, the Director General of the ROC's Government Information Office, has emphasized this point,

> The intransigence of the PRC in ignoring or even denying the divided status of the Chinese nation serves no positive purpose to the eventual reunification of the nation. In fact, it creates resentment among their cousins across the straits and even adds fuel to the fire for the promotion of separatism which would surely bring disaster to the Chinese nation.

He added,

> * * * the PRC's understanding and sympathy on the issue would in some way win the minds and hearts of the Chinese on the island and foster a better atmosphere for unification.

Mr. Speaker, today we have a small chance to reverse the sorry state of affairs which has existed since U.N. Resolution 2758 was passed in 1971. Getting a majority necessary to pass a resolution which provides the ROC a U.N. seat will be a difficult task, but it can be done with strong United States leadership. Fairness dictates that we try. However, if we continue to push the name "Taiwan," this small chance will certainly slip away.

TRIBUTE TO WILLIAM WEBB

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to William Webb, who is retiring after a distinguished, 30-year career with the National Park Service. Environmentalists in southern California owe a huge debt to Bill, who spent the last half of his career in Los Angeles. Among his greatest achievements was helping to create the Santa Monica Mountains National Recreation Area in November 1979.

Bill Webb quickly assumed the role of liaison between the William O. Douglas Outdoor Classroom, located in Franklin Canyon, and the National Park Service. In his quiet, dignified way he ensured that the lines of communication remained open. He was always there for the members of the WODOC board.

Prior to his arrival in California, Bill served the National Park Service in a number of posts around the country, including the Virgin Islands National Park Group and the Booker T. Washington National_ Monument. In all cases he played a vital role in the acquisition of scarce park lands for the use and enjoyment of the public.

Tireless and energetic, Bill's devotion to public lands have made him indispensable as an organizer, negotiator, adviser and troubleshooter.

I ask my colleagues to join me in saluting William Webb. His love for the Santa Monica Mountains has endeared him to all Los Angelenos who enjoy this beautiful open space. We all wish him a happy and healthy retirement.

RECOGNITION OF KINGSBOROUGH COMMUNITY COLLEGE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. SCHUMER. Mr. Speaker, I rise today to recognize and congratulate Kingsborough Community College of the City University of New York on the occasion of its 30th anniversary.

Our schools and colleges are a source of pride for our communities. This is especially true in the case of Kingsborough Community College, which in the years since it was founded has earned a reputation for excellence, and for the high quality of its liberal arts, science, and career-oriented curricula.

Under the leadership of President Leon M. Goldstein, Kingsborough has, in many ways, become a college for the community, developing a number of programs to effectively meet the educational needs of people of all ages throughout the borough and the city.

Mr. Speaker, as Kingsborough celebrates its 30th anniversary, President Goldstein, the dedicated faculty and administrative staff merit high praise for their vast accomplishments, and for their vision and creative spirit in providing ever-expanding educational opportunities.

TRIBUTE TO DR. CLAUDIA H. HAMPTON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. DIXON. Mr. Speaker, I rise today in tribute to a dear friend and distinguished educator, Dr. Claudia H. Hampton, who passed on August 13, 1994. Renowned for an outstanding career as an educator and as the first African-American to serve on the California State Board of Trustees, Dr. Hampton's innumerable contributions to the field of education leave a lasting legacy for the citizens of the State of California. I am proud to share the following retrospective on the life of this great educator and friend.

Dr. Claudia Hampton began her career as a teacher and elementary school counselor in the Chicago, IL, school system. Moving west, she attended graduate school, earning both her masters and doctorate degrees from the University of Southern California. Shortly thereafter, she began teaching in the Los Angeles Unified School District [LAUSD]. She remained with the LAUSD for two decades during which time her positions included supervisor of Child Welfare and Attendance, director of Community Relations for the Office of Urban Affairs, and director of the Human and School Community Relations Resource Office.

In 1974, while serving as an adjunct multicultural education professor at Pepperdine University, Dr. Hampton was appointed to the board of the California State University [CSU] and College System by then-Governor Ronald Reagan. In 1979, she opened up still another vista by becoming the first woman to serve as chairperson of the board. Dr. Hampton served on the CSU board for 20 years, and was also a key figure on the board of governors of the California Community Foundation.

Her influence extended nationally as a presidential appointee to the Advisory Panel on Financing Elementary and Secondary Education; she was also a member of the Commission for the Review of the Master Plan for Higher Education. In recognition of her exemplary achievements, San Diego State University set up a scholarship in her name from 1976 to 1981. In 1993, former CSU trustee William D. Campbell and his wife Linda established the Claudia H. Hampton Scholarship Fund to help deserving inner-city students attend college.

Dr. Hampton's participation in community service projects reflected the same devotion evidenced in her professional endeavors. Just a few of the organizations of which she was a proud member are the National Council of Negro Women; State board of managers, California Congress, PTA; board of directors, Metropolitan YWCA; executive committee, Los Angeles branch of the NAACP; Women on Target; the American Association of University Women; and the Alpha Kappa Alpha Sorority, Inc. Additionally, Dr. Hampton was deacon of the consistory at Park Hills Community Church.

Deservedly so, Dr. Claudia Hampton was the recipient of accolades from many organizations. The Association of Governing Boards honored Dr. Hampton with the "1994 Distinguished Award in Trusteeship," marking the first time that the California State University system was so recognized. She was awarded resolutions of commendation from the California State Senate, the Assembly, and the Los Angeles City Council. Dr. Hampton also received an award of appreciation from the Republic of Korea's General Counsel. She has been honored by the Los Angeles Council of Black Professional Engineers, the National Coalition of 100 Black Men, and the Los Angeles African-American Women's Political Action Committee.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in recognizing and applauding the distinguished career of this outstanding educator. Dr. Hampton was devoted to providing more educational opportunities to children and she spent a lifetime dedicated to that goal. She leaves a lasting legacy for all educators to emulate. I am pleased to celebrate her life and on behalf of the Los Angeles community, I say thank you Dr. Claudia H. Hampton for your contributions to the children and citizens of the State of California. I join her daughter, Kathryn Wallace; her brother General Hudley, Jr.; and other family members and friends in celebrating the life and accomplishments of this renowned and distinguished educator.

KILDEE PAYS TRIBUTE TO GMI ENGINEERING AND MANAGEMENT INSTITUTE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to an outstanding educational institution in my hometown of Flint, MI, the GMI Engineering and Management Institute. The GMI Engineering and Management Institute will be celebrating its 75th year of providing top technical and managerial talent to our Nation's industry during the week of September 12–16, 1994.

This great educational institution began in 1919 after it was recognized there was a great need for engineers, managers, designers, and technicians in the growing automobile industry. The Industrial Fellowship League of Flint endorsed the opening of a night school under the direction of Albert Sobey and it was named the School of Automotive Trades. In 1924 the school became the Flint Institute of Technology, a 4-year cooperative program was established and more than 600 students were enrolled.

In 1926 General Motors Corp., recognizing the potential of cooperative education, took over financial support of the school and renamed it the General Motors Institute. It began to utilize the school to develop its own engineers and managers. In 1945 the institute added a fifth-year thesis and became a degree granting college committed to cooperative education.

In 1982 General Motors divested itself of ownership of the school. Its name was changed to GMI Engineering and Management Institute. School administrators kept the concept of cooperative education and expand the number of employers. Today, there are more than 500 companies employing GMI students in more than 750 locations throughout North America, Europe, Central America, and the Caribbean.

Industries included under the co-op education concept include automobile industry, delivery services, aerospace, paper products, metallurgical, health care, and financial services.

Ultimately, the greatest statistics are those involving the students. Currently, 75 percent of first-year students graduate on time and 90 percent of GMI seniors have permanent, full-time job offers before graduation.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise before my colleagues today to urge them to join me in paying tribute to GMI Engineering and Management Institute. This great educational institution is a cornerstone in the education community in Flint. It has, and continues to provide, quality education to students from throughout our great country. It is producing the future industrial leaders of this country. As GMI Engineering and Management Institute celebrates its 75th anniversary, I congratulate it for its excellence in education.

NEW RUSSIAN CURRICULUM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. GILMAN. Mr. Speaker, I want to take a moment to point out an event that, while little noticed, exemplifies the progress being made to bring Russia and its people into the community of democratic nations.

This year, for the first time in more than 70 years, children in Russia will begin the school year with textbooks that are free of Communist ideology and propaganda. These new books are being distributed to the nation's 21 million students. Gone are the references to the Great October Socialist Revolution and other falsehoods promoted by the Communist Party. Instead, lessons on democratic rights and accurately depicted historical events have replaced Communist textbooks ladened with discussions of class struggles. The new Russian educational curriculum will also include completely new courses on market economics and business management.

Mr. Speaker, what we are witnessing is a momentous change in education in Russia—and in Russia itself. The knowledge these children gain should help us establish a new constructive relationship with Russia that we all hope for. With such little-noticed but important changes, this rising generation of young Russians promises to produce a group of independent thinkers capable of accepting different points of view and carrying on with the business of building a prosperous, democratic, and peaceful Russia.

AMERICAN HERITAGE AREA PARTNERSHIP PROGRAM ACT OF 1994

HON. THOMAS J. BARLOW III

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. BARLOW. Mr. Speaker, I rise to urge my colleagues to support H.R. 3707, the American Heritage Area Partnership Program Act of 1994. This program will create an efficient and effective process to enhance and preserve the natural, historic, and cultural resources and recreational opportunities in areas that possess unique cultural traditions and distinctive landscapes.

The Ohio River Corridor is nationally distinctive, flowing through six States from its headwaters in the Commonwealth of Pennsylvania to its confluence with the Mississippi River at the edges of the Commonwealth of Kentucky. The corridor comprises a chain of commercial, industrial, historical, archeological, natural, recreational, cultural, and economic areas that are of significance and importance to the Nation. H.R. 3707 can provide important areas, like the Ohio River Corridor, with technical assistance and guidance through the process of becoming a National Heritage Area.

Support the American Heritage Area Partnership Program Act, and support preserving America's Heritage.

TRIBUTE TO BARBARA KLEINSCHMITT

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Barbara Kleinschmitt, who for years has been a leader in the fight for teachers' rights. Since 1983, when she became the founding president of the American Federation of Teachers Staff Guild, Barbara has dedicated herself to the cause of working men and women. There are many teachers who owe a large debt of gratitude to Barbara for her efforts.

It could have been predicted that Barbara would eventually play a prominent role in union activities. Her father organized steel workers in Chicago, and attended the founding convention of the Congress of Industrial Organizations. Her mother was a member of the

International Ladies Garment Workers' Union. Compassion for the working men and women of America is in Barbara's blood.

After 20 years working in various secretarial positions, Barbara took a job as an instructional assistant at Los Angeles Valley College, where she remains employed to this day. In the 1980's, a time of some hostility toward unions, Barbara commenced her involvement with teachers. Along with her role as AFT College Staff Guild President, she became vice president of the California Federation of Teachers and a member of the Coalition of Labor Union women.

In the last decade Barbara has made some major contributions on labor issues, including negotiating three collective bargaining contracts, assisting in 1994 police guild negotiations and negotiating a health/safety article on Video Display Terminals.

I ask my colleagues to join me in saluting Barbara Kleinschmitt, a selfless and dedicated advocate for working people. She is an inspiration to us all.

POSSIBLE INVASION OF HAITI BY THE UNITED STATES

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mrs. MINK of Hawaii. Mr. Speaker, it would be political folly for the President to authorize the use of military force to apply police action against another country.

We do not allow any other action by our Government to be empowered by an international organization.

The United Nations took on the Haiti question as a violation of international law and authorized all appropriate action to restore the elected government in Haiti back into power.

U.N. resolutions do not obviate or substitute for the need for each government acting upon these declarations to also independently obtain approval from their own constitutionally elected bodies required to consent to such actions. In the United States this means approval by Congress.

Prior consultation with congressional leaders is not obtaining a vote by the Congress. My leaders cannot speak for me.

There is no need for secrecy. We are amassing our troops, on the seas and on land for the whole world to take note, especially the military forces in Haiti. In fact, the strategy is to gain acquiescence by "show" of intent.

Thus, coming to Congress would not hamper the declared strategy at all.

Mr. President, Congress must be asked to vote on this matter.

RECOGNITION OF PATRICK MURPHY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to publicly acknowledge outstanding individuals of our Nation. I rise today to recognize one such individual, Patrick Murphy, a lifeguard who recently saved a swimmer at Rockaway Beach.

As my colleagues know, I have a long record of working to make our streets safer and helping our Government to respond to the needs of our citizens. Even so, there can be no comparison to someone who actively saves a human life.

There is a saying that one who saves a life, it is as if he has saved a world. For the family, friends, and associates of the young man that Patrick saved, this is undoubtedly true. I know that we all rest easier knowing that there are brave and expert lifesavers guarding the lives of our loved ones on New York City's beaches.

Mr. Speaker, I hope all my colleagues will join me in expressing my admiration and respect for this young man. I am extremely proud to have him working at Rockaway Beach and wish him all the best in the future.

TRIBUTE TO CARRIE MAE SOLOMON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Mrs. Carrie Mae Solomon, who succumbed on February 24, 1994. Godfearing, righteous, selfless, faithful, full of love, wise, and uplifting. Mrs. Solomon filled every moment of her life with meaning. She always found time for others, and left an indelible impression on everyone she met. I received firsthand knowledge of Mrs. Solomon's genuine spirit through her daughter, Mamie Hardy, who worked on my congressional staff from 1979–83. Just as her mother, Mamie generated a warmth and sincerity of character that was a joy to be around. It is a pleasure to present to my colleagues a synopsis of Carrie Solomon's life, and to share a few reasons why she was held in such high regard.

Born in the small township of Natchitoches, LA, on September 13, 1916, Carrie was one of 16 children born to Oscar and Rose Lee Johnson. The Johnson family did not possess a lot of worldly goods, but they found strength in their love for God and each other. Throughout, Carrie maintained a sunny disposition and a sense of purpose. Although she had no formal schooling beyond the third grade, she taught herself reading, writing, and arithmetic and educated her younger siblings as well. As one of the oldest children, Carrie was no stranger to hard work; it was, perhaps, caring for her brothers and sisters that generated the maternal qualities for which she would become known.

As a young adult, Carrie believed passionately that it was the work of God that brought her to King Solomon, the son of a preacher. King and Carrie lived in the South for several years after their marriage before moving on to California for a better life. Their union was blessed with six children: Alfred, Oscar, Emily, Mamie, JoAnn, and Linda.

Always looking for ways to express her Christian conviction, Carrie found her spiritual home at the Greater Starlight Missionary Baptist Church of Los Angeles in 1953. For more than 40 years, she was a pillar of the church, steadfast and loyal, seeking to do God's work. She not only preached the word, but she lived it, and as the mother of the church, many looked to her for guidance and wisdom.

Mr. Speaker, I urge my colleagues in the House of Representatives to join me in honoring Mrs. Carrie Mae Solomon. Although her passage from us was untimely, she was a blessing to all that were fortunate enough to know her. She will be sorely missed by her children, her stepsons Henry James and King, Jr.; grandchildren Kim, Keith, Chris, Anjanette, Tifani, and Paul; great grandson Joshua; as well as an extended circle of family and friends. I join with these loved ones in saying well-done Mrs. Solomon. May her memory continue to shine a light for those who seek to follow her example of charity, endurance, and faith.

COMMEMORATING THE KLOOGA MASSACRE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. GILMAN. Mr. Speaker, 50 years ago Nazi troops in Estonia killed over 2,000 Jews after forcing them to build their own funeral pyres. This terrible atrocity, known as the Klooga Massacre, was commemorated by Estonians and Jews at the site of the massacre on September 1, 1994.

Only a few thousand Jews lived in Estonia before the war. After invading the Soviet-occupied country in 1941, Nazi units and their local supporters and collaborators sought to kill every Jew in the country. The final killings took place in Klooga in 1944 while advancing Soviet troops were only hours away.

In groups of 300, innocent Jewish citizens, children among them, were ordered to build stacks of logs and lie on top of them.

The Nazi officers then shot them and ordered the next group to stack wood on top of the dead and wounded and lie down so that they in turn could be shot. Eventually, those initiating this heinous action set the whole construction ablaze. Only 87 Jews survived this degenerate brutality.

Mr. Speaker, it is important that, as Estonia emerges from the darkness of dictatorship and foreign occupation, its new democratic government has taken special measures to commemorate the Klooga Massacre.

At the September 1st ceremonies, the deaths of these innocent victims were commemorated with the unveiling of a memorial to the victims at Klooga. Members of Israel's parliament participating in the ceremonies expressed the belief that such a heinous and vile act could never be repeated in the new Estonia, where freedom of belief is now the rule.

Mr. Speaker, I join them in commending the Estonian Government for dedicating this memorial and publicly acknowledging the heretofore obscured history of the innocent victims

of the Klooga Massacre. I invite my colleagues to take note of this measure by the Estonian Government, which is now engaged in the work of building a new democratic Estonia where such atrocities will never again take place.

KILDEE PAYS TRIBUTE TO MR. DONNY DOUGLAS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to an outstanding individual, Mr. Donny Douglas. Mr. Douglas is being honored by United Automobile Workers Local 594 with a dedication of the Donny Douglas Labor Library on Saturday, September 17, 1994.

Donny Douglas has been a giant in the labor movement in Pontiac, MI. He has been committed to empowering the members of his union through education and training. During his tenure as president of local 594 he has given his union brothers and sisters the opportunity to express themselves so that they can develop their potential.

Donny Douglas began his career with General Motors in October 1959. He became a pipefitter within the plan and progressed through the ranks of his union. He began his union career as a production committeeman for 6½ years. He then became the editor of the local 594 newspaper. After this he was elected financial secretary of local 594 where he served for 6 years. In 1981 he was elected president of local 594. He has served continuously in this position since 1981. He is currently the longest serving president of a major local union within the UAW in the country.

Under Donny Douglas UAW Local 594 has flourished. It has been at the forefront of the development of education and training programs within the UAW. There is no question that Donny Douglas has been a major influence in UAW Local 594. His outstanding leadership abilities and excellent communication skills have served his union well. The decision to honor Donny Douglas by naming the library in his honor is the cornerstone of his union career.

Mr. Speaker, it is indeed an honor and pleasure for me to rise today to pay tribute to Donny Douglas. He is an inspiration to me and many other individuals who work closely with organized labor. I know that by naming this great facility in his honor, his union brothers and sisters are expressing their gratitude for his selfless dedication to his union.

PROTECT THE RIGHTS OF ARAB-AMERICANS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. BONIOR. Mr. Speaker, I would like to take this opportunity to express my concerns about the antiterrorism provisions contained in the crime bill. During the gulf war, the FBI conducted a number of inappropriate interviews of leading members of the Arab-American community. Without any basis other than their ethnic background, Arab-Americans were asked about their political beliefs. These interviews cast a cloud of suspicion over an entire community.

I support efforts to combat terrorism and violent criminal acts, but we must not trample the very rights we are trying to defend in the process. I deeply appreciate the efforts of my colleague DON EDWARDS to protect these first amendment freedoms, as he has many times over the years. He has added important provisions to ensure that antiterrorist investigations are carried out in accordance with the Constitution.

Along these lines, I would like to make clear that these provisions should in no way apply to the deportation case against Palestinians in Los Angeles, which has become known as the LA Eight. In this case, the defendants provided support for the legal, humanitarian activities of a group that also committed terrorist acts. They are not accused of "knowing or intending" that their support be used in the preparation or carrying out of a crime as required by this bill.

The INS is pursuing the deportations based on what I believe is an overly-broad interpretation of the 1990 Immigration Act. Under this interpretation, which was formulated by the Bush administration, any alien who provides any type of support to an organization who engaged in terrorist activity would be deportable. This could include South African exiles who contributed to Nelson Mandela's speaking tour and Nicaraguans who gave money to the Contras.

It is my deep hope that the antiterrorism provisions of this bill will be properly interpreted to protect the rights we so dearly cherish. It is also my deep hope that a new interpretation of the 1990 Immigration Act will be issued so that all who come to this country legally know that their freedom will be protected.

REWARD WORK, NOT WELFARE, FOR LOW-INCOME FAMILIES, SUPPORT THE EARNED INCOME CREDIT EASY FILING ACT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. GEJDENSON. Mr. Speaker, today I am announcing an initiative to help working families and to encourage welfare recipients to enter the work force. As many people already know, the earned income credit is a work incentive and supplement for low-income wage earners.

But for the credit to work as effectively as possible, we need to make sure that those who are eligible have a full understanding of its benefits, and are able to receive the credit with minimal assistance. Many people who are eligible for the earned income credit are those who work in part-time, temporary, low-wage jobs. They may collect welfare benefits for a few months between jobs which are seasonal or temporary in nature. These workers, who have the hardest time staying off welfare, but who work whenever they can, are also the least likely to file for the credit.

But too often, those who are trying to work their way off welfare lose a substantial portion of their well-deserved tax credit to high commercial tax preparation fees and exorbitant interest rates charged for instant refunds. A typical earned income credit filer is charged $70 to $100 to prepare very simple paperwork and obtain an instant refund. The earned income tax credit is meant to go into the pockets of low-income workers, not tax preparation firms.

The fee for an instant refund is actually a very high interest rate loan. Instant refund fees range from $25 to $39. If a taxpayer pays $25 for an instant $2,000 refund, which would have arrived in 2 weeks, the effective annual interest rate is 32.5 percent. The same fee for an instant $1,000 refund would represent a 65 percent interest rate.

Today I am introducing the Earned Income Credit Easy Filing Act, a bill to help working people who are trying to stay off welfare get the full benefit of the credit to which they are entitled. I urge my colleagues to support this legislation.

First, the bill would require the Treasury Secretary to recruit outreach counselors from the local community to help low-income wage earners understand the credit and to assist them in preparing their own returns. Second, the bill would require the Treasury to promote its free tax clinics more effectively through means appropriate to reach the low-income community. Third, the bill would direct the Treasury to expand existing electronic filing pilot programs to increase the number of nonprofit social service entities which participate in electronic filing.

I wish to thank Dr. Lynn M. Olson of the American Academy of Pediatrics for her valuable research, which provided the foundation for the development of this legislation, and Ms. Kate Jesberg Gonzalez of the Washington, DC, Department of Income Maintenance, for bringing Dr. Olson's research to my attention.

"YOU ARE SO BEAUTIFUL" DAY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. GORDON. Mr. Speaker, on Sunday, September 18, a vital and dynamic group of people will be honored for all that they have contributed to our communities and our lives. Senior citizens constitute the backbone of our Nation—they created all that we enjoy today, led us through World War II and the Depression, prosperous times, and the birth of technology. In recognition of this, the Stones River United Methodist Church in Murfreesboro has designated a special day to celebrate and honor seniors in the community.

It is fitting that the theme of the day is "You Are So Beautiful." It is also fitting that seniors of all denominations from Rutherford County and surrounding areas will be included in the celebration. Beginning at 2, three speakers,

selected readings, and a special repertoire of singing will mark the afternoon.

The first speaker, Jane Vaughn, a community activist and director of Even Start, an educational program for children and parents, will address the theme "You Are So Beautiful." Following Ms. Vaughn will be Flora Blackman and Gloria Spann, both prominent evangelist speakers. The afternoon will also include readings by Francis Henry and singing by local groups. The Vaughn Singers from Smyrna, the McCullough Family, Albert Richardson, and the Stones River Trio will all perform. Another highlight of the service will be the presentation of a plaque to pay special tribute to all the seniors of Stones River United Methodist Church. Immediately following the celebration is a reception with snacks and beverages for the seniors and all who attend the service.

It is refreshing that the seniors of middle Tennessee will be shown by friends and family how much they mean to each and every one of us. A caring and appreciative community is the glue that binds not only our Nation, our cities, and our rural areas together, it brings individual people together. On September 18, a most deserving and valuable portion of middle Tennessee will enjoy their day of honor, while the rest of the community has a rare opportunity to tell them how beautiful they are.

RECOGNIZING THE 125TH ANNIVERSARY OF THE WEST LAUREL HILL CEMETERY OF BALA CYNWYD, PA

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I want to recognize and commend the West Laurel Hill Cemetery of Bala Cynwyd, PA, on the occasion of its 125th anniversary.

West Laurel Hill Cemetery is one of the oldest garden-type, permanent resting places in the entire United States. It is also a bird sanctuary and arboretum, with thousands of trees, shrubs, and flowering plants. The cemetery is an architectural gem. It has one of the most elaborate collections of marble and granite mausoleums in the Commonwealth of Pennsylvania. The cemetery is not just a desirable final resting place, but it is also an excellent point of interest offering educational and highly informative historical tours.

The list of those who are interred at West Laurel Hill is long and quite prestigious. Some of the more noteworthy are:

Publisher Cyrus H.K. Curtis (1850–1933), founder of the Curtis Publishing Co., and one-time publisher of the Saturday Evening Post.

Television pioneer Dave Garroway (1913–82), who hosted the "Today Show," TV's first morning news and entertainment program.

The founder of Mother's Day, Anna M. Jarvis (1864–1948).

Founder of the Sun Oil Co., Joseph Newton Pew, Sr. (1848–1912).

The "Father of Baseball," Harry Wright (1835–95) who organized the first professional team, the Cincinnati Red Stockings.

Justus C. Strawbridge and Isaac H. Clothier, founders of Strawbridge & Clothier Department Stores.

The Dorrance family, inventors of condensed soup, and owners of Campbell's Soup, Inc.

Soldiers of the American Revolution. About 50 soldiers from the Revolutionary War are buried at West Laurel Hill.

Mr. Speaker, I salute the West Laurel Hill Cemetery for its excellence, high standards, continuation of tradition, and especially for honoring those who have gone before us, remembering their good works as a heritage and foundation upon which our country's present and its future shall stand.

PRIVATE PROPERTY RIGHTS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. PACKARD. Mr. Speaker, landowners in America are fed up. The Federal Government is infringing upon our constitutional right to manage our personal property. We must stop this governmental trespass before all private property becomes public property.

Twenty years ago the Federal Government passed the Endangered Species Act. Originally intended to protect animals, the act hurts humans. Federal bureaucrats abuse their power and use endangered species as tools for Government intervention and regulation.

It is time to stop Government's encroachment on our forgotten fifth amendment rights. There are too many reported cases of animal rights overshadowing human rights.

When you can lose your job in the State of Washington because of an owl, or lose your home in California because of a rat; when a multimillion dollar development can be held hostage by a handful of rodents something is wrong.

Environmental legislation must be radically reformed to take into account its impact on the human population.

Mr. Speaker, I ask my colleagues to protect the rights of their constituents and to uphold the Constitution. We must stop Federal bureaucrats from inviting themselves onto our land. We must protect the sanctity of private property.

UNITED NATIONS POPULATION CONFERENCE REJECTED CLINTON PUSH FOR ABORTION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. SMITH of New Jersey. Mr. Speaker, as an onsite observer from September 3 to 10 of the Cairo conference on population, and having followed developments during the past year, I can tell you that there is a reality gap between the results of the conference and what has been reported by many news organizations.

That is not to say that the news media is necessarily at fault. Many of you may be aware that the media was not allowed to observe the informal proceedings of the main committee, where most of the discussions took place and support and disagreements were expressed. Consequently, the press and others have relied on the spin placed on the proceedings by the U.S. delegation, the chairman and vice-chairman of the main drafting committee—International Planned Parenthood Federation [IPPF] President Fred Sai and Ambassador Nicolaas Biegman—and U.N. Population Fund [UNFPA] head and conference Secretary-General Nafis Sadik, as well as statements by the Vatican and pro-life NGO's.

But all spin aside, Mr. Speaker, it is clear that the basic and fundamental goal of the pro-life delegations and NGO's was achieved: This document cannot be used to pressure or coerce sovereign nations that have laws on their books protecting unborn children to promote abortion as a method of family planning. This is a clear defeat for the Clinton administration which, despite its recent backpeddling, has made worldwide access to abortion on demand a primary foreign policy objective. The administration's position couldn't have been clearer than when Secretary of State Christopher enunciated it in a cable to all diplomatic and consular posts last March:

> 6. The United States has two main goals for the ICPD: 1) to develop an international consensus on a comprehensive approach to population issues, and 2) to provide an impetus to the global mobilization of resources devoted to population programs.
>
> 7. A comprehensive strategy begins with the need to ensure universal access to family planning and related reproductive health services, including access to safe abortion.
>
> 17. The Untied States believes that access to safe, legal and voluntary abortion is a fundamental right of all women. . . . [T]he United States delegation will also be working for stronger language on the importance of access to abortion services.

I, as well as many others, would have liked to see the conference delete all reference to abortion from the document, since abortion should not be a factor in either the regulation of population growth or the promotion of development. Nevertheless, even with the pervasive influence of IPPF—present in over 60 country delegations—the participation of numerous UNFPA-funded delegates, the large, abortion-promoting U.S. delegation, and the support of 123 U.S. Agency for International Development [AID] funded, non-U.S. delegates—in other words, despite the whole lopsided makeup of this conference—the nations of the world rejected abortion as a method of population control and reiterated consensus language adopted at the Mexico City conference in 1984 which said that: "In no case should abortion be promoted as a method of family planning."

One of Mr. Clinton's first acts after he came into office in January 1993 was to repeal the United States implementation of the Mexico City doctrine which prevented United States foreign assistance from going to NGO's which "perform or actively promote abortion as a method of family planning." Of the 100 to 200 NGO's which received foreign assistance for population programs over the prior 10 years, only IPPF and Planned Parenthood Federation of America refused to abide by this policy. Last year, after Mr. Clinton signed the executive memorandum nullifying the Mexico City

policy, AID pledged $75 million over 5 years to IPPF.

The Clinton administration placed itself even farther out of the mainstream in 1994 by seeking to repeal the Helms amendment to the Foreign Assistance Act of 1973 which states that "None of the funds * * * may be used to pay for the performance of abortions as a method of family planning * * *."

The Clinton administration, and a few other pro-abortion countries, objected to the Mexico City language and had it bracketed at the PrepCom III meeting in New York last April. When those brackets came off in Cairo, the nations of the world were repudiating the position of Tim Wirth and the Clinton administration.

But retaining the Mexico City language was not the only pro-life victory. The conference also made it clear that abortion should not be part of safe motherhood programs. Much was made of the Vatican and others requesting brackets around this term at PrepCom III, but the reality is that this term is not new and some safe motherhood programs do in fact contain abortion as an element. Once this term was clarified to mean only health care for mothers and their children before, during, and after delivery, all brackets were dropped.

The modification of the definition of "reproductive health" was another victory for prolifers and defeat for Bill Clinton and Tim Wirth.

In the draft document which came out of New York in April, language was bracketed which would have declared a right to abortion as a method of fertility regulation. The term fertility regulation has a specific meaning given to it by the World Health Organization [WHO]. According to WHO, it contains 4 elements: Family planning, abortion, breastfeeding, and delayed marriage. The delegates rejected the concept of an international right to abortion by changing the term fertility regulation to family planning which had already been defined in section 8.24 to exclude abortion.

Section 7.4 enumerates the components of "reproductive health" and included "pregnancy termination" which was bracketed at PrepCom III. I understand that this has been changed or redefined to exclude elective abortion.

Finally, at the plenary session today, up to 20 countries expressed reservations about some aspect or aspects of the program of action, and most of these reservations have to do with ambiguities in the language and the implied recognition given to abortion where it is not against the law. With so many countries voicing problems with the document, it can hardly be called a consensus document no matter how many times that is asserted.

So the bottom line is that the Clinton administration, with its abortion-minded, abortion-promoting agenda, was a clear loser in Cairo.

But we must not expect this setback to stop Tim Wirth and the Clinton administration, as the repeal of the Mexico City policy clearly demonstrated, this administration will continue to fund IPPF and other organizations which seek to undermine and change the laws in countries that provide limitations on abortion. Moreover, we can expect to see the State Department and its allies involved in the international conference on women to be held in Beijing next year to achieve what it failed to get in Cairo.

It is the business of Congress and the American people to continue to be watchdogs to ensure that the U.S. Government does not exert pressure on nations—whether directly, through the United Nations, or through its influence with international organizations—to accept abortion as a right or as a method of family planning.

TRIBUTE TO DR. DONALD BYRD

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. CONYERS. Mr. Speaker, I rise on behalf of the Congressional Black Caucus and the Congressional Black Caucus Foundation, to bring to the attention of my colleagues the cultural achievements and contributions of Dr. Donaldson Toussaint L' Overtoure Byrd. In a sense this honor is a direct outgrowth of House Concurrent Resolution 57 passed in the 100th Congress which declared jazz a rare and valuable American treasure. On this occasion, I am delighted to present to the 103d Congress, a living testament of this national treasure, Dr. Donald Byrd. As an educator, performing artist, composer, trumpeter, flugelhornist, and bandleader, he has been and continues to be one of the most influential figures in jazz.

It is an additional pleasure to bring this tribute because I have had the distinct privilege of being a friend of Dr. Byrd and an avid fan of his work. As an artist, he has made an unprecedented contribution to our national music. After establishing himself as one of the most celebrated jazz trumpeters of his times, Byrd successfully branched out to explore new artistic venues. For example, Dr. Byrd has worked in plays, theater, spiritual music, and experimented with opera music. This characteristic is common to many other jazz legends including the late John Coltrane.

He began his education in Detroit, which was home to some of jazz music's most important artists. Byrd was inspired by the sounds of Motor City including the three Jones Brothers, Tommy Flanagan, Barry Harris, Kenny Burrell, Billy Mitchell, Yusef Lateef, and Betty Carter. He attended Cass Technical High School for its outstanding music curriculum and continued his music studies at Wayne State University where he received his bachelor of music degree in 1954.

In 1955 Byrd arrived in New York quickly establishing himself as a major recording artist recording with John Coltrane, Max Roach, Sonny Rollins, and Thelonious Monk. During that period, Byrd became a member of Art Blakey and the Jazz Messengers and brought with him a trumpet style influenced by the great Clifford Brown that served as a transitional link from Brown to future messengers Lee Morgan and Freddie Hubbard. As critic Barry Kernfeld wrote in the New Grove Dictionary of Jazz, "following the death of Clifford Brown in 1956, Byrd, was for a few years arguably the finest hard bop trumpeter. He had not only a masterful technique * * * but also a beautiful tone."

Byrd's own Blue Note recordings in the 1960's and 1970's established him as a leader, with two of his most famous discoveries being pianist—composers Herbie Hancock and Duke Pearson. Byrd recorded in a wide variety of contexts: from his synthesis of jazz, choral, and spiritual influences on his landmark "A New Perspective" in 1963, to his popular jazz/funk/fusion recordings "Black Byrd," "Street Lady," and "Places and Spaces" of the early to mid-1970's. Moreover, Byrd has also influenced popular music and in the mid-1970's he formed the Blackbyrds, a jazz-tinged group made up of Howard University students.

Jazz education has occupied a significant part of his career. He received a masters of arts degree in music education from the Manhattan School of Music, and a doctorate from Columbia University. As an educator, his accessibility to students has made him both famous and popular. During the early 1970's, Byrd created and developed jazz curriculums at Rutgers, Hampton Institute, Howard University where he served as chairman of Black Music Department, North Carolina Central University, Oberlin, the New School, and Queens College. Moreover, Dr. Byrd has served as a consultant and chairman to the music program of National Endowment for the Arts, and was one of the founding board members of the National Jazz Service Organization.

As we honor the career of this great artist one thing remains crystal clear: that the pioneering work and art of Dr. Donaldson Toussaint L' Overtoure Byrd has provided a rich legacy of jazz music for our youth to learn from, build on, and carry forth into the 21st century. May he long continue to inspire musicians and music supporters as well.

NOTHING KILLS LIKE TOBACCO

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. KREIDLER. Mr. Speaker, anyone who reads a newspaper has seen a series of ads from the R.J. Reynolds Tobacco Co., claiming that the Government is trying to ban cigarettes as part of a plot to take away the constitutional rights of Americans. These ads are truly a tribute to the creativity of the advertising and tobacco industries. But they are ludicrously misleading.

For the benefit of those who want a different point of view, I am including in the CONGRESSIONAL RECORD an op-ed article that appeared in the Seattle Post-Intelligencer on September 2, 1994, by Astrid Berg, executive director of the American Lung Association of Washington. Ms. Berg provides a welcome dose of factual information and common sense to counteract the distortions of the tobacco company ad campaign.

Instead of a pointless and unenforceable ban on tobacco products, she urges further restrictions on young people's access to tobacco, reductions in levels of addictive nicotine in cigarettes, and truth in tobacco advertising and promotion. Given the lengths the industry will go to profit from the only consumer product on the market which kills people when used as intended, this last goal presents the greatest challenge.

I commend this article to all those who need an antidote to the distortions of Reynolds' ad campaign.

THERE IS NOTHING THAT KILLS LIKE TOBACCO

(By Astrid Berg)

With its recent full-page ad in the Seattle Post-Intelligencer and other major newspapers around the country, the R.J. Reynolds Tobacco Co. has reduced the tobacco control debate to fear-mongering at its worst.

Its earlier ads were ridiculous enough to warrant a chuckle, suggesting that restricting tobacco use would next lead to a ban on books, movies, music, even buttermilk. But this time the ad campaign takes a sinister turn, featuring gun-toting police officers and dire predictions. "Will the homes of 'known' smokers be raided? Will we be encouraged to inform on our neighbors? Has the Government given any thought to the consequences?"

That's Government with a capital G, in case you hadn't noticed. Not unlike the capital P on Prohibition. The tobacco industry is fond of capital letters—they make things more ominous.

The truth is that neither the American Lung Association nor its fellow tobacco control advocates has called for a ban on cigarettes. We realize that there are nearly 50 million people who smoke in this country, and such a ban would be both foolish and cruel. How then might we gradually reduce and eliminate tobacco use without making people suffer? There are three approaches we can integrate toward an effective solution:

Restrict youth access to tobacco products. The overwhelming majority of people who smoke started the habit as young teens. The tobacco companies like to argue that smoking is an adult choice, but in reality it's a young person's choice that becomes an adult addiction. Let's get rid of cigarette vending machines, the sale of single cigarettes in convenience stores, free samples of tobacco products and promotional items, and then make sure that tobacco is available only in adult venues.

Reduce the nicotine in cigarettes to nonaddictive levels. If smoking were truly a choice, fewer people would smoke. Anywhere from 70 percent to 80 percent of all smokers would like to quit. The problem is that nicotine is addictive, a conclusion recently confirmed by a federal advisory panel to the Food and Drug Administration. By gradually reducing the nicotine level in cigarettes over the next 10 to 20 years, we could satisfy the needs of the current population of smokers, while at the same time preventing youthful experimentation from becoming a lifelong addiction. Then smoking would be a choice, and we would no doubt see fewer smokers.

Demand truth in cigarette advertising and promotion. The evidence about tobacco is irrefutable: It is quite capable of causing disease and premature death when used exactly as intended by the manufacturer. Promoting cigarettes with cartoon characters and slogans such as "Alive with Pleasure" and "You've Come a Long Way, Baby" belies their addictive and dangerous nature. Do we run afoul of the First Amendment by restricting tobacco industry advertising? Legal and medical experts writing for the Journal of the American Medical Association suggest that, "The cigarette, in its popularity, danger and lack of regulation, is an unusual product, requiring unusual public interventions."

From movie popcorn to hot dogs, it seems everything is bad for you these days. But to compare the effects of too much margarine on your toast to a tobacco addiction is a deadly miscalculation. The tobacco industry would like you to lump cigarettes as a risk factor in with a Big Mac habit or that second cup of coffee. Don't do it. Because nothing—absolutely nothing—kills like tobacco. It is the single greatest underlying cause of premature death in this country, racking up more than 400,000 deaths a year. You underestimate tobacco's impact if you regard it as just another one of our many vexing public health problems. Combine all the deaths in this country due to alcohol, cocaine, heroin, homicide, suicide, fires, AIDS and car accidents and you still won't equal the number of deaths due to tobacco-related illnesses. It is a health crisis of gargantuan proportions.

So tobacco kills, so what? We've all got to die of something right? Of course. But what will your life be like before you die if you're checking out because of tobacco? What's it like to get around with only 30 percent of your lung capacity? What's the cost of a hospital stay and surgery to remove a cancerous lung tumor? How much of your monthly pension check will you spend on the inhaler you need to puff on every two hours just so you can get a breath? Health care for smoking-related illnesses took at least $50 billion out of our pockets in 1993, according to the federal Centers for Disease Control and Prevention. That means smoking accounts for at least 7 percent of all health care costs in the United States. And if you're a nonsmoker who still thinks it's someone else's problem, consider this: The federal government and state governments pay for more than 43 percent of all smoking-attributed medical expenditures, and more than 60 percent for those over the age of 65.

Is that a reason to dislike people who smoke or to punish them in some way? Absolutely not. Is it a reason to aggressively challenge the power of an industry that places profits above human pain and suffering? Absolutely.

One of the most offensive tactics of the tobacco industry has been its attempt to elevate smoking to a "right." It has cloaked itself in the Bill of Rights, a document that embodies the basic tenets of fairness and freedom in our society, to protect its greed. Smoking in public places isn't a right, it's a choice. And because recent research confirms that one person's choice to smoke may affect the health of another, we have sought to restrict involuntary exposure to secondhand smoke.

The government regulates hundreds of things that affect the public health, from speed limits on highways to the temperature at which restaurants cook meat. We rely on government to protect us from hazards and dangers, and that is why it is appropriate that legislation govern tobacco use.

The only "right" the tobacco industry is trying to protect is its perceived right to continue to reap phenomenal profits at the expense of profound pain and suffering. Every American should be outraged at their crass and selfish commercialization of this country's ideals.

It took decades to learn what we know about tobacco use and the tobacco industry now it's time to do something about it. Don't fall for the cigarette manufacturers' scare tactics when they summon up the specters of Government, Big Brother, and Prohibition. Think instead of using capital letters on words such as Addiction, Disease and Premature Death.

KILDEE HONORS THE HISPANIC INDEPENDENCE AWARDS CEREMONY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to the Hispanic Independence Awards Ceremony that will be held on Saturday, September 17, 1994, at Mott Community College in my hometown of Flint, MI.

September is National Hispanic Heritage Month and the Hispanic Independence Awards Ceremony kicks off a month-long celebration of Hispanic culture, ideas, and achievements in Genesee County. Continuing the tradition of the past 5 years, the Hispanic community will once again honor individuals who have selflessly committed themselves to making Flint and Genesee County a better place in which to live.

Each award is named for a prominent deceased member of the Hispanic community who exemplified the ideals espoused by the award. The Pedro Mata Leadership Award is given to a person who has provided leadership, encouragement, and influence in the Hispanic community. This year's recipient is Mr. Lee Gonzales. The Tano Resendez Award for community service is given to a person who has dedicated personal efforts to promoting civic and cultural activities. The award this year is being given to Mr. David Arceo. The Joe Benevidez Award for education is presented to a person who has supported educational issues relating to Hispanics of all ages. Mr. David Solis is this year's recipient. The Labor Involvement Award is being given to Henry Acevedo for his efforts to increase community awareness, improve the quality of life, and open doors for Hispanics. The Bruno Valdez Arts and Entertainment Award is presented to a Hispanic artist who has promoted Hispanic culture through professional and personal activity. The award this year is being given to Mr. Ramon Hill. The Veterans Award is given to a member of the Hispanic community who has honorably served in the U.S. Armed Forces. Mr. Santiago Garcia is being honored with the award this year.

To honor those of the Hispanic community just starting to pursue their life goals, the Pedro Mata, Jr. Scholarship Award, the Joe Benevidez Scholarship Award, and the United Women of Michigan Scholarship Award will be presented to area students of Hispanic descent. The purpose of these awards is to foster a commitment to community service and encourage continued education.

Mr. Speaker, it is with great pride that I rise today and ask my colleagues in the House of Representatives to join me in congratulating the winners of these awards. The recipients are to be commended for their dedication, commitment, and leadership to the Hispanic community of Flint and Genesee County.

VICTIMS OF ILLICIT DRUGS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. GILMAN. Mr. Speaker, the costs associated with illicit drugs are well known to most Americans. Costs such as increased crime—often violent in nature—extensive health care expenses, lost worker productivity, and destroyed lives, especially among the young are but just a few which inevitably flow from illicit narcotics.

However, there is another deadly cost as well. A lesser known fact, involves the tragic loss of life among our law enforcement agents and police personnel from our war against drugs, is often not fully appreciated by many Americans.

Most recently, our Nation lost five young and courageous special agents of the DEA, who died in a plane crash while on an operation in Peru against the cocaine traffickers. Another DEA agent was also killed in the line of duty earlier this year here at home in Arizona.

These most recent deaths of Federal drug enforcement agents, along with their State and local law enforcement counterparts often killed in the line of duty from drug related incidents, are also part of the tragic costs of the illicit trade in narcotics.

Mr. Speaker, I request that a letter I sent to the DEA Administrator Tom Constantine, following the recent deaths of the five DEA agents in Peru, be printed at this point in the RECORD. It reflects the debt of gratitude that we in this Nation owe the families and friends of these, and all other law enforcement officers, who pay the ultimate sacrifice in the battle against drugs.

DEA Special Agents Frank Fernandez, Jr., Jay W. Seale, Meredith Thompson, Juan C. Varus, and Frank S. Wallace, Jr. who died recently in Peru, are American heros. Their sacrifices, and the memories of others, who have also died in the line of duty fighting the scourge of drugs, must not be forgotten by our Nation, nor their fellow countrymen, who they served so courageously, and very proudly.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 13, 1994.

Hon. TOM CONSTANTINE,
Administrator, Drug Enforcement Administration, Washington, DC.

DEAR TOM: Those of us who have long been involved in the struggle against illicit drugs have always realized that there is a terrible cost associated with the drug trade and trafficking. No greater cost however, could have been imagined than the loss of the five young, courageous, and valiant DEA agents, recently killed in a plane crash in Peru during an operation.

These brave and courageous U.S. law enforcement officers have given their lives in service of their fellow countrymen, as had the DEA agent killed in the line of duty earlier this year in Arizona.

This nation would have been adversely affected by far more illicit cocaine headed from the Andes to the U.S., absent the efforts of many courageous U.S. military personnel, and our law enforcement agents, such as these DEA agents killed in Peru. There they are fighting the traffickers on the front lines at the source, alongside personnel from the host countries. We must continue these agents' valiant efforts against the scourge of drugs, which is destroying so much of our society today.

Words are a small comfort at this time to the families and friends of these five agents who have made the ultimate sacrifice in the battle against illicit drugs. As a grateful and proud nation, we honor and greatly appreciate the sacrifices they have made in service of their nation, its fellow citizens, and especially our young.

Please express my gratitude for these brave sacrifices and my sincere condolences to all of the families of the DEA agents lost in Peru, and in Arizona.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN,
Ranking Republican Member.

RECOGNITION OF DR. JULIAN HOLTZMAN

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to publicly acknowledge outstanding individuals of our Nation. I rise today to recognize one such individual, Dr. Julian Holtzman, who after years of service is retiring as medical director of Coney Island Hospital.

As medical director he has led the ambulatory care programs and served as medical staff liaison to the community with great success. He was the founding president of the Coney Island Hospital Medical Group PC, and was the leader of CIMG–PC's successful implementation of the hospital's fee for service plan. He recently retired as president of the King's County Medical Society and is currently the chairman of its board of governors.

Dr. Holtzman has gained the respect and admiration of the entire medical staff and community. They have certainly benefited from his tireless service and dedication. As he begins his retirement, I know that his time will be well spent with his wife Rosanne and his three children Joseph, John, and Matthew; but I know that his presence at Coney Island Hospital will be sorely missed.

Mr. Speaker, I would like to take this opportunity to ask my colleagues in the U.S. House of Representatives to join me in wishing Dr. Holtzman all the best and commending him for his lifetime of service and leadership.

NATIONAL REHABILITATION WEEK

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. VISCLOSKY. Mr. Speaker, I rise to call attention to the week of September 18 through 24 which marks "National Rehabilitation Week." National Rehabilitation Week recognizes not only the individuals who have learned to cope with their disabilities, but also the dedicated health care professionals who have contributed to the rehabilitation field through research, education, and therapy. Moreover, the Rehabilitation Institute of the Methodist Hospitals in Gary and Merrillville, IN recognizes and values the educational, social, and humanitarian contribution of its many citizens with disabilities.

The Rehabilitation Institute of the Methodist Hospitals of Northwest Indiana has prospered in its role to facilitate assistance to the physically and mentally challenged. Moreover, this exceptional institute ensures that these citizens prevail in an active and vigorous lifestyle. I am proud and honored to have the Rehabilitation Institute of the Methodist Hospitals' quality and progressive rehabilitative facilities in Gary and Merrillville, IN.

I join my colleagues in saluting September 18 through 24 as National Rehabilitation Week. Furthermore, I encourage all citizens to renew their committment to people with disabilities, and I commend the efforts to rehabilitative medicine in improving the quality of life for them. Millions of Americans with disabilities are able to achieve independence and lead productive lives with the assistance of rehabilitation therapy. These exceptional citizens have found hope, spirit, and dignity through the services of rehabilitative medicine.

CONGRATULATIONS TO THE CINCINNATI SYMPHONY ORCHESTRA

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. MANN. Mr. Speaker, I want to take this opportunity to recognize the Cincinnati Symphony Orchestra on their achievement of becoming one of only five orchestras in the United States to reach their Centennial season. Founded in 1895, the Cincinnati Orchestra is now the ninth largest symphony in the United States and is only 1 of 18 orchestras that perform year-round.

Ever since their first performance on January 17, 1895, the Cincinnati Symphony Orchestra has continually brought a wonderful array of culture and music to the community. To this date they have recorded 163 works and released 77 recordings. In 1966 the Cincinnati Symphony Orchestra, under Max Rudolf, became the first American orchestra to make an around-the-world tour. In 1987, Maestro Lopez-Cobos' first recording with the Cincinnati Symphony Orchestra, de Falla's The Three-Cornered Hat, was named Record of the Year by Record Review.

The Cincinnati Symphony Orchestra performs at Cincinnati Music Hall which is one of the largest halls in the United States. They are the official orchestra for the Cincinnati May Festival, the Cincinnati Opera and the Cincinnati Ballet.

I extend my warmest congratulations to all of the members of the Cincinnati Orchestra. They should be justifiably proud of their accomplishments.

HONORING 300TH ANNIVERSARY OF HARWICH, MA

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. STUDDS. Mr. Speaker, I rise today to honor a great American town, Harwich, MA, which was incorporated exactly 300 years ago tomorrow. From its beginning—when Gov. William Phips signed the Act of Incorporation on September 14, 1694—Harwich has been wedded to the sea.

Fishing has always been vital to the town, and that tradition continues today. The ocean is now the main attraction for tourism, the town's principal industry.

In the mid-19th century, Harwich was one of the three largest fishing centers on Cape Cod. By 1849, 48 ships employed 577 men and boys, sailing from wharves up to 1,000 feet long. Five years earlier, Sidney Brooks founded Pine Grove Seminary, one of the country's first schools of navigation.

Around the same time, businessmen in Harwich began developing the first commercial production of cranberries by implementing a system of bogs. In 1855, the booming business led to the founding of two banks—the Bank of Cape Cod and Cape Cod Five Cents Savings Bank—and the construction of the Exchange Building, then the tallest building on the Cape.

By 1884, a new, even taller, Exchange Building had taken its place, and it became the center of business, political and cultural events on the Cape.

Soon thereafter, Harwich started turning into a popular summer retreat, with seasonal cottages, guest houses, tea rooms and three hotels popping up. Gradually, the town became known as a beautiful resort, a distinction it still holds today.

To commemorate the town's 300th birthday, the residents of Harwich have planned a spectacular celebration tomorrow, capped off by a laser light show specially designed for the occasion.

With its natural beauty—and economic base of light industry and tourism—the town of Harwich is poised to prosper for at least 300 more years. Mr. Speaker, I'm certain I speak for the entire Congress when I say to the residents of Harwich: "Congratulations and good luck. May the town continue in good stead for another 300 years."

THE CRIME BILL

HON. KARAN ENGLISH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Ms. ENGLISH of Arizona. Mr. Speaker, as the President holds a ceremony marking the signing of the crime bill, I rise today to once again underscore the reason why the middle-class families of Arizona's Sixth Congressional District need the bipartisan crime bill.

In just the last week there have been three prominent incidents in my district which highlight the reasons why I worked so strongly for passage of the crime bill.

On September 5, Flagstaff Police Sergeant Pat Tarr was shot during a routine traffic stop. Sergeant Tarr was shot in the abdomen, just under his bulletproof vest, by an Iowa resident who is out on parole. Sergeant Tarr is now in serious, but stable condition.

On Friday, September 9, two Apache Junction High School students shot themselves in the head, in an apparent double-suicide. These two young girls, both 14 years old, used a single handgun which was brought to school, to take their lives.

And just yesterday, two youths robbed a furniture store manager in Phoenix using a semi-automatic weapon.

These three events highlight why the crime bill is so important to the working middle-class families in my district. The families in Arizona's Sixth Congressional District know what they need: they need more police and fewer criminals on the street; they need guns out of schools and out of the hands of thugs, and they need their streets and their homes safer.

The crime bill will help the police on the street by providing more cops on the beat and by encouraging States to adopt truth in sentencing legislation that requires that convicts serve at least 85 percent of their sentence.

The crime bill will provide help for our youth. It will provide block grants to our cities and communities so that they can decide how best to provide activities and education to keep kids away from guns and drugs.

The crime bill will ban 19 assault weapons, just like the one used in the robbery to the furniture store in Phoenix.

And the crime bill will help combat violence against women by strengthening antistalking provisions, providing training for rape prevention, and instituting a domestic violence hotline. The bill will help protect women and families in their homes and their communities.

Finally, after 6 years of inaction on the issue of crime, a President of the United States will sign into law a crime bill that will help middle-class families. The crime bill will help rid our streets, schools, and homes from the fear of violent crime, and will provide our communities and families with the tools necessary to help beat this problem.

I encourage the administration to quickly release funding in the crime bill to help communities like those in Arizona's Sixth Congressional District.

TRIBUTE TO DOUG MEADOR

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. SARPALIUS. Mr. Speaker, I rise today to pay tribute to a great American, a great Texan, and a great resident of the 13th Congressional District of Texas. Doug Meador, a retired rural letter carrier from Borger TX, is admired and loved by everyone who has the privilege of knowing him.

The residents of Borger attest to the fact that Doug is one of those rare people who always has an optimistic attitude and tries his best to help anyone he knows through difficult times. I personally consider him one of the finest individuals I have ever met. He is constant in his friendship and tireless in his efforts to help others.

In the past year Doug and his lovely wife, Johnnie, have been faced with adversities that might have made lesser people despair, but they have faced great odds with unwavering faith and determination to go forward and live life to the fullest.

This Saturday, September 17, 1994, a group of loyal friends in Borger will be honoring Doug's dedication by observing "Doug Meador Day." I join them in this tribute and offer a sincere thank you to Doug for his friendship.

ON THE PASSING OF LOREDON L. BOYNES, SR.

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. DE LUGO. Mr. Speaker, the Virgin Islands lost one of its most esteemed and accomplished native sons when Loredon L. Boynes, Sr. died August 27, 1994 as a result of a tragic fire at his home in Philadelphia.

An accomplished sportsman and musician, he was best known as an expert seaman and successful entrepreneur, two skills that he combined to create and develop one of the most successful transportation companies in the territory.

Captain Boynes, as he was affectionately called, did more than establish a ferry boat service between St. Thomas and St. John and the British Virgin Islands; he brought the people who lived on them and visited them closer together and he linked their islands with the rest of the world.

Back in the 1950's travelers could take as long as a day and a half to make the journey by sea between St. John and St. Thomas across Pillsbury Sound, a voyage that today takes about 20 minutes by ferry boat.

In 1964 Loredon Boynes and Victor Sewer established a regular ferry boat service, a move that was to play a key role in the long-term growth and development of both islands, particularly St. John.

Just last May, the dock at Cruz Bay, St. John, where Loredon's ferry boats have picked up and delivered thousands of passengers over the years, was named in his honor, one that could not have been more fitting in recognition of his contributions to the community he loved.

Loredon's recent tragic death was a great loss to the Virgin Islands. He will be sorely missed by his family and many friends. Yet, we must take some measure of comfort to know that Loredon Boynes has left a lasting legacy, one that should serve as an example to others.

Captain Boynes loved the sea, loved life, and loved people. He worked hard to earn his skills and he took pride in them. He applied his knowledge and put it to practical and positive use, not just for himself but on behalf of his community.

The people of St. John and all the Virgin Islands will miss Captain Boynes. I know that I will miss Loredon very much. For more than two decades I counted him as a very special friend and one whom I admired greatly.

KILDEE HONORS BISHOP KENNETH POVISH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to an outstanding individual, Bishop Kenneth Povish. Bishop Povish is going to celebrate in 1995, 45 years of priesthood, 25 years as a bishop and 20 years as the Bishop of the Diocese of Lansing.

Bishop Kenneth Povish was born in Alpena, MI. He attended parochial grammar and public high schools in Alpena. He was awarded his bachelor of arts degree by the Detroit Sacred Heart Seminary in 1946. He earned his master's degree in education from the Catholic University of Washington, DC in 1950. He also attended classes at St. Joseph's Seminary in Grand Rapids, MI, Georgetown University, and Northern Michigan University.

Bishop Povish was ordained a priest in 1950 in Saginaw, MI. He began his pastoral duties at the St. Ignatius parish in Rogers City, MI. He became assistant at St. Hyacinth Catholic Church in Bay City, MI in 1952. He held a number of assignments within Michigan until he became a member of the founding faculty at St. Paul's Seminary in Saginaw, MI. There he taught Latin, history, and religion. He was dean of the college department from 1960 until 1966. In 1966 Monsignor Povish became pastor at St. Stanislaus in Bay City. During this time, Bishop Povish served as diocesan director of the Confraternity of Christian Doctrine which trained more than 400 lay catechists.

In 1970 Monsignor Povish was named a Bishop by Pope Paul VI. Bishop Povish was assigned to Crookston, MN. Bishop Povish was named as the Bishop for the Lansing, MI diocese in 1975. He has served in the position continuously since that time. As bishop of the Lansing diocese, Bishop Povish recognized that there were people in his flock who suffered from alcoholism. He has written extensively on this subject and has created the Bishop's Council on Alcoholism. His objective with the establishment of this council was to address the problem of alcoholism within the Catholic community. Bishop Povish is also a weekly contributor to the Catholic Weekly newspaper with a column entitled, "The Way, Truth and Life." There is no question that Bishop Kenneth Povish has been a driving force in the Catholic community throughout mid-Michigan. Indeed his influence on the entire community has been positive.

Mr. Speaker, I am especially pleased to stand before my colleagues in the U.S. House of Representatives to praise Bishop Kenneth Povish. He has long been a personal friend and spiritual adviser to me. He is man of the greatest personal integrity and highest moral character. He has risen to a position of authority within the Catholic Church because of his unwavering commitment to the principles of the teachings of Jesus Christ. I am most thankful for my friendship with Bishop Povish, and I am most thankful for his commitment to the faith.

MIDDLETOWN VFW PAYS TRIBUTE TO POW'S AND MIA'S

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. PALLONE. Mr. Speaker, on Friday, September 16, 1994, the Middletown, NJ, Post 2179 of the Veterans of Foreign Wars will hold candlelight services in honor of our Nation's prisoners of war and missing in action.

Mr. Speaker, like most of our colleagues in this Congress and most of the American people, I feel very strongly that we must never forget our service men and women whose whereabouts remain unaccounted for. Furthermore, we should not let any nation off the hook that has any knowledge or responsibility for our POW's and MIA's. I was opposed to the decision last year to lift the trade embargo against Vietnam because I believed that the Vietnamese officials had not done nearly enough to provide an accounting of the fate of Americans left behind. There is compelling evidence that at least 80, and possibly many more Americans could have been left behind in 1973 when their comrades in arms—supposedly all of our prisoners—came home. Now that the trade embargo has been lifted, I believe that we should use the opportunity of the increased commercial ties with Vietnam to press for a full accounting of those missing Americans. I firmly believe that we should not grant Vietnam diplomatic recognition until all records are opened, full access to crash sites and other locations is permitted, and complete investigations of other sightings are pursued.

Additionally, we should use our new relationship with Russia to follow up on statements and documents offered by President Boris Yeltsin that American prisoners from Vietnam—and also from earlier wars—were kept in the Soviet Union. President Yeltsin has indicated that he wants to be a friend of the United States and his country clearly needs our help and support. We must insist on a complete opening of all the dark secrets from the Soviet Union as one of our conditions for friendlier relations. We should also see to it that our own Government provides a full accounting to families.

Mr. Speaker, to the families of POW's and MIA's who have agonized for decades over what happened to their loved ones in a time of war, we owe at the very least the peace of mind that comes with knowing their fate. I salute the members of the Middletown VFW—and servicemen and women all over the country—who are fighting to keep alive the memory of their missing comrades. By their loyalty to their comrades, they ensure that the rest of us will never forget the sacrifices of those brave Americans who served their country at a terrible personal risk.

IN HONOR OF SHERIFF ELRY FAULKNER OF JOHNSON COUNTY, IL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. POSHARD. Mr. Speaker, I rise today to honor County Sheriff Elry Faulkner of Vienna, IL, an American citizen who has dedicated his life to providing quality law enforcement to the residents of Johnson County, IL.

In January, Sheriff Faulkner had the honor of being installed as president of the Illinois Sheriff's Association. In addition to this honor, Sheriff Faulkner received the Illinois Sheriff's Association's Metal of Valor. This award was presented to Sheriff Faulkner in recognition of his exhibited bravery during a shootout in 1979. Sheriff Faulkner survived a shootout with an escaped inmate from the Marion Federal Penitentiary after being shot in the chest.

Elry Faulkner began his law enforcement career in 1968 when Vienna Mayor Paul Gage hired him as a police officer. At the age of 27, Elry was named Johnson County Sheriff and has held that position successfully for five terms. Sheriff Faulkner should be especially proud of the kind words his colleagues and constituents have for him and his work.

I commend Sheriff Elry Faulkner for 26 years of dedicated service to the people of Johnson County. All of southern Illinois has greatly benefited from his contributions and efforts, as he continuously improves our quality of life. I believe our streets and communities are safer because of the work of Sheriff Faulkner, and for that we should all be grateful.

THE HEALTHY COMMUNITIES INITIATIVE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. ROEMER. Mr. Speaker, increasingly complex health, social, and environmental issues confront communities across this great Nation of ours. The world we live in today is fragmented by conflict on civil and social planes.

The involvement of individuals, neighborhoods, communities, and whole cities to find positive solutions that are realistic, equitable, lasting, and foresighted is essential. We must bring a diversity of people from across improbable boundaries together to rethink our approaches to the issues that ultimately affect our good health, quality of life, and general well-being. We have an obligation to create and implement a shared vision for our own future and the future of generations who follow us.

Mr. Speaker, there is a group of over 100 volunteers from all walks of life in St. Joseph County, IN which is about the business of taking on this great task. They have created, and are now moving forward to implement, a shared vision of a healthier St. Joseph County by the year 2015. They have found common

ground on which to build bridges toward better and more cost-efficient delivery of health care services; streamlined inter-community local government coalitions that eliminate duplication of costly services; and perhaps most important, are working with the families and youth in their community to boost self-sufficiency, pride in learning, and the revival of basic common values.

Mr. Speaker, it would be timely and appropriate for our colleagues here in Congress to join me in congratulating the wonderful and lasting work of this dedicated group of individuals. These Hoosiers have volunteered a great deal of time and effort to this great task, and the vision of sharing they have created through the Healthy Community Initiative of St. Joseph County is truly a model program for communities everywhere in our country.

IN HONOR OF DR. FORTUNATO LATTARULO

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mrs. THURMAN. Mr. Speaker, today I rise to pay tribute to a couple whose lives together epitomize the kind of personal commitment, service to community and faith in the future that made America the envy of the world it is today.

On September 10, Fortunato "Doc" Lattarulo of Port Richey, FL reached one of life's great milestones; his 100th birthday. And if that accomplishment wasn't enough, at a dinner party that night at the Regency Park Civic Center, "Doc" and his wife also celebrated their 69th wedding anniversary.

Mr. Speaker, Dr. and Mrs. Lattarulo were married on September 26, 1925 at St. Patrick's Cathedral in New York City. Dr. Lattarulo was a general practitioner specializing in gynecology and obstetrics in Manhattan from 1921 to 1979. He was associated with the New York Department of Health, the Transit Authority and Mother Cabrini and Columbus Hospital. Thousands of people in the New York area owe their good health to the skill and conscientiousness of Dr. Lattarulo.

Dr. and Mrs. Lattarulo raised a wonderful family. Son Emil, following in his father's footsteps, is a practicing physician in White Plains, NY. Son Charles also lives in White Plains. And daughter Josephine Molinari lives with her family in New Rochelle, NY. Dr. and Mrs. Lattarulo are also blessed with seven beautiful grandchildren and five great-grandchildren.

Dr. Lattarulo is a member of the American Medical Society, the Bronx Medical Society, and the Regency Park Civic Association. To this day, Dr. Lattarulo contributes articles about medical issues to the association newsletter.

Mr. Speaker, Dr. Lattarulo was a dedicated physician and family man for many years. If all he did was serve his patients to the best of his ability, that in itself would be worthy of commendation. But Dr. Lattarulo and his wife went far beyond that standard of excellence.

Their dedication to their community, and to helping the less fortunate, is legendary. Over the years, Dr. Lattarulo administered to those in need often knowing there was no payment possible. That didn't matter when someone was sick. And both Dr. and Mrs. Lattarulo understood the need for community involvement and became active in any number of projects that enriched their community.

That spirit of living to give continues to this day. As we rightfully honor this loving couple, we also pay tribute to their strong beliefs, in each other, in their family and in their community. I am very proud to call Dr. and Mrs. Lattarulo my constituents and wish them many more years of happiness together.

TRIBUTE TO DON WEBSTER

HON. ERIC FINGERHUT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. FINGERHUT. Mr. Speaker, I rise today and invite the Members of the House of Representatives and all people across our country to join with me and the people of the 19th District of Ohio in recognizing the 30 years of service Don Webster has contributed to the Cleveland airwaves. Since 1964 Don Webster has been one of the most popular and best recognized television personalities in northeast Ohio. He has worked both on the air and behind the scenes in station management and is currently the weathercaster Monday through Friday for Newschannel 5 at 6 pm and 11 pm.

Don Webster began his broadcasting career in his native Canada at CKPC radio in Brantford, ON, as a writer and reporter. He also worked at CKOC in Hamilton and CKGM in Montreal in various capacities. Later he went on to work in production and on-the-air at CHCH television in Hamilton/Toronto.

As a naturalized American citizen, Don started with WEWS TV 5 in 1964. He served as the host of a variety of programs, but is best remembered for his involvement with the nationally-syndicated show Upbeat. Besides hosting this rock-and-roll program for 7 years, Don was instrumental in the program's development and production.

A former pilot, Don's interest in flying and sailing led him to extensive training in meteorology. This background eventually led to his position as weathercaster for Newschannel 5 from 1971 to 1982. During this period Don also hosted The Ohio Lottery Show for 9 years and Academic Challenge for over a decade. Don was again instrumental in developing a new program, Live On Five, and for its first 2 years on the air served as the cohost of the news/information program. The success of this program boosted Don to the position of executive assistant to the general manager, and eventually, station manager for WEWS.

In 1989, Cleveland viewers were able to convince Don to return to his first love, working on the air. Don Webster has been a integral part of Cleveland television for 30 years and I join with all the residents of the 19th District of Ohio in recognizing the tremendous contribution Don Webster has made to northeast Ohio.

60TH ANNIVERSARY OF THE ADULT SCHOOL OF MONTCLAIR

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. KLEIN. Mr. Speaker, I rise today to honor the Adult School of Montclair, NJ on the distinguished occasion of its 60th anniversary celebration.

The Adult School of Montclair was officially established during the Depression when the slogan "Time is constant in moneyless days" was used.

Initially, the Adult School of Montclair responded to the changing interests, needs, and diversities of the times by providing an exceptionally well-rounded variety of options. During its first term in the spring of 1934, approximately 500 students were able to select from 17 courses. Presently, the Adult School offers its 3,000 students more than 120 different courses each term. In addition, the Adult School provides an assortment of notable speakers, sponsored unique music and art lectures, and has presented many programs that have been both informative and inspirational.

Through the years, the school has assisted many individuals in Montclair and has made many contributions to the community. It has been a constant source of renewed opportunity to those who are looking to work hard and better themselves.

For these reasons, I take great pleasure in asking my colleagues to join me in commemorating the Adult School of Montclair for its 60 years of service and dedication.

THE GRENADA MODEL

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. CALLAHAN. Mr. Speaker, I submit for the consideration of the House an editorial from the September 10, 1994, Mobile Press Register discounting arguments that Grenada set a precedent for a United States invasion of Haiti.

It is refreshing to me to have access to a newspaper that is light years away philosophically from the liberal east coast media. I am frequently in agreement with the Mobile Press Register's editorial staff and these comments on President Clinton's plans to invade Haiti are right on target.

It appears unlikely that we will have an opportunity to vote on the question of military force in Haiti, but I urge my colleagues to consider the points made in this editorial.

[From the Mobile Register, Sept. 10, 1994]

THE GRENADA MODEL: A DISASTER OF DECEIT

As the unspecified hour for President Clinton's splendid little invasion of Haiti draws closer, it becomes ever clearer that the heart of this misadventure is a lump of slippery political calculations. Consider, for example, that the president sought and got approval (prearranged) from the United Nations—thus

creating an illusion legitimacy—but will not dare seek approval from Congress. He knows the improbability of getting it.

When asked how the president escapes his constitutional duty to seek congressional approval for an invasion, a White House official said they regard "the Grenada model" as "more appropriate" to the circumstances. He was alluding to President Reagan's decision to invade Grenada in 1983 without Congress' approval.

The Clinton administration shows breathtaking arrogance in trying to pass off an analogy between the radically different circumstances of Haiti today and Grenada in 1983. Recall a few of the differences.

1. The United States was asked to intervene in Grenada. Less than a week after Grenada's Marxist prime minister was murdered and fractional violence broke out, the chairman of the Organization of Eastern Caribbean States (of which Grenada was a member) asked President Reagan to intervene, which he did immediately.

No one has asked president Clinton to intervene in Haiti, where there is no emergency. The Clinton administration has been posturing and threatening Haiti's military dictators for months trying to frighten them off.

2. Americans on Grenada were in immediate danger. After murdering the prime minister, the ruling faction declared martial law. About 1,000 Americans on the island, mostly medical students, were put on 24-hour curfew and told that violators would be shot on sight. The island was in chaos.

Americans in Haiti don't face any danger remotely comparable to that perilous emergency. Many have told reporters they don't want to be "rescued" by an invasion force.

3. We had a strategic interest in Grenada. This was a time when, having a secure base in Cuba, the Soviet Union was busily establishing outposts throughout Latin America and the Caribbean. On Grenada, Cubans were building a 10,000-foot runway clearly intended for military aircraft, and Grenada had no air force. After invading the island, U.S. forces uncovered plans for equipping 10,000 troops. Their purposes would not have been for the defense of Grenada.

We have no strategic interest in Haiti. With the Cold War over we don't even have a strategic interest in Cuba.

Much discussion these days centers on why so many hold Mr. Clinton in such low esteem. Here is one answer. "The Grenada model" is so wildly inappropriate to Haiti's circumstances that the analogy insults one's intelligence. How could Americans not lose respect for an administration that would put our troops at risk and seek public approval through such an obvious ruse?

HISTORIANS MUST REMEMBER OUR HONORED VETERANS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. HUNTER. Mr. Speaker, I would like to encourage my colleagues to read the following editorials on the proposed *Enola Gay* exhibit at the Smithsonian. The commentaries underscore the importance of that mission to our honored veterans, and reflect sentiments that must not be forgotten by historians.

[From the Wall Street Journal, Aug. 29, 1994]

WAR AND THE SMITHSONIAN

The Smithsonian Institution's mania for revising American history is in evidence again, this time in the National Air and Space Museum's proposed exhibit on the Enola Gay, the B-29 that delivered the atom bomb to Hiroshima. In presenting the Japanese as the prime victims of the Pacific War, and American museum has rewritten history as never before.

Now this is saying a lot considering that the Smithsonian curators' allegiance to the current canons of political virtue and related humbug have been evident since the National Museum of American Art's 1991 exhibit on the American West. There the show's creators outdid one another in absurdity with commentaries attacking the Pilgrims as capitalists lacking "true pioneer spirit," the Western settlers as rapacious brutes, and the founding and development of America generally as a criminal capitalist venture.

More recently, this page took note of a Smithsonian TV special inviting multicultural admiration of a New Guinea tribe for whom cannibalism is "a well-functioning example of how a complete criminal justice system works." The program made, as it were, no bones about its view that we "can learn from people like this."

What we can learn from the proposed Enola Gay exhibit scheduled to open in May is a question that has already evoked furious protest from veterans and military historians. The picture that emerges from the script is of a besieged Japan yearning for peace. This Japan lies at the mercy of an implacably violent enemy—the United States—hell-bent on total victory and the mass destruction of women and children. And why? "For most Americans, this war * * * was a war of vengeance. For most Japanese, it was a war to defend their unique culture against Western imperialism."

Now removed from the script—though only after the Air Force Association and other critics weighed in—the line tells everything about the mind-set behind the show. So does the script's not-so-subtle suggestion of the Nuremburg war crimes defense in its reference to the American pilots who were just "following orders." The scriptwriters disdain any belief that the decision to drop the bomb could have been inspired by something other than racism or blood-lust.

The show's assemblers evidently want no truck with facts like the massive Japanese buildup on the southern island of Kyushu and plans for a battle to the death, revealed by the ULTRA code-breakers, that would by all estimates have resulted in more than a million American casualties and the deaths of more Japanese than perished at Hiroshima and Nagasaki. In the show's original plan, Japanese imperial adventures get comparatively slight mention. For the planners, indeed, the war and its carnage seem to have begun in August of 1945.

Under mounting pressure, museum director Martin Harwit agreed that more balance was needed. The script has since been altered somewhat—but its spirit remains intact. What can't be altered is the clear impression given by the Smithsonian that the American museum whose business it is to tell the nation's story is now in the hands of academics unable to view American history as anything other than a woeful catalog of crimes and aggressions against the helpless peoples of the earth. Mr. Harwit gave an interview a few years ago in which he explained that "We just can't afford to make war a heroic event where people could prove their manliness and then come home to woo the fair damsel."

It is a curious view, this—that it is the role of a national museum to exclude, in the interest of our moral betterment, any recognition of heroism in battle. Given this view it is especially curious to note the oozing romanticism with which the Enola show's writers describe the kamikaze pilots. These are the Japanese suicide pilots whose noble rituals, rites of purification, letters to their mothers and general spiritual beauty are adoringly detailed in the script. These were, the script elegiacally relates, "youths, their bodies overflowing with life." Of the youth and life of the Americans who fought and bled in the Pacific there is no mention.

Under fire from Members of Congress, the architects of the Enola Gay exhibit now promise still another effort at a balanced script. The real question is not whether these tortured and reluctant efforts finally succeed. The question is what is going on at the taxpayer-funded Smithsonian—and for how long it is going to be allowed to continue.

[Letters to the Editor]

THEY WOULD'VE FOUGHT TO THE DEATH

The Smithsonian Institution's proposed exhibit on the Enola Gay is an insult to all veterans and especially to me ("War and the Smithsonian," Review & Outlook, Aug. 29). When the atomic bomb was dropped on Hiroshima, I was a prisoner of war in northern Japan working in a copper mine. I had served on Bataan, made the Death March and survived 42 months of brutal treatment by the Japanese. In my prison camp in Hanawa, Japan, in late June, machine guns were brought in the camp to kill all the American and British prisoners. All camp commanders were ordered to ensure that our liquidation would occur when American troops landed in Japan. That order, which I have read, was issued by Field Marshall Count Hisaichi Terauchi. That order, which would've resulted in the killing of more than 400,000 POWs, was not implemented due to the bomb drop that stopped the war.

The bomb not only saved me and other POWs, but it also saved Japan. I saw the caves; I saw the spears; I saw the bunkers—all for the purpose of fighting to the death. Invasion by American troops would have resulted in millions of deaths in Japan.

JOHN R. WOOD

Sarasota, Fla.

I lived in Japan from September 1944 until after the surrender. My own ivory tower of observation of the Japanese people was not as high as the Smithsonian Director Martin Harwit's is today.

In August 1944, all Japanese women aged 18 through 40 were to make themselves available for wartime service wherever needed. By the spring of 1945 all females left out of this group were being trained for home defense. The summer of 1945 found the roads choked with marching and screaming civilians consisting of children as young as 10 and women in their 60s and often older.

They were armed with bamboo spears, bows and arrows, and kotchas, a kind of lethally shaped garden hoe. As they marched they screamed their songs of allegiance to the emperor. It was an awesome sight to see these fanatics so eager to die for their cause. I believe that no amount of jawboning would have swayed them from their course.

J.D. MERRITT

St. James City, Fla.

One might think that the spectacle of this country's national history museums being rife with anti-American bigots would be an only-in-America sort of thing. In fact it's not.

Fully a 110 years ago, Gilbert and Sullivan, in "The Mikado," found the phenomenon so plentiful that they put on the Lord High Executioner's list of candidates for deserved oblivion the "idiot who praises, with enthusiastic tone/All centuries but this, and every country but his own."

JOHN STEELE GORDON

North Salem, N.Y.

Even the revised Smithsonian script engages in pseudo-history by insinuating that the United States is to blame for the unfortunate sufferings of the Japanese people rather than those really responsible; the leaders of wartime Japan, including Emperor Hirohito.

The exhibit's bias is particularly deplorable when considered within a broader context. As you correctly ask, how do the planners account for their arrant disregard of the historical record? Inconceivably, the original plan overlooked the atrocities committed by Japan and its army, which were legion: the colonization of Korea, the invasion of Manchuria, the subsequent Rape of Nanking, the surprise attack on Pearl Harbor, Nazilike medical experiments on Chinese prisoners, the Bataan Death March, the drafting of Asian men into forced labor camps and Asian women into enforced prostitution.

For these and other misdeeds several Japanese military and political figures were tried and convicted of war crimes. Likewise, why does the exhibit ignore interpretations that the use of the atom bomb was justified? Notwithstanding the lamentable civilian casualties, the Enola Gay's mission ensured the speedy end of World War II, and thus saved countless American, as well as Japanese, lives.

Most disturbing, the tone of the display reinforces Japanese revisionism about the war. Just one month ago, Shin Sakurai, minister of the environment, publicly asserted that Japan "did not intend to fight a war of aggression during the Second World War." Further, he implied that there were positive dimensions to his country's occupation of several Asian nations. This outbreak of historical amnesia correctly cost him his job, but the damage had been done; Mr. Sakurai's insensitive comments opened old wounds throughout the region. More so, they followed on the heels of an audacious remark by another Japanese minister claiming that recent studies have exaggerated the severity of the Rape of Nanking.

Tomichi Murayama, the new Japanese prime minister, is trying to correct these views; he knows that otherwise Japan will never assume a more responsible role in international relations. Nevertheless, despite growing pressure from its neighbors, the Japanese government has not yet compensated the thousands of Korean, Thai Filipino and Vietnamese "comfort women" coerced into prostitution by the Japanese army, nor those men herded into labor camps. Plus, the ministry of education refuses to revise high school history textbooks that downplay Japanese aggression; for example, they label Japan's invasion of Manchuria an "advance."

It is clear, then, that the organizers of the Smithsonian exhibition are rewriting the past; they do so to further their own agenda, not that of the American people, whom they are meant to serve. You are right to demand that the final exhibit be historically accurate. Our nation's sacrifices during World War II—a war that the U.S. did not start, but with the help of its allies finished—deserve nothing less.

JOSEPH MORRISON SKELLY

Stamford, Conn.

The Smithsonian officials admiring the last-ditch, desperate Kamikaze actions after the Japanese navy and air force had virtually ceased to exist, while giving no thought to the Americans they killed, is unbelievable.

My navy cruiser Houston was torpedoed in October 1944. The A-bomb saved hundreds of thousands of my compatriots from death or injury in the projected home-island invasion. They estimated a half-million Japanese would also die. These are far greater numbers than those Japanese killed in the two cities that were bombed.

I'm so glad my friend Pat DiGiacomo, who survived the Bataan Death March and spent four years of the war as a slave working in the coal mines in northern Japan, is no longer alive to hear this drivel.

Mr. Harwit, do not tell me of Hiroshima. Tell me of the initial imperialist aggression at Pearl Harbor, the Philippines, Corregidor, and yes, tell me of Hong Kong, Singapore and the Rape of Nanking.

JAMES E. POTTER

Albany, Ga.

SELECTIONS BY ROFEH INTERNATIONAL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, for some time now I have been privileged to share with my colleagues and the rest of the country a report on the people selected to be honored by ROFEH International, a very important and creative charitable organization furthering quality health care in our country. As the following statement indicates, ROFEH was established under the direction of Grand Rabbi Levi Horowitz, who is known as the Bostoner Rebbe, and is administered by the New England Chassidic Center which he heads. Grand Rabbi Horowitz has become an acknowledged international expert on medical ethics, and on the question of how best to see that people are able to get access to the first rate medical care which we in Boston are privileged to offer the rest of the country. On November 6, at the annual dinner of the New England Chassidic Center, two men who have been especially helpful will again be honored by ROFEH. I am pleased to take this opportunity to call to attention the excellent work done by this organization. We talk a lot about volunteerism and how important it is. It is for this reason that I think it very appropriate that I share with my colleagues and the rest of the country two extraordinary examples of men of great talent, commitment, and dedication to helping others. Both Alan Solomont and Bernard Lown are leaders in their field. I have benefitted myself from the advice they have given to me and my colleagues on a number of issues—Dr. Lown has been a leader in the fight for a rational approach toward nuclear weapons, and Alan Solomont has distinguished himself by his work to provide compassionate care for older people in need. I should add that while I have worked with Mr. Solomont, my mother, in her capacity as chair of the Massachusetts Association of Older Americans, has an even closer working relationship with him and shares the very high opinion of Mr. Solomont that motivates the people at ROFEH.

Grand Rabbi Horowitz and his colleagues ought to be congratulated for their important ongoing work, and for honoring two such outstanding individuals as Bernard Lown and Alan Solomont. I ask that the following explanation of ROFEH and the reasons for the selection of these two men be printed here.

ROFEH International, is a very important charitable program run by the New England Chassidic Center under the direction of Grand Rabbi Levi Horowitz, known as the Bostoner Rebbe. Rabbi Horowitz a leading authority in the filed of medical ethics, has put his ethical concerns into practice through ROFEH International, a medical referral organization that helps make the excellent medical care in the Boston area available to many of people, and provides housing and other forms of assistance that make it possible for them to come to Boston for treatments. Rabbi Horowitz and the others who work so hard in ROFEH are entitled to celebrate their accomplishments, as they will on November 6, at the annual dinner of the New England Chassidic Center.

Two men in particular will be honored for the work they have done through ROFEH to benefit others. The 1994 Man of the Year is Alan Solomont, who has a long family relationship, and is a staunch supporter of the New England Chassidic Center in his works; is the very successful founder of the ADS Group. The Group provides management, development and consulting services to nursing homes, assisted living and other senior living facilities in New England. Joining Mr. Solomont as an honoree is Dr. Bernard Lown who will receive the coveted Harry Andler Memorial Award. Dr. Lown is one of the world's leading cardiologists and founder and former Co-President of International Physicians for the Prevention of Nuclear War (IPPNW). In 1985 IPPNW was awarded the Nobel Peace Prize for its "considerable service to mankind by spreading authoritative information and by creating an awareness of the catastrophic consequences of atomic warfare." Dr. Lown and Dr. Chazov accepted the Peace Prize on behalf of IPPNW. Dr. Lown is Professor of Cardiology Emeritus at the Harvard School of Public Health and Senior Physician at Brigham and Women's Hospital in Boston; he is in active cardiology practice at the Lown Cardiovascular Center in Brookline, Massachusetts.

Mr. Alan Solomont is President, Chief Executive Officer, and founder of the ADS Group, which provides management, development and consulting services to nursing homes, assisted living and other senior living facilities in New England. Mr. Solomont is Past Vice Chairman of the Board of Trustees of the University of Massachusetts and is Past Chairman of the Board of Trustees of the University of Lowell. He is currently a member of the Boards of: Odyssey Therapeutics; University Hospital at Boston University Medical Center; the Massachusetts Hospital Association; the Jewish Fund for Justice; Jewish Community Housing for the Elderly; and the Combined Jewish Philanthropies of Greater Boston. He is also on the

Executive Committee of the Anti-Defamation League of New England an is past president of VNA Home Care Inc. of Greater Lawrence. Active in local and national political organizations. Mr. Solomont served as Vice Chairman of New England Business Executives for Clinton/Gore and was recently elected Treasurer of the Massachusetts Democratic Party.

Mr. Solomont's career in health-care spans almost two decades and includes extensive management experience. Mr. Solomont is a past president of the Massachusetts Federation of Nursing Homes, the largest and oldest organization of long term care providers in Massachusetts and remains on its Board of Directors. Active in state and national political affairs, Mr. Solomont has been an advisor to state and federal officials on matters related to health-care, the elderly and long term care. He is recognized as a national expert on long term care and lectures frequently to other health-care providers, public officials, consumer groups and lay persons.

Mr. Solomont is the recipient of numerous awards including the 1993 Entrepreneur of the Year Award, sponsored by Inc. Magazine, Merril Lynch and Ernst & Young, and the prestigious Miamonides Award for health-care service by the Anti-Defamation League. He is also the author of various publications.

Mr. Solomont is married to Susan Lewis, Director of Corporate Development for WGBH Educational Foundation. They live in Weston with their two daughters.

Dr. Lown is a pioneer in research on sudden cardiac death. He invented the defibrillator and the cardiovertor and introduced the drug Lidocaine, used worldwide to control disturbances of the heartbeat. Recent work demonstrated the role of psychological and behavioral factors in regulating the heart, and current research focuses on the impact of adverse psychological stresses on cardiac performance. Dr. Lown is author or co-author of three books and over 400 articles that have been published in leading medical journals worldwide.

Dr. Lown has had a long-standing interest in international cooperation. In 1974–75 he presided over the USA-China Physicians Friendship Association, and he served as coordinator of several USA– USSR studies in cardiovascular disease. Over the past 30 years he has lectured and met with leading health and political figures worldwide, the most recent being the Eighth Indira Gandhi Lecture in New Delhi, India.

Dr. Lown has been instrumental in involving physicians worldwide in working for the prevention of nuclear war and nuclear arms proliferation and in raising public awareness of the devastating consequences of nuclearism on health and environment on a massive global scale. He was founder and first president of Physicians for Social Responsibility in 1961. In June 1979 Dr. Lown wrote to a leading Soviet physician, Academician Evgueni Chazov, Director General of Cardiovascular Institute of the USSR, suggesting the formation of International Physicians for the Prevention of Nuclear War. IPPNW was established one year later in 1980. Since that time IPPNW membership has grown to more than 200,000 physicians in 80 nations. IPPNW has held eleven international congresses; the 11th congress convened in October 1993 in Mexico City.

Dr. Lown is also the recipient of the George F. Kennan Award, the Gandhi Peace Prize, and the first Cardinal Medeiros Peace Award, as well as numerous honorary degrees and other awards in the USA and abroad.

Dr. Lown graduated summa cum laude from the University of Maine and received his M.D. degree from Johns Hopkins University School of Medicine. He and his wife Louise have three children and five grandchildren.

Guest speaker for the evening will be Dr. Lawrence H. Schiffman, Professor of Hebrew and Judaic Studies at New York University's Skirball Department of Hebrew and Judaic Studies and in the Department of Near Eastern Languages and Literature. He was a Fellow of the Institute for Advanced Studies of the Hebrew University in Jerusalem as part of a research group dealing with the Dead Sea Scrolls. He is one of the editors of a new journal, Dead Sea Discoveries, published by E.J. Brill.

"WHAT WAS TOLD WAS WRONG"

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. STARK. Mr. Speaker, I'd like to include in the RECORD a letter from the Swedish Minister of Health regarding certain untrue things said by the Senator from North Carolina about health care in Sweden.

In 1980, Sweden and the United States were spending about the same percentage of GNP on health. We will soon be spending 15 percent and the Swedes will be spending a smaller portion on health than they spent 15 years ago. Pretty impressive. More impressive: the Swedes have health insurance for all their people; we leave one in six uninsured. As the Minister says, "that something needs to be done to give the Americans more care for less money seems obvious."

The Minister reports that waiting lines are reduced. In a society that is spending a little over half what we spend, it is amazing there are not longer lines. Long lines in the American system should not occur, because we are spending so much more on health.

It would be silly for a Senator to say that our society, which spends so much, can't insure all its people and avoid long lines. To say that would be to say that Americans are less competent and less smart than Swedes.

MINISTRY OF HEALTH AND
SOCIAL AFFAIRS,
Stockholm, Sweden, September 5, 1994.

U.S. Senator JESSE HELMS,
Washington, DC.

SENATOR: It has come to my knowledge that the Swedish example has a role in your campaign against the discussed health care reform in your country. The voters in North Carolina have got letters in which things are said about the health care in a handful of countries—including Sweden. What was told was fortunally wrong.

My aim is not to interfere with the debate on a health care reform in the USA, even if a brief study of your current situation reveals problems to control costs; in 1980 USA and Sweden used more money on health care than any other country, about 9 per cent of our countries respective GDP. This was at the time considered horrendous.

The improvements in Sweden's health care services have since then been undisputable. During the same period the GDP percentage of the Swedish health care has even decreased somewhat, at present to 8.5 per cent. At the same time the American health care expenses have skyrocketed up to 15 per cent of your GDP, going up every year. This is notable, especially since the American population on average is so much younger than that of Sweden. That something needs to be done to give the Americans more care for less money seems obvious.

Now, what is it that you have said on Sweden?

"Or, do we want the kind of health care they have in Sweden where the wait for an ordinary diagnostic heart x-ray can take up to eleven months to receive—and then wait another eight months for critical heart surgery?"

(page two, letter dated "Tuesday Morning")

This is your description of Swedish health care. The purpose is to convince people that changes toward a health care system more like the Swedish would be harmful. But never mind the purpose, what is said about Sweden is untrue.

Sweden like many countries, has had problems with waiting lists. These waiting lists have not—as you suggest—concerned care which is necessary for patients' survival; critical heart surgery has of course always been performed as fast as is medically motivated. We have, however, had problems with waiting lists for treatments like hip replacements, cataracts etc. Bad enough.

My first initiative as Minister of Health in the non-socialistic government was to introduce a reform to eliminate waiting lists. The reform, called the Care Guarantee, has now been in function for two and a half years and the waiting lists have virtually disappeared.

To get a heart x-ray you will have to wait for six weeks, to get an operation about five. This is close to what is manageable, no surgeon would normally like to have shorter times for planning operations than three weeks, unless the condition of the patient is critical. And in that case, as said, the operation is carried out immediately.

Senator, I understand that your idea of how good health care to reasonable costs can be delivered differs from mine. I do not expect or intend to convince you with this letter that a health care reform is necessary for your country's economy, and for the well-being of the American people. But I do hope that you will not use my country's name in the future, at least without first checking facts.

Faithfully yours,

BO KÖNBERG,
Minister of Health.

TRIBUTE TO JASON ROGER CYR

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Jason Roger Cyr of Troop 11 in Coventry, RI and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn

21 Merit Badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Jason worked with the Coventry Food Bank to move their inventory when they moved to a new building.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Jason Roger Cyr. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Jason Roger Cyr will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

FAMILY BUSINESS PRESERVATION ACT

HON. BILL K. BREWSTER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. BREWSTER. Mr. Speaker, today my colleague, JIM MCCRERY, and I are introducing the Family Business Preservation Act, legislation which is designed to lessen one of the most dangerous impediments to the continued existence of family businesses in America—the irrational rules for applying the Federal estate and gift tax to family-owned businesses.

Currently, the Federal estate tax has a maximum rate of 55 percent. This is substantially higher than the maximum income tax rate which is set at 36 percent, or 39.6 percent if you include the surtax on incomes over $250,000. Of course, this 55 percent does not apply to income generated by business property. It applies to the value of the property itself. A recent Tax Foundation study concluded that an estate tax rate of 55 percent has the same disincentive effect on entrepreneurs as a maximum income tax rate of 70 percent. Congress long ago determined that a 70 percent income tax rate is unreasonable. I doubt that anyone would seriously argue the contrary today.

When you think about it, an estate tax at 55 percent requires a family to enter into a leveraged buyout of the Government's newly created 55 percent interest in the family's business or farm, just at the worst possible time—the death of a major ownerparticipant.

What happens all too often is that the family simply cannot borrow enough money to pay off the Government and the business cannot borrow enough money to redeem enough of the decedent's interest to allow the estate to pay the tax. The family is forced to sell the business, often to large agribusiness or other corporations who have no ties to the community and little concern about the welfare of the business employees.

Contrast this with what happens when a major shareholder in a publicly traded corporation dies. The estate can easily sell enough stock to pay the estate tax because there is a market for the stock. The corporation may have different owners, but the corporation continues as before—without being crippled with extraordinary new debt.

However, this threat to the continued existence of family businesses is not merely an isolated hardship to some unfortunate families. Mr. MCCRERY and I are convinced that this "accordion" effect which shrinks family-owned businesses every time a family member dies is not only a significant factor in the concentration of agribusiness and reduction in the number of family farms but also a major disincentive to economic growth in this country.

Family-owned businesses generate about 60 percent of our gross domestic product. During the 1980's, family-owned businesses accounted for an increase of more than 20 million private sector jobs. During that same period, employment in Fortune 500 companies decreased by 3.5 million.

We need to do our best to assure that irrational tax laws do not create drags on job creation and job retention for workers all across this country. Experience shows us that we cannot rely solely on large corporations to create new jobs in this country. We need family businesses to grow and prosper if we want to employ Americans.

The legislation Mr. MCCRERY and I am introducing today will safeguard and encourage family businesses in several ways. First, it will reduce the estate tax rate when at least half the value of the estate is in a family-owned business. If the heirs continue to be active in the business, the maximum rate on the family business interest will be 15 percent. If the heirs are not active in the business, but keep it in the family, the tax rate will be 20 percent. However, if the heirs do not keep the business for at least 10 years, then the estate tax savings will be recaptured.

This should be a strong incentive for successful entrepreneurs to keep working and creating jobs, rather than selling out to others. It won't lock in heirs who do not have the interest or aptitude for the business, but it will discourage selling out to large companies who have no concern for the local community and local jobs.

Second, the legislation will provide an alternative valuation date of 40 months after the death of the decedent for family-business property. This will go a long way to resolving estate valuation disputes where the value of the business is closely tied to the skills of the decedent.

Third, the legislation will index the so-called unified estate and gift tax credit for inflation so that inflation will not continue to erode the amount of the estate that is exempted from estate tax. The unified credit, which effectively exempts from tax estates valued at less than $600,000, was last increased in 1981. It should be increased for inflation since then. The least we can do is make certain that no further erosion takes place.

Finally, the bill will allow hard-working individuals to give up to 15 percent of their earned income each year to family members without being subject to gift tax. This will not apply to investment income and, unlike gifts to charity, there will be no income tax deduction. However if an individual wants to make a gift to a member of his family in a year when he has earned some money, the tax laws should not discourage it.

I recognize that with the little time left and the crowded legislative schedule, this bill will not be enacted this year. I am hopeful, however, that introducing this legislation now will provide a vehicle to focus attention on this very important issue and will significantly enhance the chance of success next year.

Mr. MCCRERY and I hope that our colleagues will keep in mind that, according to the Internal Revenue Service, business assets, which are defined to include closely held stock, farm assets, limited partnerships, and other non-corporate businesses, comprise just over 12 percent of estates. This bill is not unrealistic. It does not repeal the estate tax. It will not cause an unacceptable drain on Federal revenues.

This legislation is simply a well-targeted, effective incentive to create jobs for Americans by not allowing the Federal Government to take more than its fair share of a family business at the death of a major participant in the growth and success of that business.

TRIBUTE TO JANAE A. FULLER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. SKELTON. Mr. Speaker, today I wish to recognize an outstanding Missourian, Janae A. Fuller, for her excellent work as the site administrator at the Battle of Lexington State Historic Site and Anderson House. Her matchless accomplishments as administrator have dramatically increased tourism in Lexington, MO.

As administrator, Janae oversees the site of a 3-day Civil War Battle, September 18, 19, and 20, 1861. The acres on this historic site have never been developed and contain a home that dates back to 1853. This home, the Anderson House, was used as a hospital during the battle. The restored home, battlefield, visitor center, and beautifully developed gardens are all under the supervision of Janae.

An increase in tourism is, in part, due to many of the special events that are held annually at the Battle of Lexington State Historic Site. The events include a Valentine Day tea party, kite flying contest, summer garden party, and an August star gazing event. At Christmas, the Anderson House is decorated with a 1850's decor for an open house. The 2-day Battle of Lexington reenactment occurs every 3 years.

In addition to Janae's commitment to the Battle of Lexington State Historic Site, she is very involved with other Lexington community

programs. Her activities include, vice president of the Lexington Historical Association, grant researcher for the Lexington Tourism Bureau, a member of Lexington Garden Club, and United Methodist Church were she sings in the choir.

Janae's work as the site administrator for the past 7 years has generated tourism for the State of Missouri and has also helped revitalize Lexington. Missouri is fortunate to have Janae's commitment and I commend her for her fine work.

SARATOGA DAR CHAPTER CELEBRATES THEIR 100TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. SOLOMON. Mr. Speaker, this Monday, September 19, 1994, the Saratoga chapter, Daughters of the American Revolution, will celebrate its 100th anniversary.

It is fitting that the Saratoga area should host a strong DAR chapter. Its anniversary date coincides with a local battle that many experts claim was one of the most decisive in history. I am speaking, of course, of the battle of Saratoga, which turned the tide in our Revolutionary War, and enhanced the prestige of our Nation in the eyes of the world.

The Saratoga chapter of the DAR held its organization meeting on August 30, 1894, in Parlor A of the United States Hotel. Presiding was Ellen Hardin Walworth, who was also one of the founders of the National Society of DAR. The first recording secretary was Anna Maxwell Jones. The first regent of the Saratoga chapter was Miss Katherine Batcheller, who was appointed by Mrs. Caroline Scott Harrison, National Society president general and wife of U.S. President Benjamin Harrison.

The 44 regents have included Louise Hill Mingay, Nellie Flohnas Hayden, Florence Skidmore B. Menges, who was also a State historian, Lillian Ford Andrews, Evelyn Barrett Britten, and Helen Roblee Towne. The president regent is Eldonna Heath Butler.

So you can see, Mr. Speaker, the history of Saratoga chapter, DAR, has been a long and distinguished one, and in the finest tradition of one of the most patriotic organizations in America.

I'm extremely proud of these grand ladies and everything they have done to advance patriotism and commemoration of our birth as a nation.

Mr. Speaker, I ask all Members to join me in congratulating the Saratoga chapter, Daughters of the American Revolution, on the occasion of their 100th anniversary, and in wishing all the best as they enter their second century.

HELP HOSPITALIZED VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1994

Mr. MONTGOMERY. Mr. Speaker, I rise to inform my colleagues regarding the continuing excellent efforts put forth by various veterans' service organizations. Today, I would draw their attention to a nonmembership organization named Help Hospital Veterans [HHV].

Chartered in 1971, HHV now operates from a small warehouse in San Diego, CA, with only one goal in mind: to assist our Nation's veterans during a critical period in their lives by making a variety of arts and crafts kits available to them through the 171 Department of Veterans Affairs medical centers and 50 Department of Defense hospitals. HHV provides more than 60 different types of kits including paint-by-numbers, leather crafts, latch hooks, poster art, and model, to highlight a few. Since its inception, HHV has delivered more than 13 million therapeutic arts and crafts kits to our Nation's hospitalized veterans. Clearly, HHV accounts for the overwhelming number of all arts and craft kits utilized in our VA and military hospitals.

Obviously, this effort is funded solely by the generosity of numerous Americans who want to express their appreciation and support of our many hospitalized veterans while they are in their rehabilitative process. These kits provide many hours of constructive and creative activities to occupy the minds and hands of our hospitalized veterans, as well as daily reminding them that they have not been forgotten.

As HHV approaches its 25th anniversary, a leading financial publication recently cited it as one of the best charities in the country. I, too, would like to recognize HHV and add my thanks for the wonderful assistance it provides to our veterans. Its patriotic and gallant efforts are truly worthy of our admiration.