SENATE—*Thursday, September 29, 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 Acting President pro tempore, the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

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

Let us pray:

In a moment of silence, let us remember the father of Senator BRADLEY, who is very near death.

Eternal God, sovereign Lord of history and Ruler of the nations, the words of one of the greatest monarchs of the ancient world, King David, are worthy of our contemplation. He prayed, *"How precious also are thy thoughts unto me, O God! How great is the sum of them! If I should count them, they are more in number than the sand * * *."*—Psalm 139:17, 18.

Gracious, loving Father, as the proximity of adjournment sine die and election day increases, the buildup of pressure increases. Like a vice, the Senators are squeezed between time and what remains to be done, which often stimulates cold hearts and hot heads.

Dear God, we pray for a special, divine dispensation to cover the Senate, its Members and all who labor in this place. Grant grace to distinguish between significance and urgency, and guide the Senators in a way that will close the 103d Congress, leaving them with great satisfaction and little disappointment.

In His name who is the way, the truth, and the life. Amen.

RESERVATION OF LEADER TIME

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 4556 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. 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 September 26, 1994.)

The Senate proceeded to the consideration of the conference report.

OFFICIAL PHOTOGRAPH OF THE SENATE

Mr. MITCHELL. Mr. President, in accordance with the provisions of Senate Resolution 272, the Republican leader and I have agreed that the official photograph of the U.S. Senate will be taken on Tuesday, October 4 at 2:30 p.m. All Senators should plan to be present on the floor at that time. That is Tuesday, October 4, at 2:30 p.m.

BILL EATON

Mr. MITCHELL. Mr. President, I know I speak for all Members of the Senate when I pay tribute to Bill Eaton of the Los Angeles Times. This is Bill Eaton's last day as Senate correspondent for the Los Angeles Times. He is to become the curator of the Hubert Humphrey fellowship program for foreign journalists at the University of Maryland. Bill has had a long, distinguished career as a journalist. He began at the Evanston Review, in Illinois, moved to United Press International, the Chicago Daily News, and then to Knight-Ridder.

While at the Los Angeles Times, Bill covered not only Washington but served as bureau chief in Moscow and New Delhi. Bill has been honored a number of times by his colleagues and his profession, including being the recipient of the Pulitzer Prize for national reporting. Bill's careful and fair reporting, his genial demeanor, will be missed by all of us who had the pleasure to work with him. He also has the good judgment to vacation regularly in Maine, and I wish him well in his new endeavors and hope to see him captaining his new boat among the islands off the coast of Maine.

I join all Members of the Senate in wishing Bill Eaton good luck and Godspeed.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BRADLEY be recognized to address the Senate as in morning business for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from New Jersey will be recognized for 15 minutes.

Mr. MITCHELL. And following Mr. BRADLEY's remarks, Senator HATFIELD will be recognized to address the Senate for up to 15 minutes, and upon the completion of Senator HATFIELD's remarks the Senate will return to legislative session and consideration of the pending Transportation appropriations bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Jersey [Mr. BRADLEY] is recognized for 15 minutes.

THE URUGUAY ROUND IMPLEMENTING LEGISLATION

Mr. BRADLEY. Mr. President, I rise to call the Senate's attention to an event of great significance to our country and to my home State of New Jersey. The President has submitted legislation to ratify and implement the Uruguay round GATT Agreement. With the formal submission of this legislation, we are one step closer to laying the foundation for American prosperity into the 21st century.

Not since the early days of this century has the world economy been as open or the potential for world economic development been as great as it is today. Paradoxically, rarely has America's anxiety about its own future been as great.

This is a normal reaction for a population which has largely defined the globe on its own terms since 1945. As our Nation struggles with the powerful, inexorable transformations of our day—the end of the cold war, the explosion of world markets, the information revolution, growing national debt—we naturally are anxious about what these fundamental forces mean to us.

But it is imperative that we respond by assessing control over our destiny, rather than passively allowing these global forces to dictate our future. Indeed, our identity as a nation is tied to our ability to manage change for our benefit. Adaptability as the engine of progress is central to the American experience.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The evolution from an agrarian to an industrial to a postindustrial American economy, the emergence of the progressive movement followed by the New Deal, and the growing role of women in and the increasing racial and ethnic diversity of America's ability to make social trends work in our favor. The rapidly changing nature of the contemporary world economy presents us with a new challenge. Today, in the Congress, that challenge is exemplified by our pending consideration of the Uruguay round.

The Uruguay round agreement provides us a framework for creating wealth from these developments rather than suffer the consequences of trying to ignore them. It will satisfy an American impulse that has guided us throughout our history—to embrace fair competition, confident in the belief that we will prosper whenever our national capabilities are matched against those of any other country in the world.

This is why I have supported free trade and the GATT. This is why I have supported the Uruguay round from before its inception. In 1984, I was approached by Arthur Dunkel, then Director General of the GATT, about serving on a seven-person study group to map the conceptual framework for a new GATT round, which became the Uruguay round.

At the time, the industrial democracies were just emerging from a severe recession. Growth was weak, unemployment high, and the increase in nontariff trade barriers was threatening to nip the recovery in the bud. The time was ripe for a new GATT round to fight back against protectionism and give a boost to the world economy.

As the only American and the only politician in the group, I felt a special responsibility to get this project done right. Other members were a Swedish industrialist, a French lawyer, a Brazilian financier, and Indonesian Cabinet Minister, an Indian economist, and a Swiss banker. Our interactions were frank and flowed from our different perceptions of the world economy as well as our common commitment to treat change as an opportunity and not a threat.

In the end, we issued a report with 15 recommendations. The most important were: increasing the transparency of trade policies, in other words, not hiding what we do, but doing it out in the open so all the world can see; bringing trade in textiles, services, and agricultural products into the overall GATT Agreement; reducing and controlling nontariff barriers, those things that each country would do so that they could not quite be seen and they could not be put as a tariff but, nonetheless they would impede world trade; tightening rules on subsidies, and improving GATT's dispute settlement system.

So Mr. President, for me, then, the Senate's vote will be the culmination of a decade-long process. Many of the areas that we urged action on in that report have been included in the final Uruguay round agreement.

This process has been rough, even precarious. Talks broke down more than once. Deadlines passed. Fast-track authority expired. The world economy transformed itself in ways we could not imagine in 1984, leaving negotiators scrambling to catch up with this rapid change.

But, in the end, the process ground to a conclusion. The tenacious efforts of four United States Trade Representatives, their staffs, and numerous others, sustained the Uruguay round over 7 years of difficult negotiations. Building on the work of his predecessors, especially the outstanding Carla Hills, Mickey Kantor finally brought the round to a successful conclusion last December. We have an agreement or, rather, a series of agreements, that substantially meets the goals that we set out in 1985 in that report. We will soon have before us the legislation to implement the agreements. This stage of the GATT process is almost at an end.

Any trade agreement must be understood, is an accumulation of individual interests. Some interests do better than others in the negotiations and legislative process. Those who believe they have done well, do not complain. Those who believe they have done less well complain, sometimes even oppose an agreement.

But what was true in 1984 is true today. The fundamental value of this agreement is that it strengthens the international trading system so that all interests, including the general interest, come out ahead. It preserves America's role at the heart of the international trading system, ensuring that Americans receive their share of the benefits of expanded trade.

The health of the international trading system is central to global economic health. We need only look at the history of the 20th century for proof. In 1930, Congress passed the Smoot-Hawley tariff, which helped plunge the world, not merely into recession, but into full depression. It exacerbated the trend that was already underway. Depression, in turn, paved the way to world war.

By contrast, in 1947, the General Agreement on Tariffs and Trade came into effect, and the world prospered on the back of expanding global trade. Or, rather, that part of the world prospered which integrated itself into the global trading system.

The health of the international trading system is vital to America's economic health. Let me cite just a few facts that demonstrate the importance of exports to our prosperity.

In my State of New Jersey alone, we have increased exports 90 percent since 1987 to 1993. We have over 12 to 14 billion dollars' worth of merchandise exported, over 200,000 jobs tied directly to exports.

In 1947, when the GATT took effect, U.S. exports were around 8 percent of an American GNP of just over $234 billion. Remember, this was when America stood as a colossus around the world.

In 1993, even though we now face strong competition from Europe, Asia, and even Latin America, America still exported over $660 billion worth of goods and services, accounting for 10.4 percent of an American GDP of almost $6.5 trillion and directly supporting 10 million American jobs. In nominal terms, American exports in 1993 were almost three times America's GNP in 1947.

Anyone who doubts the importance of trade and integration into the international trading system should compare economic performance in the United States and Argentina in this century.

The turn of the century was the last time that the world economy was as open and the flow of capital as free, it was in the midst of fundamental transformation. At that time, Argentina and the United States had much in common—large, underpopulated territory; continuing inflow of European immigrants and capital; vast agricultural and mineral riches, and rapid industrialization. Between 1900 and 1930, Argentina even had an average annual per capita rate of growth 50 percent higher than the United States.

However, following the Great Depression, the United States and Argentina embarked on opposite courses. The United States joined GATT and reopened to international trade. Argentina withdrew from the world and opted for economic autarky behind high tariff walls. And its politics became a bloody process of dividing up among elites smaller and smaller pieces of the economic pie.

It is no coincidence that America entered this decade as the largest, most productive country in the world, while Argentina began the 1990's a developing country struggling to rejoin the world economy. According to a study by Domingo Cavallo, and a number of others, if Argentina had maintained an open trading regime, its GNP in 1984 would have been 63 percent higher, investment would have doubled, and exports would have almost tripled.

I would note that Domingo Cavallo, one of the authors of this study, took its lessons to heart. As Economic Minister in Argentina, today he has orchestrated the reforms that have brought back Argentina economic stability and put that great country on the road to prosperity.

There is one more piece of the equation, Mr. President, which goes beyond trade and prosperity to bear on the stability of the international system as a

whole. It has been our national experience that the world is safer for our interests when major nations have a stake in the functioning of the system. The world is safer for our interests when countries have an institutional structure within which to work out their differences. In today's world, the GATT—soon to be part of the World Trade Organization—is the most widely accepted and used example of an integrating and mediating organization. The habits of cooperation, adherence to rules, and responsibility fostered by negotiation and dispute resolution spill over into other aspects of dealings between nations.

Some have argued that this agreement is too long, too complex, and we should not be taking it up in the remaining days of this session. Mr. President, I could not disagree more. If we postpone this agreement until next year, we will damage the world economy, we will damage the American economy, and we will damage the American wage earner.

If the United States Congress were to delay this legislation until next year, we would call into question whether the Uruguay round would ever be implemented. The markets have already discounted this $744 billion global tax cut. Were it now to be withdrawn, the markets would react, and the result could be extremely adverse to Main Street as well as Wall Street.

If the United States were to call the Uruguay round into question, forces of protectionism around the world would be strengthened, the momentum for trade liberation would be stalled, and the United States would abdicate a leadership role in the international economy.

Closer to home, and our constituents, delaying 6 months would mean delaying the benefits of trade liberalization.

Every year for the next 10 years, there will be 25,000 fewer jobs than if we act this year. Treasury projects that the average American family will lose $110 per year in income over the next decade if we simply delay this agreement 6 months—a delay of a real tax cut for Americans.

All of this assumes that after the delay, of course, we would still be able to pass this legislation—next February or March or April. This agreement is good today, and it will be good next February, they say. But delay will encourage GATT's opponents and give them more time to make their protectionist arguments. Who calculates the impact, especially on new Members of Congress, those who are out there now campaigning against GATT? When they get here, they will be against GATT. The prospects of passage will be less, not more.

Mr. President, in 1914 the world order was shattered by a bullet in Sarajevo. The crashing political order ultimately took the open world trading system with it, in part because the United States shied away from leadership. In 1914 and after, we were unable to cope with the transformations shaping our world. The result was depression, world war, and cold war.

In 1989, the world order was shattered again, as the Berlin Wall tumbled down. Once again, we face fundamental transformations that are reshaping our world. As a result, we have another chance to build a more stable, democratic, and prosperous world. Such a world can only rest on a sound international trading system that allows the market to regulate international competition. Such a world will only come to pass if America steps confidently forward to seize the challenge. Our vote on the Uruguay round will be a test of that confidence. We must vote this year, and we must vote "aye."

The ACTING PRESIDENT pro tempore. The Senator from Oregon [Mr. HATFIELD] is recognized for 15 minutes.

REMARKS OF SENATOR MITCHELL

Mr. HATFIELD. Mr. President, last Thursday night, the Senate gathered in a rather unusual format by having dinner with our spouses and enjoying the fellowship in a social setting that so oftentimes we miss by our respective schedules, which often carry us in different directions, toward such things as committee work, not a relaxed environment where we can really come to know each other. At that occasion, the majority leader, Senator MITCHELL, gave some remarks on behalf of the departing Senators who are retiring for various and sundry reasons.

Mr. President, as we all know, we have a rather common practice in the Senate—and a good one—of offering for the CONGRESSIONAL RECORD the remarks of colleagues or of people outside of the body politic, when those remarks have been very helpful or very impressive. And so it was that following the remarks by Senator MITCHELL, Senator GLENN of Ohio had them included in the CONGRESSIONAL RECORD. But I would not like to have such uncommon remarks be lost in a common practice because these were more than just good or excellent remarks. These remarks were some of the greatest commentary I have heard or seen relating to public life in general and to the body of the Senate and the Congress specifically.

I would like to just quote a few of these remarks and sort of exposit because I feel that such remarks do not happen very often.

If we go back in history, we find that truth is expressed in many different ways. We have had the early fathers of the church who had truth expressed through what they called revelation, revelation from the divine. We have had truth expressed through the use of satire. We have had truth expressed through pithy statements, Yogi Berra being such an example. But then we have found on occasion where truth emerges out of a very careful analysis based upon thinking, reflection, experience, all of these making it very, very unique truth. And that is the category in which I would place the majority leader's remarks.

I recall back in the classroom, when I was teaching political science, on occasion I would assign what would be called required reading. That was never greeted with enthusiasm by the students but oftentimes with appreciation after their reading. Many times it was not an entire book. It might be an essay. It might have been one of the Federalist papers. Or it might have been many other ways in which I felt important information was compiled.

I would say that this would be a required reading for all of my students were I back in the political science classroom. I think also it might be very excellent for the next session of the Congress to present these statements by Senator MITCHELL in an attractive format to the new, incoming Senators as a part of the so-called training and initiation sessions that we give to the new Senators in order to give them a perspective to begin their Senate career, to give them an outline of a kind of expectation of what is going to be experienced in their own personal lives as they serve in the Senate.

One of the comments Senator MITCHELL made was, "It is fashionable to criticize Congress." I am quoting now from his statement. "The criticism so resonates with the American people that some Members of Congress are themselves among the leading voices in disparaging this institution."

He goes on to say that Congress has never been necessarily a popular body within our political system. So he gives us a perspective of time, a perspective of history, an understanding of what this institution is really all about. He used as an example that people usually unite in times of great fear or challenge or war, and they let their differences become secondary. But he cited World War II and the attitudes that the American public expressed then, at a time of great danger for this country, as a time when things were in the balance as to the future of this country.

And yet he recalls for our benefit that such a time was even then filled with skepticism. It was filled with what you might call harsh criticism of this body. And he quotes Sam Rayburn, who was getting damned tired of hearing the Congress blamed for everything.

Now, Mr. President, I would like to just digress a moment to express my own observation that we have to understand and be forthright in admitting that this is an egocentric profession we

are in, politics. The Senate is the epitome of egocentricity in the sense that, outside the Metropolitan Opera Company, I am not sure of any agency in life that massages the prima donna complex in people as does the body politic or the political profession, particularly the Senate. We are the upper body. We are a unique parliamentary upper body, one of the only bodies in the world of an upper chamber holding significant power and exercising significant power. I could go on with the distinctions of the Senate over any other upper body of a parliamentary system.

And so, being this kind of a body and this kind of people, we are supersensitive to criticism. I found myself in such an experience. At such moments in time, unfair and untruthful statements are often made toward us. Because of that, then we sometimes get so centered on the moment we think life is totally different than any other time in history, and we have to then have someone like Senator MITCHELL yank us up and say, "Now wait a minute." Sure, there is a lot of unfair criticism. We cannot deny that. We have proven its unfairness many times by the facts of the case and refuting such criticism, individually and corporately.

But on the other hand, criticism is part of the price of a free society. Senator MITCHELL says it is in the legislative chamber that human rights and political rights are guaranteed. Under any kind of system that only has the power vested in an executive—be he or she a king, a queen, a fuhrer, a duchy, a czar, whatever it may be—without a powerful legislative body, the people's rights are in jeopardy. If this is the price of freedom, then perhaps we should be a little more gracious in accepting that criticism.

Senator MITCHELL also points out in his remarks that society, particularly a free society, is always anxious for change—and fast change and rapid change. They see a problem, and they say, "Why don't you fix it?" Then we have political personages in our day who have a simplistic message: "Just give me power and I will fix it. I will fix it." How many times we have heard that over the last few years, and again in this election cycle. We heard that when the German people were desperate and in economic distress following World War I. We heard it when the Italian people were in economic distress following World War I. We hear it today amongst those who say, "Just give me the authority, the power, the vote, and I will fix it." That plays, of course, to the anxieties, the fears, the desires of people for quick change and progress. And again that is, I suppose, part of the price, one of the exercises of freedom, in a society such as ours.

Mr. President, I ask unanimous consent to again reprint this in full following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. You see in Senator MITCHELL's remarks a very profound description of our role today in the context of history, in the comparison of our system against other systems less free.

Then he comes down to a conclusion when he says:

> I've been in the private sector, then in public office, and I'm returning to the private sector. I take nothing away from private life when I say that I don't think anything can ever give the deep and meaningful satisfaction that comes from public service.

So when you add up the ledger—the deficits and the assets—Senator MITCHELL says with all of the problems, the hurts, the unfair criticisms, and so forth on the deficit side, that if you add them up, it comes out with a net gain. It is not a gain in popularity or prestige and certainly not in economic terms. But the gains of public service are that kind of value that comes from within, which is the kind that is totally empirical, that a person understands when praise—and one of the phrases that has been used so often is "Well done, good and faithful servant"—has been given to you for your service. This phrase would certainly be, with his résumé of service, given to Senator MITCHELL. So he says public service must be and is its own reward.

These, I think, are not only words for further essays, words for sermons, but also words of encouragement for all of us who remain as Senator MITCHELL and some of our colleagues now go into retirement.

I cannot help but identify with some words that Senator MITCHELL also shared with us the other night. He said:

> It's because of the promise of America that I, the son of an uneducated, immigrant factory worker from a small town in Maine, was able to become the majority leader of the United States Senate.

And I suppose many could stand here today as I can stand here and say that, as a son of a railroad blacksmith with only 1 year of college and the son of a school teacher, only in America is it the privilege of people of any status—economic, heritage, religious, ethnic—to have the opportunity to rise into positions of leadership such as in the U.S. Senate.

He cites his colleague Senator BYRD as another example and the Republican leader, Senator DOLE, as another example. And there are many other examples across this Senate.

I think, therefore, that I would like to very humbly express my gratitude for not only the leadership and the public service of Senator MITCHELL, but for the inspiration that he gives all of us in his profound reflection, the truth that emanates from that reflection, and the encouragement and the challenge. And I for one am very grateful to have known Senator MITCHELL and, hopefully, I will continue to have a relationship with Senator MITCHELL. I am pleased this morning to express my deep gratitude for his presence here in the Senate.

EXHIBIT 1

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL, SENATE SPOUSES' AND RETIRING MEMBERS' DINNER, SEPTEMBER 22, 1994

I am one of the Senators who will not be returning in January. I will miss the retiring Senators and all of our colleagues. Each is leaving for different reasons.

I will leave because of my personal concept of public service. Unfortunately, some have speculated that I'm leaving because of the difficulties of serving in Congress.

That speculation is not accurate. Of course there are difficulties and frustrations. We all know that. But I'm proud to be a Member of the United States Senate. It's a great honor, the greatest of my life.

Criticism of the Congress is frequent today. But that's not new.

Most Americans cherish the view that during World War II—a time when the Nation was unified in the fight against fascism—all of us pulled together, and cheerfully shared sacrifice and hardship.

But history tells us otherwise. In reality, throughout the war, the Congress was under intense attack for the wartime hardships.

Members of Congress were touchy and defensive. Speaker Rayburn said he was "damned tired of having Congress made the goat for everything." Senator Walter George said he was tired of "indiscriminate sniping and yowling."

It's still fashionable to criticize Congress. The criticism so resonates with the American people that some Members of Congress are themselves among the leading voices in disparaging this institution.

But it's important to keep it in perspective. There never was a time when the Congress was a loved institution. Americans, members of the first truly egalitarian society, have always been skeptical of those who are set apart, whether by wealth, by election, or for any other reason.

That's a good thing; a healthy thing. It keeps our feet on the ground.

But when skepticism turns to cynicism, as it lately has, we risk undermining democracy.

Every system of government, by definition, has an executive. Throughout most of human history, that's all most governments have had: A dominant executive, usually in the form of an elected monarch.

Individual freedom, the liberty that we Americans have come to take for granted, largely came about when independent legislatures came into existence.

Across the sweep of human history, the institution most responsible for the preservation of individual liberty has been the independent legislature.

The men who wrote the Constitution had as their central objective the prevention of tyranny in America.

They had lived under a British king. They did not want there ever to be an American king.

They were brilliantly successful. In two centuries, we've had 42 Presidents and no kings.

Because power is so widely dispersed in our system, the Congress, like Parliaments in other democracies, often looks chaotic, and

disorganized. We often earn the criticism we get.

Every society includes impatient people who want to see rapid change, swift progress, sometimes even revolution. Every society also includes people secure with things as they are, who resist change.

The tensions created by such competing pressures are what drive us. How much change does a society need to stay vibrant? How much must a society conserve to remain orderly?

The critics think we get the answers wrong. And they question our motives and our values.

But what the critics miss is the public service gives work a value and meaning greater than mere personal ambition and private goals.

I've been in the private sector, then in public office, and I'm returning to the private sector. I take nothing away from private life when I say that I don't think anything can ever give the deep and meaningful satisfaction that comes from public service.

Public service must be and is its own reward, for it guarantees neither wealth nor popularity. And, to paraphrase Rodney Dangerfield, you don't get no respect, either.

It's often frustrating. But when you do something that will change the lives of people for the better, then it's worth all the frustrations.

It's often frustrating. But when you do something that will change the lives of people for the better, then it's worth all the frustrations.

Ours is virtually the only Government in history dedicated to opening doors, not closing them.

In America today, I believe anyone can go as far and reach as high as work, talent, and education allow. We can't equalize effort or talent. But we can equalize opportunity—the promise of a fair chance to succeed.

It's because of the promise of America that I, the son of an uneducated, immigrant factory worker from a small town in Maine, was able to become the Majority Leader of the United States Senate.

It's why Robert Byrd, our friend and mentor, could rise from the hard coal fields of West Virginia to serve as Leader in his time.

It's why my friend and colleague, Bob Dole, could come out of Russell, Kansas, and be Leader in his time.

Whatever new problems arise, whatever unforeseeable challenges come, if we can keep that promise alive for our children and theirs, America will never lose her way. For me, that's the purpose of public service, its inspiration, and finally, its reward. We are among a very fortunate few to have been able to reap that reward.

Thank you for the privilege of serving with you.

TRIBUTE TO SENATOR MITCHELL

Mr. WARNER. Mr. President, many of us were privileged, and I say privileged with the greatest sense of emotion, to be in attendance at a dinner given every other year by the wives of the U.S. Senate for the Members and most particularly those retiring.

At that dinner we were privileged to receive the remarks of our distinguished majority leader, the Senator from Maine. Certainly at my table, and I am certain at other tables, it was received as one of the most moving moments in our Senate careers. It was an absolutely magnificent message. It appears in the RECORD just following remarks of my distinguished colleague.

But I just wanted to pay respect to the distinguished majority leader for the friendship, the help, the guidance, and indeed the leadership that he has provided this Senator in the years that we have been privileged to serve together.

I only wish at this point in time I could bring back to memory one of his most remarkable statements. It went something to the effect that the actions that we take, the things that we do in this Chamber we simply know not how far and wide those actions flow through our country. But we can be assured that there are many who will be affected, and hopefully those actions will always be for the greater betterment of mankind and our country.

I yield the floor, and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask unanimous consent to proceed as in morning business for 4 minutes for the purpose of introducing a bill.

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

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 2474 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE URUGUAY ROUND TRADE AGREEMENT

Mr. MOYNIHAN. Mr. President, I come to the floor with the momentous news that the Committee on Finance has unanimously, 19 to 0, reported the Uruguay round trade agreement to the floor, the largest and most important trade agreement in history.

President Clinton is quoted in the New York Times this morning as having said, and I say accurately and clearly it is the view of the committee: This is the biggest trade agreement in history. It is the biggest worldwide tax cut in history by reductions in tariffs that will give us 300,000 to 500,000 new high-wage jobs in the next few years.

A point that perhaps needs to be noted, tariffs are taxes. Until the Constitution was amended to allow the income tax to be levied by the Federal Government, most of our revenue came from tariffs.

This is a tax cut. It redeems a commitment the United States made 50 years ago at the Bretton Woods Agreement to establish, along with the World Bank and the International Monetary Fund, an international trade organization. That proposal died. In the Senate Finance Committee a half century later now it comes alive again.

It is a hugely important event, and I do greatly thank my friends for allowing me to interrupt their matters in order to bring this important announcement to the floor.

Mr. President, I yield the floor with great gratitude to the Senator from New York.

Mr. LAUTENBERG. Mr. President, I commend the senior Senator from New York for the excellent work that he does in his chairmanship of the Finance Committee moving things along.

One of the things that also happened, I understand of recent days, was to approve the Finance Committee section of the Superfund. So that is ready to come to the floor.

I congratulate our colleague and look forward to the day when the new railroad station in New York will be able to accommodate with convenience, safety and enjoyment the commuters from New Jersey who often travel through Penn Station to their jobs in New York.

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

(Mr. CAMPBELL assumed the chair.)

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. LAUTENBERG. Mr. President, it is with some mixed emotions that I bring before the Senate the conference report accompanying H.R. 4556, the Transportation appropriations bill for fiscal year 1995.

This bill, like many of the appropriations bills passed in recent days, is very, very tight. While we were successful in making progress and investing scarce dollars in critical areas of our transportation infrastructure, we could not do all that we would have liked to do in a great many areas.

I hope that in future years, as we seek to prioritize Federal investments within the freeze on discretionary spending, we are going to be able to do better by critical transportation programs that do so much to promote prosperity and jobs in our country.

In that context, this conference report focuses on three goals.

First, it does achieve real spending restraint. For the purposes of conference, we faced a discretionary spending ceiling of $13.704 billion in budget authority and $36.513 billion in outlays. That means that our ceiling for conference was below the level we were required to work under when passing the Senate bill. As a result, we faced the very difficult task of meeting our Nation's needs and the Senate's priorities with less money.

Second, consistent with our limited funds, we made progress toward meeting our national transportation needs. The President spelled out his priorities in his Budget message. He said that we needed to increase investment in some critical areas in order to modernize systems and meet our national needs. Specifically, he called for increased investment in a number of areas: in the highway obligation ceiling; the capital part of mass transit formula grants; the FAA's facilities and equipment account; Coast Guard capital expenses; and Amtrak capital assistance. This bill makes a down payment on many of those investments.

The bill rejects, however, some of the President's proposals. He recommended deep cuts, for example, in transit operating assistance. We rejected that recommendation and, within very tight overall funding limits, restored more than half of the cut.

Third, consistent with limited funds and an emphasis on national priorities, we protected the interests of the Senate. In terms of policy differences, the Senate position prevailed in several key areas.

For example, one contentious area involved the Coast Guard. The House bill contained a sizable cut in Coast Guard operating expenses. We were successful in restoring much of that proposed cut. Over the last few months, we have seen the Coast Guard operating in overdrive, interdicting thousands of Cuban migrants and participating in Operation Restore Democracy in Haiti. I believe we all agree that now is not the time to impose deep cuts in the Coast Guard's budget.

In another area, regarding rail, the conferees agreed to many of the Senate provisions providing enhanced investment in our Nation's passenger rail infrastructure. The House bill made significant cuts below the President's request in rail capital investment, and I am pleased to report that we were able to reverse their position.

Finally, the House voted to eliminate funding for the Interstate Commerce Commission by more than 40 votes. The conference agreement, like the Senate bill, does not propose the elimination of the ICC. However, it does contain a very sizable reduction in the agency's overall budget and staffing. It will no longer be business as usual at the Interstate Commerce Commission.

Beyond these policy disputes, there were also differences between the House and Senate about specific projects in the transit and highway areas. In general, the Senate recognized fiscal reality and was inclined to fund existing projects, while the House moved to start a number of new projects without, in my opinion, giving due consideration to our ability to pay their total costs. As a result of these different approaches, we essentially divided the available funds and allowed each body to make decisions within its allotment. That meant there simply was not enough money to fully fund all members' individual transit or highway projects. We did the best we could with the resources available to us. And I want to thank all members for their cooperation and understanding through an extremely tight funding process.

I specifically want to thank the chairman of our committee, the President pro tempore, Senator BYRD. I have been disappointed by the misrepresentations and mischaracterizations of Senator BYRD's advocacy for a critical transportation project in his State. Those of us who work closely with this bill appreciate the issue of regional balance and the importance of recognizing that individual States differ in the amount and kind of infrastructure needed. As he has on the Senate floor many times, throughout the transportation conference Senator BYRD argued forcefully for the national benefit of infrastructure investments. I thank Chairman BYRD for the extraordinary degree of cooperation, courtesy and grace he demonstrated during the House-Senate conference.

I also want to say a special thank you to the chairman of the House transportation subcommittee, Congressman BOB CARR of Michigan. Congressman CARR has been an excellent leader of the subcommittee. His knowledge and concern for transportation matters is vast, and I hope he will be in a position to share it with us as a Member of the Senate.

I also thank my distinguished colleague from the other side of the Hudson River from New Jersey, Senator D'AMATO, who is the ranking member of the Transportation Subcommittee for his input and cooperation throughout the process. It was not easy for him either. The conference agreement before us is truly a bipartisan product. Indeed, it passed the House by voice vote without as much as a single objection.

So, Mr. President, at this time I would like to yield the floor so that Senator D'AMATO might make any statement that he would like to make.

Mr. D'AMATO. My distinguished colleague from New York, Senator MOYNIHAN, I think has an announcement of some consequences that he would like to make.

With the permission of the Chair, I would like to yield the floor to Senator MOYNIHAN.

Mr. LAUTENBERG. Absolutely.

The ACTING PRESIDENT pro tempore. The senior Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I first express the genuinely heartfelt thanks to the two hugely able and effective managers of this bill, the Senator from New Jersey and my colleague and my friend, Senator D'AMATO, from New York.

This measure contains the $40 million for the rebirth of Pennsylvania Station that will bring to $50 million all we can spend next year. Construction can start next week, thanks to these two valiant Senators. I want to make that remark.

Mr. D'AMATO. Mr. President, I rise in support of the conference report on H.R. 4556, the fiscal year 1995 appropriations bill for the Department of Transportation and related agencies.

This conference report details the final agreements of the House and the Senate conferees on fiscal year 1995 funding for $14.266 billion in transportation programs. These programs include highways, transit, U.S. Coast Guard, airport grants, air traffic control personnel and equipment, rail freight assistance, Amtrak passenger rail service, as well as other programs.

The report displays funding for covered programs at $482 million above the administration's request, and $1.23 billion above current levels. Our bill reflects Senate priorities for funding projects that promote safety, congestion mitigation, air quality enhancement, and new technologies. For example, I am pleased that the transit discretionary grant program for buses contains $7.3 million for Nassau County, Long Island to advance its national leadership in putting alternative fuels buses on the roads. We are striving through this program to encourage local transit authorities to acquire buses using cleaner-burning fuels, and we will all breathe easier for it.

The conferees have cut the funding for the Interstate Commerce Commission by one-third, to $30.3 million. The Trucking Industry Regulatory Reform Act of 1994, signed by the President on August 26, 1994, has stripped away many of the ICC's useless and obsolete functions such as tariff filings, and related regulatory and enforcement activities. Congress has made great progress this year in dealing with the dinosaur known as the ICC; however, I agree with my colleagues on the House side, Mr. KASICH and Mr. HEFLEY, that more needs to be done. In the coming year I expect to closely examine the ICC's budget as we debate whether this independent agency is worth the money it costs taxpayers, or whether its remaining functions can appropriately be performed by other agencies.

HIGHWAY DEMONSTRATION PROJECTS

The conferees agreed on a total pot of $352 million for 127 highway demonstration projects. The final agreement split the pot equally between House and Senate projects, giving each body $176 million for projects it initiated. The House funded 102 projects; the Senate funded 25 projects.

Much controversy surrounded the funding of these highway projects. In conference, $60 million was cut from two West Virginia highway demonstration projects and then reallocated to House and Senate projects. About $52 million was reallocated to 18 Senate projects, restoring all but 10 projects to their Senate-passed levels. Funding for 1 of these 10 projects, the Pittsburgh Busway was restored under transit grant programs. The balance, about $8 million was allocated by the House to its highway projects. Senate projects were included based on a showing that they were authorized to receive general funds in current law, or were ongoing projects that had previously received funds. No new starts were included.

We have heard much about fairness in allocating these highway funds. Our final conference agreement addresses those concerns by providing a more equitable balance among the Senate projects. However, the House's problems in satisfying their project requests go beyond how much money one State's projects received in the Senate bill. The House undertook a great burden when it funded over 70 new start projects contained in the House-passed version of the National Highway System Designation Act of 1994, H.R. 4385. The Senate version of the NHS bill has no such demonstration projects. Next year, and in the years to follow, the bills will come due to pay for these dozens of new projects.

TRANSIT DISCRETIONARY GRANTS: NEW STARTS

Thirty-two transit new start projects were funded at $646.67 million as proposed by the House, instead of $595 million as contained in the Senate bill.

This program continues to balloon-up in costs as we fund many projects that are in preliminary stages, as well as older projects whose expensive construction costs are coming due for payment. This year, the Senate earmarked funds for a total of 15 projects, including only 5 of the same projects as contained in the House bill. This process left out important ongoing projects, particularly in the States of Texas and Florida, that have strong support in the Senate. The House had earmarked a total of 25 projects.

The allocations for these projects have been controversial, as Members seek more funds for projects in their States. This year a new process was followed whereby House and Senate projects were considered separately in conference. This approach leaves the fate of Senate-supported projects mainly in the hands of the House conferees, and vice-versa. I do not think that this is an approach we should repeat in the future. A full picture of new start allocations needs to be before all conferees as we make decisions on a program with national impacts. Moreover, as transit operating dollars continue to shrink—$710 million is contained in this bill—11.5 percent cut from current levels—serious thought must be given to the projected ridership of these projects and who will pay to operate them as we proceed to make decisions about new start spending in the future.

TRANSIT DISCRETIONARY GRANTS: BUSES

The conference agreement provides a total of $353.3 million for 85 discretionary grants for buses and related facilities. The pot of funds left unearmarked and reserved for the Secretary's discretion was reduced from $197.5 million in the Senate—and from $51 million in the House—to $30 million in the final agreement.

Mr. President, I am pleased that we were able to come to agreement about the many issues contained in this legislation. A specific issue of local importance to New York State, is the $40 million contained in this bill to redevelop Amtrak's decrepit Penn Station in New York City at the nearby James A. Farley Post Office. Penn Station is the Nation's busiest train station—500,000 people use it each day. Passengers desperately need the safety and operational improvements, as well as the enhanced facilities that this redevelopment project will achieve. Firm commitments have been made by State and local governments to fund their $100 million share of the project, and the Long Island Railroad has just completed its $200 million portion of the station.

In addition, $1.25 million has been made available for an oil spill response simulator at the State University of New York Maritime College at Fort Schuyler in the Bronx. There is currently no such response program in one of the busiest ports of the world—the Port of New York and New Jersey. This year, over 25,000 gallons of oil have been spilled in over 180 separate spills in this port. This investment in prevention will be well spent in protecting our waters, sensitive wetland areas, and shorelines.

Mr. President, this was not easy. Let me say that I think it took an extraordinary effort by the chairman, by Senator LAUTENBERG, and by all of our colleagues working together to see to it that limited resources were used in the manner and the way that could really make a difference.

I want to commend Senator LAUTENBERG for his leadership. It was not easy. I also want to commend all of the Members for working together to make this a reality.

I support adoption of this conference report, and urge my colleagues to support it as well.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished and very able chairman of the Transportation Subcommittee, Mr. LAUTENBERG, and the equally capable ranking minority member, Mr. D'AMATO, deserve great credit for their efforts in bringing this Department of Transportation appropriation conference report to the Senate. This bill is the product of many months of hard work, of thoughtful analysis, and of the many hours of testimony that were taken on the 1995 Department of Transportation budget. This conference agreement represents a fair and balanced approach to our Nation's transportation needs. It recognizes the transit needs of those States which have large populations and population densities. It also provides for the transportation needs of smaller, less populous States whose major transportation systems are their highways.

I compliment the chairman and ranking minority member, as well as their excellent staff: Pat McCann, Peter Rogoff, Joyce Rose, Anne Miano, and Dorothy Pastis.

TRANSPORTATION FUNDING LEVELS

Mr. President, I have a table which sets forth information which was provided to the Appropriations Committee by the Department of Transportation relative to the funding levels for selected programs that will be provided for fiscal year 1995 to certain States pursuant to existing statutory authority. That authority allows obligations to be incurred from the Highway and Airport and Airway Trust Funds up to the levels set in the 1995 Department of Transportation appropriation bill. Also, under ISTEA, States will receive mass transit grants for both capital projects and operating costs in the amounts shown in the table.

I hope that this information will be helpful and instructive to those who may have the mistaken impression that there is unfairness in the distribution of Federal transportation dollars.

Funding for the District of Columbia is not included on the table, but for comparison, I would point out that the 1995 Transportation conference agreement contains $200 million for Metro construction, $9.2 million in interest payments on WMATA's bonds; $24 million for transit operating subsidies; and $17.3 million for rail modernization grants.

Mr. President, I ask unanimous consent that the table that I have referred to, entitled "Fiscal Year 1995 Funding of Selected Department of Transportation Programs," be printed in the RECORD.

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

FISCAL YEAR 1995 FUNDING OF SELECTED DOT PROGRAMS

[In whole dollars]

State	Federal-aid Highways				Airport grants [2]	Transit formula [3]
	Obl. Limit	1994 MA	ISTEA Demos [1]	Total		
California	1,341,338,030	189,625,000	51,451,000	1,582,414,030	54,368,042	360,593,297
New York	845,225,887	0	45,348,000	890,573,887	28,072,738	440,845,878
Texas	953,452,461	119,393,000	34,798,000	1,107,643,461	48,246,684	125,918,186
Florida	521,735,792	161,433,000	27,427,000	710,595,792	32,744,685	110,308,020
Pennsylvania	653,853,400	53,342,000	129,477,000	836,672,400	21,280,388	129,844,979
Illinois	568,422,288	0	24,825,000	593,247,288	21,760,495	176,760,452
Virginia	293,977,580	77,643,000	20,602,000	392,222,580	13,489,835	41,837,189
West Virginia	148,457,229	0	48,853,000	197,310,229	4,507,633	5,646,635
All other	11,833,537,333			11,833,537,333	1,225,529,500	1,108,245,364
Total	17,160,000,000	601,436,000	382,781,000	18,144,217,000	1,450,000,000	2,500,000,000

[1] Represents 26% of estimated available balances of ISTEA demo funds to the above states through FY 1995—actual obligations will likely vary from these estimates.
[2] Assumes current enplanement numbers will be changed as finals become available; includes $140 M entitlement carryover.
[3] Distribution will change because new Sec. 15 performance numbers will be used for publication in Federal Register Oct. 1994.

Mr. BYRD. Mr. President, I also ask unanimous consent that an editorial, the first of a series in the Martinsburg, West Virginia, newspaper, The Journal, under date of September 29, 1994, be printed in the RECORD.

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

[From the Journal (Martinsburg, WV), Sept. 29, 1994]

BYRD'S CRITICS OVERLOOK TRUTH WHILE FLINGING ACCUSATIONS

U.S. Rep. Frank Wolf, R-Va., demonstrated in the last two weeks that when all other rational arguments fail to bolster a weak argument, try slander and lies. Naive constituents will love you, big-money contributors will be generous and the Washington Post will lionize you.

In the last two weeks, Wolf has again taken on U.S. Sen. Robert C. Byrd, D-W.Va. Wolf, the ranking Republican on the House Appropriations transportation subcommittee, targeted Byrd's request for $140 million to be spent on engineering and construction of Corridor H. Last week, on the floor of the House of Representatives, Wolf created a cleverly constructed argument in which he contended that Byrd, chairman of the Senate Appropriations Committee, was making off with almost all of the federal government's money for highway construction.

On Sept. 21, he argued that West Virginia, with only 1.7 million people, was going to receive $140 million. He said eight states with more than 100 million people were only going to get $10 million. "That's not fair," declared Wolf.

Here-here, said the Post, in an editorial that curiously ran the next day. In a remarkable quick rewrite of Wolf's speech, the Post not only repeats Wolf's claim that a small state is getting a lot of money, but also prints, almost verbatim, Wolf's contention that the state would receive $133 million more than could be used in a four-month time period.

What Wolf and the Post don't say is that Corridor H is not new. It was proposed by the Appalachian Regional Commission nearly 25 years ago as a development highway. It was intended to complement the interstate highway system. Most of the easy corridors have been built. Most of the remaining projects are in, you guessed it, West Virginia.

Wolf and the Post also failed to note that the number of accidents in the Corridor H area are above the statewide average, and the state as a whole ranked second in the country in traffic deaths for each 10,000 motor vehicles registered. That's because most of the roads in the state were built in the 1930s and reflect what Byrd calls "a happenstance response to topography rather than strategic planning."

The Post and Wolf conveniently fail to mention that it isn't cheap to build highways in Appalachia. The costs of completing most Appalachian system corridors is about $10.9 million per mile. But because of the extremely difficult and environmentally sensitive terrain, Corridor H will probably cost more than $18 million per mile to build.

The Post and Wolf also failed to note that West Virginia will receive little money for airports and mass transit relative to states that have sophisticated systems and need the big bucks.

And guess who is going to pocket lots of mega bucks for airports and mass transit?

The federal government will have spent $9 billion on Washington D.C.'s 103-mile Metro system when it is completed. The bill that Wolf and the Post fume about provides a $200 million subsidy—no other word fits—for the operation of the Metro next year. That doesn't include the $27 million subsidy for the Washington D.C. bus system.

Wolf says he is protecting the interests of the people in Shenandoah County, Va., who don't want Corridor H spoiling their bucolic existence. Yet Wolf and his political buddy, Virginia Gov. George Allen, are demanding the federal government cough up big bucks for a new interchange on Interstate 66 that will serve the Walt Disney Co. theme park, "America." There are a lot of folks in that area who don't want the theme park or the new interchange, let alone a $166 million subsidy, but they must not count to Wolf—they don't live in Wolf's district.

Wolf is using the opposition to Corridor H in Shenandoah County as a red herring to disguise his real fear—the loss of more federal "back offices" to West Virginia and other states. He spoke to that concern when he recently announced he was opposed to the upgrade of W. Va. 9. In this computer age, it doesn't really matter where an office building full of bureaucrats is located. All that counts is the building be linked to a reasonably sophisticated and reliable telephone system. Thanks to Bell Atlantic, West Virginia has one of the most sophisticated telecommunications systems in the world. It also costs a whole lot less to do business in West Virginia than it does—you guessed—in Northern Virginia. The cost of labor, construction and housing is less. Taxes also are less.

Every time Byrd makes what is now a routine announcement about another federal agency moving to the Mountain State, a shiver must go up and down the spines of all of northern Virginia's movers and shakers. Those glad tidings mean the federal government will spend less in and around Washington D.C. That means fewer people who will buy houses or go to shopping centers in northern Virginia. That also means small but tangible numbers of people won't be patronizing businesses, that advertise in the Post. It won't take long for those businesses to rethink their advertising strategies.

Wolf and the Post think they have won this round. The transportation budget only allocates $40 million for Corridor H this year. Wolf can claim he humbled the all-powerful Byrd, the Post editors can crow how they struck a mighty blow against the evils of pork barrel politics.

But not everybody who works within the Beltway is quite so myopic. One congressional staffer who works for the House Appropriations Committee said Wolf's and the Post's criticism of Byrd only enhances Byrd's reputation in West Virginia. It also only causes nothing but fury for most West Virginia Republicans. The West Virginia's eastern region is viewed as fertile ground for them. Wolf's diatribes only undercuts their efforts.

Next year is another session of Congress and, if Byrd wins re-election, we shall see who has the last laugh.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement accompanying H.R. 4556, the Transportation and related agencies appropriations bill for fiscal year 1995.

The pending conference agreement provides a total of $14.3 billion in new budget authority and $12.4 billion in new outlays to fund the operations of the Department of Transportation agencies for the upcoming fiscal year. These agencies include the Federal Highway Administration, Federal Aviation Administration, the Federal Transit Administration, the Coast Guard, Amtrak, the Federal Railroad Administration, and the National Highway Traffic Safety Administration.

When outlays from prior-year budget authority and other completed actions are taken into account, the final bill totals $14.3 billion in budget authority and $37.1 billion in outlays for fiscal year 1995.

I commend the distinguished chairman and ranking member of the subcommittee for the hard work they have done on this important bill.

They have brought back to the Senate a final bill that is within the subcommittee's 602(b) budget allocation by $10 million in budget authority and less than $500,000 in outlays.

I thank the distinguished subcommittee leadership for the consideration and support they gave to programs important to my home State of New Mexico, including the completion of three ongoing projects. I urge the adoption of the conference agreement.

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

The PRESIDING OFFICER. The Senator suggests the absence of a quorum. The absence of a quorum is noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. 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 I-265 EXTENSION BRIDGE FUNDING

Mr. FORD. Mr. President, I wonder if the manager of the bill, my good friend from New Jersey, will yield to discuss the I-265 funding in the conference report?

Mr. LAUTENBERG. I would be happy to discuss this issue with the senior Senator from Kentucky.

Mr. FORD. Mr. President, Senator MCCONNELL, Senator LUGAR, Congressman HAMILTON, and Congressman MAZZOLI have all supported the need for a new bridge linking southern Indiana with the Louisville, KY region. We are pleased the House and Senate agreed in this conference report to begin funding this project by including $500,000 for the I-265 extension.

Mr. MCCONNELL. Mr. President, will the Senator yield for a question?

Mr. FORD. I would be pleased to yield to my colleague from Kentucky.

Mr. MCCONNELL. First, I would like to thank the chairman and ranking member for including this project in the bill. Would my friend agree that there is a consensus on a need for a new bridge in the area and that local officials from both States have yet to agree on the exact location of the bridge?

Mr. FORD. That is my understanding.

Mr. LUGAR. Mr. President, will my good friend, the senior Senator from Kentucky, yield for a question?

Mr. FORD. I would be happy to yield to my good friend, the Senator from Indiana.

Mr. LUGAR. As I understand the problem my State of Indiana and the Commonwealth of Kentucky agree there is a need for a bridge in the area of Clark County, IN, Louisville, KY area, and Jefferson County, KY area, and that our States have not yet reached an agreement on the location.

Mr. FORD. The Senator is correct.

Mr. President, I say to my friend from New Jersey given the fact that the two States have not yet reached an agreement it is therefore my understanding that the funding in the conference report is not site-specific?

Mr. LAUTENBERG. I would say to my friend, the senior Senator from Kentucky, and to my friends, the senior Senator from Indiana and Senator MCCONNELL, that the conference committee by designating the project I-265 extension does not mean that we have agreed to a site-specific location in the greater metropolitan area, but rather, the States of Kentucky and Indiana must come to an agreement on the specific location for the bridge.

Mr. D'AMATO. Would the Senator from Kentucky yield?

Mr. FORD. I would be happy to yield to the ranking member of the subcommittee.

Mr. D'AMATO. Mr. President, I want to point out that it is my understanding as well, that the I-265 project funds are to be used only at the location that is decided upon by the States of Kentucky and Indiana.

Mr. FORD. I thank the chairman and the ranking member for their remarks.

THE 5-PERCENT BONUS OBLIGATION LIMITATION

Mr. BAUCUS. Mr. President, I would like to clarify the chairman's intent with regard to the absence of a provision in this conference report. Is it the chairman's intent that, as in last year's transportation appropriations bill, lack of appropriations bill language affirming or restating the 5-percent bonus obligation limitation program should not be interpreted by the Department of Transportation to mean that the program should not be available to States in fiscal year 1995? That in fact, the reference to this program in section 1002(f) of the Intermodal Surface Transportation Efficiency Act [ISTEA] is sufficient reference to continue the program in fiscal year 1995?

Mr. LAUTENBERG. The Senator is correct. It is not my intention to make the 5-percent bonus obligation limitation program unavailable to States that meet the appropriate requirements in fiscal year 1995. The authorization statute in the ISTEA is sufficient reference to continue the program in fiscal year 1995.

Mr. HATFIELD. Mr. President, I want to thank Chairman LAUTENBERG for his help this year and for crafting an excellent and equitable 1995 Transportation appropriation bill.

Mr. President, the statement of managers accompanying the conference report includes language that modifies language passed by the Senate concerning the South/North rail line in Portland, OR and Vancouver, WA. Would my colleague please explain the modification made by the conferees?

Mr. LAUTENBERG. The Senate language directed that funds made available to Portland in interstate transfer monies be used for preliminary engineering and environmental impact studies for the South/North corridor project. The conferees have removed the requirement that these funds be used for this purpose creating flexibility for the Portland metropolitan area to use these formula funds on the South/North corridor or any other eligible project.

Mr. HATFIELD. I thank my colleague for that clarification.

MINISTERIAL ROAD

Mr. CHAFEE. Mr. President, I thank the distinguished chairman, Senator LAUTENBERG, and the distinguished ranking member, Senator D'AMATO, of the Subcommittee on Transportation and Related Agencies of the Appropriations Committee for including funds in the conference agreement for H.R. 4556 that I requested for Ministerial Road in Rhode Island. Amendment No. 157 in the conference report, House Report 103-752, includes the Senate language contained in section 324 of the Senate bill. Section 324 as included in amendment No. 157 provides $100,000 of existing funds for scenic byways to provide assistance to a community group incorporated for the purpose of protecting the scenic qualities of a designated scenic byway. The intent of this provision is to provide the existing $100,000 to the Ministerial Road Preservation Association for the purpose of developing and evaluating alternative design standards for Ministerial Road in Rhode Island. I would ask the distinguished chairman and ranking member if they agree with my characterization of amendment No. 157 in the conference agreement?

Mr. LAUTENBERG. The Senator from Rhode Island is correct. The intent of the conference agreement is to direct the Federal Highway Administration to provide these funds to the Ministerial Road Preservation Association in Rhode Island.

Mr. D'AMATO. The Senator from Rhode Island is correct.

Mr. CHAFEE. I thank the Senators for their response, and again thank them for including these funds for Ministerial Road.

UNANIMOUS-CONSENT AGREEMENT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a vote occur at 11:45 this morning.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

STATEMENT ON THE TRANSPORTATION APPROPRIATIONS CONFERENCE BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4556, the Transportation appropriations conference bill and has found that the bill is under its 602(b) budget

authority allocation by $10 million and under its 602(b) outlay allocation by $0 million.

I compliment the distinguished manager of the bill, Senator LAUTENBERG, and the distinguished ranking member of the Transportation Subcommittee, Senator D'AMATO, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Transportation appropriations conference bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 4556—FY 1995 TRANSPORTATION APPROPRIATIONS—CONFERENCE BILL

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary Totals:		
New spending in bill	13,694	11,951
Outlays from prior years appropriations		24,595
Permanent/advance appropriations		
Supplementals		−34
Subtotal, discretionary spending	13,694	36,513
Mandatory totals	571	574
Bill total	14,265	37,087
Senate 602(b) allocation	14,275	37,087
Difference	−10	−(*)
Discretionary Totals above (+) or below (−):		
President's request	482	−93
House-passed bill	116	71
Senate-reported bill	−40	−87
Senate-passed bill	−40	−87
Defense		
International Affairs		
Domestic Discretionary	13,694	36,513

Mr. MURKOWSKI. Mr. President, today we will vote on the passage of the conference agreement to the Department of Transportation appropriations. While I intend to vote for this report because it provides funding for several important programs in my State, I do have some serious concerns about two provisions.

The conferees have endorsed an agreement between the Alaskan aviation community and the FAA to further enhance flight services in Alaska.

The report language notes the negative impact of the closing of the Bettles flight service station which served the vast northern half of my State. The FAA Alaska Region is presently assessing the possibility of reactivation of this station on a seasonal basis. As the report language reiterates, Bettles may be reactivated as a flight service station at the discretion of the Administrator of the FAA.

I want to make it perfectly clear that I believe this station should be reactivated seasonally and that its reactivation should have been part of this agreement. I also believe that any surplus funds from the rotation plan which are not used to carry out the rotational staffing process set up in the agreement should be set aside for the reactivation of the Bettles station in the event that the station is recommended for flight service status.

The other issue concerns the deletion of my amendment that would prohibit funds to be used to restrict overflights of Federal lands within Alaska. I am disappointed by this deletion since Alaskans depend upon aviation as a basic means of transport, just as other Americans depend upon roads. Not only do Alaskans fly more than citizens of the lower 48 States, but we also fly over Federal land more often because 58 percent of our State is owned by the Federal Government. Any effort to restrict travel over Federal lands contains the possibility of cutting people off from their homes, hospitals, and supply stores.

While other parks in America may face overflight problems, Alaska's do not. Under ANILCA, Alaskans were guaranteed access to their lands by traditional means. This includes aircraft. Though my amendment was not adopted in the conference report, I will continue to work to ensure that Alaskans are able to access what was promised to them.

MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I now ask unanimous consent that the Senate turn to morning business with Senators permitted to speak therein until such time as the vote occurs.

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

USING THE FILIBUSTER

Mr. SIMPSON. Mr. President, yesterday I addressed the Senate on the issue of why the Republicans, frequently with the assistance of Democrats, have utilized the filibuster during this Congress. The real justification for availing ourselves of this procedural right is a lack of honest, real—not rhetorical—consultation. I gave several examples, and I will not belabor the point.

Subsequent to my remarks, my distinguished colleague from California, Senator FEINSTEIN came to the floor to offer what she believed was an example of why my remarks were in error. She cited the California Desert bill, S. 21.

I ask unanimous consent that a letter dated September 23, 1994, which I received from five Republican Congressmen who represent that area be printed in the RECORD after my remarks.

The letter speaks for itself. Essentially, it corroborates my earlier remarks which asserted that the common denominator of each use of the filibuster is a lack of real consultation. These Congressmen from the affected area say that their suggestions for improving S. 21 were "repeatedly ignored," and that "none of our concerns saw the light of day." They cited the "hardball tactics" utilized by the proponents of the bill, and urged me to "oppose the motion to invoke cloture."

I intend to. I not only agree with the Congressmen on the merits, but I am painfully aware of the process which they have described. It is yet another exhibit in pleading the case I was making yesterday.

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

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 1994.

Hon. ALAN SIMPSON,
Senate Minority Whip, The Capitol, Washington, DC.

DEAR SENATOR SIMPSON: As representatives of the California Desert, we would like to convey our strong opposition to the Senate consideration of S. 21, the California Desert Protection Act, and urge you and your colleagues to oppose the motion to invoke cloture.

S. 21 is based on a myth—that the deserts of California are currently unprotected, and open to the ravages of greedy corporations and careless off-roaders who would destroy the desert for pure pleasure or the almighty dollar. This is a useful emotional lever, but it is patently false. The facts are these: in its passage of the landmark Federal Land and Policy Management Act of 1976 (FLPMA), Congress among other things mandated that a plan be prepared for the protection of the California deserts. At the direction of Secretary Cecil Andrus, an Advisory Committee representing the various desert user groups was formed to analyze and evaluate the California Desert Conservation Area for wilderness or nonwilderness designation. After an extensive outreach program which included years of public hearings and over 40,000 public comments, the Advisory Committee proposed that 2.3 million acres in 62 wilderness areas be preserved—far less than the eight million acre land grab we are considering today. Although these recommendations were introduced by the five desert Congressmen as H.R. 2379, our bill was never given a proper hearing by the House Committee on Natural Resources.

The second flaw of S. 21 is the enormous cost to the taxpayers of acquiring and managing the nearly eight million acres of proposed wilderness and park land protected by the bill. Not only does this measure fail to provide the funds necessary to acquire private inholdings, but it also neglects the 26-year, $1.2 billion backlog in land acquisition faced by the National Park Service. Moreover, the Park Service admits an additional 37-year, $5.6 billion backlog in capital construction and maintenance costs. By adding over three million acres to our already beleaguered system, three certainties will result: increases in visitation, decreases in budgets and staff, and accelerated deterioration of our National Parks.

The third, and perhaps the most troubling, shortcoming of S. 21 is the omission of the thoughts and views of desert residents—most of whom are the best and most knowledgeable caretakers of this resource. Since this debate began, we have collectively received thousands of calls and letters from people who fear they will be locked out of the desert they have enjoyed for generations. Under wilderness designation, areas will be accessible only on foot or on horseback, a daunting challenge considering the extreme

heat and ruggedness of the terrain. Only the most physically able will be able to enjoy these expanses, underscoring the lack of foresight exercised by the armchair environmentalists who drafted S. 21.

We had hoped to help Senator Feinstein craft a sound desert bill in this Congress, but our offers of assistance were repeatedly ignored. Aside from a few minor concessions, none of our concerns saw the light of day until the legislation reached the House floor. This treatment and the resulting lack of balance in the compromise bill leaves us with no recourse but to oppose S. 21. It angers us that we have been painted into this corner, and we resent the hardball tactics of Senator Feinstein and a small band of her environmental allies. Without a doubt, the California Desert Protection Act will incur consequences and set unwanted precedents that will affect not only California, but also every other state in the Union. For these reasons, we respectfully request that you oppose the motion to invoke cloture. In a time when the federal government should be reined in, we are facing a dangerous expansion of federal authority under this legislation—at a price taxpayers cannot afford.

We thank you for your time and your consideration, and are available to you individually or as a group should you have any questions.

Sincerely,

JERRY LEWIS.
AL MCCANDLESS.
DUNCAN HUNTER.
BILL THOMAS.
HOWARD "BUCK" MCKEON.

TRIBUTE TO THE LATE MRS. LUCILE SIMS

Mr. THURMOND. Mr. President, I rise today to pay tribute to a dear friend, Lucile Sims, who recently passed away at the age of 100.

In the course of her life, Mrs. Sims became involved in a number of activities and made many contributions to South Carolina. A graduate of Winthrop College, an institution that specialized in training teachers, Mrs. Sims held several jobs in the educational field which included teaching in the Orangeburg public schools, starting one of the area's first kindergartens, and beginning the first nursery for underprivileged children.

Additionally, Mrs. Sims wrote a column for the Editor's Copy Syndicate, an editorial and feature service for newspapers that she and her late husband, Hugo S. Sims, Sr., founded. In a tribute to the Sims' foresight, the Editor's Copy continues to be a valuable tool for journalists.

Mrs. Sims activities and contributions went beyond that of her teaching and writing. During World War II, she served as the chairman of the Women's Division of the Civilian Defense Force; she was a lifelong member of the St. Paul Methodist Church; and she was an enthusiastic participant in Orangeburg's Little Theater. Her work as a civic leader, and dedicated mother led to her being awarded the title of Mother of the Year in 1959, and I was pleased to host a delegation luncheon in her honor that March.

Mr. President, Mrs. Sims was a woman who was a friend to everyone, regardless of their race or creed, and she worked hard to help make her community a better place for all of its citizens. This most gracious lady will be missed by all those who knew her, and I would like to take this opportunity to extend my deepest sympathies to her three sons; former Congressman Hugo Sims; Edward Sims, publisher of the Editor's Copy; and, Henry Sims, who has served in many of South Carolina's State offices. Each of them can take great pride in their mother and her many accomplishments, as well as their own.

PROTECTING YELLOWSTONE NATIONAL PARK'S GEOTHERMAL RESOURCES

Mr. BURNS. Mr. President, I rise today as a cosponsor to the amendment filed today to protect Yellowstone National Park's treasured geothermal resources.

Montana is proud to host our Nation's oldest national park. Yellowstone is the crown jewel of our National Park System.

One of the biggest attributes of Yellowstone are the geothermal features. These features should be protected from harm's way, and we need to err on the side of caution. That's why I support H.R. 1137, the Old Faithful Protection Act.

H.R. 1137 protects Yellowstone's geothermal features by codifying the water compact which the State of Montana reached with the Federal Government. In addition, Wyoming and Idaho were given a 2 years' reach similar compacts, as well. These compacts regulate water permitting processes for a protection zone around Yellowstone to ensure that development outside the park won't harm our geysers inside the park.

There is good news and bad news about H.R. 1137. The bill has been reported out of the Senate Energy and Natural Resources Committee. However, an amendment was added which would exempt Wyoming and Idaho from the bill. I don't support that exemption.

Let all of us work together to protect Old Faithful.

I yield the floor.

STATEMENT ON THE NOMINATION OF LT. GEN. BUSTER GLOSSON, U.S. AIR FORCE

Mr. NUNN. Mr. President, the Committee on Armed Services has issued a report on the nomination of Lt. Gen. Buster Glosson, U.S. Air Force, to retire in grade, Exec. Rept. 103–34, which is printed and available in the Senate Document Room. As I observed on September 27, Lieutenant General Glosson's distinguished 29-year career includes: His service as an F–4 pilot in Vietnam for which he was awarded the Distinguished Flying Cross for 139 combat missions, primary responsibility for planning and implementing the air campaign in Operation Desert Storm, and service as the Air Force Deputy Chief of Staff for Plans and Operations.

The committee has placed in room S–407, for review by Senators, a number of documents related to this nomination, including the report of a special review panel, materials prepared by the inspector general of the Department of Defense, and other documents submitted to the committee by the Department of Defense which contain information which the committee has treated as confidential. The committee also will make available to Senators, upon request, redacted versions of the panel report and the inspector general materials.

Mr. President, the printed version of the committee's report contains a typographical error on page 11, in the paragraph beginning with the word "Fourth." The paragraph, in its entirety, should read as follows:

> Fourth, if he is not confirmed to retire in grade as a three-star general, his retired pay will be reduced by approximately $6,700 every year. While the committee agrees that his improper communications merit serious administrative action, the committee does not believe that a single incident of non-criminal conduct in an otherwise distinguished career warrants an annual reduction of $6,700 in retired pay. The committee does not believe that one misstep, in light of his total career, warrants compounding the consequences he has already suffered by adding a $6,700 annual penalty.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Wednesday, September 28, the Federal debt stood at $4,672,476,525,565.65, meaning that on a per capita basis, every man, woman, and child in America owes $17,922.05 as his or her share of that debt.

BILL MOFFITT

Mr. KEMPTHORNE. Mr. President, in Idaho, we have a deep respect for individuals who give something back to their community. For the past 5 years, Bill Moffitt has been an active member of the Idaho Falls community and a solid contributor to a number of causes within the area.

While serving as president of Westinghouse Idaho Nuclear Co. [WINCO], Bill Moffitt has established himself as a true friend to the people of Idaho Falls. Most folks would use just a few words to describe Bill; a good citizen, dedicated to public service.

Bill always seems to be looking for a way to help out, either as an individual, or through his work. He currently serves as president of the Grand Teton

Council of the Boy Scouts of America, as deputy campaign chairman for the United Way, and as vice president of the Greater Idaho Falls Chamber of Commerce.

Bill also served as president of the Excellence in Education Fund and is on the board of the local economic development council. He has been a supporter of Junior Achievement and Westinghouse Programs designed to encourage economically disadvantaged youth to remain in school.

For his efforts and devotion to the community, the Idaho Falls Civitans Club named Bill Moffitt its 1992–93 Citizen of the Year.

In the corporate world, Bill is seen as a true leader. His ability to lead is centered on the fact that he demonstrates a genuine belief in his employees. As the president of WINCO, Bill has continued a tradition of a friendly and strong work ethic that permeates throughout the company.

Bill began his career in the nuclear industry while serving in the U.S. Navy's nuclear submarine program. He joined Westinghouse in 1971 at Hanford, WA. While there, he was responsible for the Fast Flux Test Facility and later managed Operations Support Services. He first came to Idaho as WINCO's production manager before moving on to becoming general manager of the Waste Isolation Division in Carlsbad, NM. He returned to WINCO as president in 1989.

With the consolidation of the Department of Energy contract at the Idaho National Engineering Laboratory, Bill now moves back to Hanford where he will become the executive vice president of Westinghouse Hanford.

Mr. President, this senator and the people of Idaho Falls are losing a good friend, a good neighbor, and a good citizen, and I wish Bill and his wife Jeanne all the best in their new endeavor.

EXCELLENCE IN EDUCATION

Mr. GORTON. Mr. President, today I would like to recognize three outstanding Washington State schools. One each at the upper elementary, middle, and high school level which are currently participating in the We the People. . . The Citizen and the Constitution Program. Each of these schools demonstrate excellence in education and have implemented this program which helps students understand the history and principles of our constitutional government.

While at home over the January recess, I organized a meeting of over 200 parents, teachers, administrators, and students. At this conference I listened carefully to the concerns and ideas of those in attendance. While I heard many varied and different suggestions, one theme was constraint. Innovative and resourceful programs which educators and community members work hard to plan and execute deserve more recognition. I therefore promised to recognize, on a monthly basis, a school or school district program that is outstanding and innovative. Bow Lake Elementary School in SeaTac, Cascade Middle School in Seattle, and Kelso High School in Kelso are schools deserving and worthy of such recognition.

The We the People . . . The Citizen and the Constitution Program is funded through the Department of Education by an act of Congress. The program focuses on the U.S. Constitution and Bill of Rights and fosters civic competence and responsibility among elementary and secondary school students in both public and private schools. Students who participate in the program learn critical thinking and analytical skills while developing a reasoned commitment to the fundamental principles and values of our constitutional democracy.

Again, I congratulate these three outstanding schools. It is a tribute to the hard work of the teachers, school officials, students, and the commitment of the parents and the community to have such schools representing Washington State. These qualities of excellence are necessary for tomorrow's schools and for fostering a continued awareness of our Nation's constitutional past. I hope their mission and vision of excellence in education will continue to spread across Washington State and the country.

BELLE FOURCHE IRRIGATION PROJECT—S. 1786

Mr. JOHNSTON. Mr. President, on September 26, the Committee on Energy and Natural Resources filed the reports to accompany S. 1988, the Stagecoach Reservoir Project Act of 1993, and S. 1786, an act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes.

At the time these two reports were filed, the Congressional Budget Office had not submitted its budget estimates regarding these measures. The committee has since received these communications from the Congressional Budget Office, and I ask unanimous consent that they be printed in the RECORD in full at this point.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington DC, September 27, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate for S. 1786, an act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes.

Enactment of S. 1786 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill Number: S. 1786.

2. Bill title: An act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on September 26, 1994.

4. Bill purpose: S. 1786 would authorize the appropriation of an additional $10.5 million (in October 1, 1994, prices) for the rehabilitation of the Belle Fourche irrigation project. In addition, the bill would allow the repayment schedule of the $51 million already appropriated for the irrigation project to be renegotiated.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999
Authorizations:					
Estimated authorization of appropriations	1	4	6	.....	.....
Estimated outlays	1	4	5	1	.....
Direct spending:					
Estimated budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)

[1] Less than $500,000.

The costs of this bill fall within budget function 300.

Basis of estimate: CBO assumed that the full amount authorized for the rehabilitation of the Belle Fourche irrigation project would be appropriated. Authorization estimates are based on a proposed project schedule obtained from the Bureau of Reclamation (BOR) and are adjusted for inflation. Outlay estimates are based on historical spending rates for similar projects.

The rehabilitation of the Belle Fourche irrigation project is 100 percent reimbursable. BOR does not expect to start receiving repayment of the $11 million of new authorizations until after fiscal year 2000. Finally, based on information from BOR, we expect that any change in the repayment of the $51 million already appropriated for the project because of a renegotiated repayment schedule would be insignificant for fiscal years 1995 through 1999. Any significant change would occur in the later years of the schedule. The repayments appear in the budgets as offsetting receipts, and thus any change would be considered direct spending.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. S. 1786 would allow the repayment schedule of the $51 million already appropriated for the project to be renegotiated, which could affect direct spending. CBO estimates that any change in direct spending for fiscal years 1995 through 1998 would be insignificant. The following table shows the estimated pay-as-you-go impact of this bill.

[By fiscal years, in millions of dollars]

	1994	1995	1996	1997	1998
Change in outlays	0	0	0	0	0
Change in receipts	(1)	(1)	(1)	(1)	(1)

[1] Not applicable.

7. Estimated cost to State and local governments: The state share of the additional

project costs, to be paid by the State of South Dakota, would be at least $4 million.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: John Patterson.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1988, the Stagecoach Reservoir Project Act of 1993, as reported by the Senate Committee on Energy and Natural Resources on September 27, 1994. We estimate that enactment of this legislation would have no net impact on the federal budget or on the budgets of state or local governments. Enactment of this bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

S. 1988 would authorize the Bureau of Reclamation (BOR) to sell or accept prepayment of a small reclamation loan held by the Upper Yampa Water Conservancy District (district) in Colorado. The loans were made to the district for construction of the Stagecoach Reservoir Project. The bill specifies that the price paid for the loan be calculated such that there is no net cost to the federal government on a present value basis. Once payment is received for the loan, title to the Stagecoach Reservoir would be transferred to the district.

BOR has indicated that, if S. 1988 is enacted, the agency would accept a prepayment from the district of the remaining loan balance for the Stagecoach Reservoir Project. The district owes a total of $8.7 million in principal and interest for the project. CBO estimates that, assuming the prepayment amount is calculated as specified in S. 1988, enactment of this legislation would result in no net cost to the federal government.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

RELATIVE TO THE SOO LINE/UNITED TRANSPORTATION UNION LABOR DISPUTE

Mr. CONRAD. Mr. President, I stand to introduce a joint resolution which I will send to the desk and ask my colleagues to take prompt action on it.

Today, I am introducing a resolution to temporarily extend the cooling-off period currently underway in the Soo Line/United Transportation Union labor dispute. I am pleased to be joined in introducing the resolution by Senator SIMON of Illinois.

On August 29 of this year, President Clinton used his authority under the Railway Labor Act to provide a cooling-off period and established a three-member Presidential emergency board to recommend a settlement in the dispute that had led UTU members to strike the railroad.

Unfortunately, that cooling-off period is scheduled to expire on November 11, after which a work stoppage could resume. At that point, Congress will not be in session and the work stoppage could wreak havoc on grain shipments. The problem we confront is one of timing. Harvest season is upon us, and major shipments will continue through the end of the year and beyond.

Mr. President, it is for that reason that Senator SIMON and I introduce this resolution to extend the cooling-off period.

Mr. President, I have always had reservations about involving the Federal Government in labor disputes. I have, for example, opposed imposing the recommendations of Presidential Emergency Board 219 on the parties for the last major national rail dispute a few years ago. However, the situation we confront today is different. The recommendations of the board have yet to be issued. Congress is facing adjournment which would potentially leave a work stoppage unaddressed for as long as 3 months; 3 months that are among the most critical of the year for moving grain.

I have already been approached about the uncertainty in the marketplace regarding a grain elevator buying, selling and shipping of grain after November 11. Unless Congress extends the cooling-off period, elevators will bid less for grain depressing incomes for hundreds of thousands of farmers who depend on the harvest for their livelihood. Enactment of this resolution could help prevent that by increasing certainty for elevators at least during the time when Congress would be out of session.

Mr. President, an identical resolution, House Resolution 417, was introduced yesterday in the House by Representatives DINGELL, SWIFT, and others. Both the railroads and the unions have signed off on the resolution.

I urge my colleagues to support prompt action on this important issue.

I want to thank my colleague from Illinois, Senator SIMON, who has joined me in this effort. We believe it is important for the economies of our part of the country and we think this is a reasonable solution.

As I said earlier, we have talked to both sides in this dispute and both have agreed that this is an appropriate remedy.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I want to commend our colleague from North Dakota, Senator CONRAD, for his leadership on this.

This really is important. We treat transportation matters in labor-management differently than any other type of labor-management relationship because it is so vital. It is the grain in North Dakota and Illinois. It is commuters in the greater Chicago area. And because of high capital costs today, automobile plants and other plants have a very low inventory. They depend on that transportation coming through. It is vital that we move ahead.

Five years ago or so I ended up mediating a strike between the United Transportation Union and the Chicago and Northwestern Railroad and became much more familiar with this area of the law than I ever intended to become. But Senator CONRAD's leadership on this is absolutely needed.

The American railroads support this. The American railroad unions support this. The Sioux Line is owned by Canadian Pacific, and they have no objection to it. It is clearly essential that we move ahead immediately on this. And I cannot think of any reason why anyone would object to moving ahead on this.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The hour of 11:45 a.m. having arrived, by a previous unanimous consent agreement the Senate will now vote on the conference report to accompany H.R. 4556. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—89

Akaka	Durenberger	Mathews
Baucus	Exon	McConnell
Bennett	Feingold	Metzenbaum
Biden	Feinstein	Mikulski
Bingaman	Ford	Mitchell
Bond	Glenn	Moseley-Braun
Boren	Gorton	Moynihan
Boxer	Grassley	Murkowski
Bradley	Harkin	Murray
Breaux	Hatch	Nunn
Bryan	Hatfield	Packwood
Bumpers	Heflin	Pell
Burns	Hollings	Pressler
Byrd	Hutchison	Pryor
Campbell	Inouye	Reid
Chafee	Jeffords	Riegle
Coats	Johnston	Robb
Cochran	Kassebaum	Rockefeller
Cohen	Kempthorne	Sarbanes
Conrad	Kennedy	Sasser
Coverdell	Kerrey	Shelby
Craig	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Thurmond
Dodd	Lieberman	Warner
Dole	Lott	Wellstone
Domenici	Lugar	Wofford
Dorgan	Mack	

NAYS—11

Brown	Gregg	Roth
Faircloth	Helms	Smith
Graham	McCain	Wallop
Gramm	Nickles	

So, the conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. FORD). The majority leader.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate H.R. 4649, the conference report accompanying the District of Columbia appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the bill (H.R. 4649) entitled "An act making appropriations for the Government of the District of Columbia and other activities chargeable in whole or part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes and concur therein with an amendment.

The Senate resumed consideration of the amendments in disagreement to the conference report.

Pending:

(1) Gramm Amendment No. 2585 (to House amendment to Senate amendment number 3), to strengthen the Violent Crime Control and Law Enforcement Act of 1994 by reducing the number of social programs and increasing the penalties for criminal activity.

(2) Cohen/Sasser Amendment No. 2594 (to House amendment to Senate amendment number 6), to provide for enhanced penalties for health care fraud.

(3) Wofford Amendment No. 2595 (to Cohen Amendment No. 2594), to disqualify Members of Congress from participating in the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code.

(4) Domenici Amendment No. 2596 (to House amendment to Senate amendment number 12), to improve the operations of the legislative branch of the Federal Government.

(5) Boren Amendment No. 2597 (to Domenici Amendment No. 2596), to improve the operations of the legislative branch of the Federal Government.

AMENDMENT NO. 2595 TO AMENDMENT NO. 2594

The PRESIDING OFFICER. The question before the Senate is an amendment in the second degree, Amendment No. 2595 offered by the Senator from Pennsylvania [Mr. WOFFORD].

The Senator from West Virginia.

Mr. BYRD. Mr. President, has the time under the Pastore rule expired for the day?

The PRESIDING OFFICER. No, it has not.

Mr. BYRD. It has not?

The PRESIDING OFFICER. It has not.

Mr. BYRD. I ask unanimous consent that I may speak out of order for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator may proceed. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair. I will not detain the Senate more than 5 minutes.

THOUGHTS ON HAITI

Mr. BYRD. Mr. President, many discussions concerning the scope and duration of our military operation in Haiti have been conducted in recent days, both on this floor and in other meetings. I am taking this opportunity to outline my views on the language that I believe should be adopted regarding Haiti.

I believe that we should act to set reasonable limits on the mission and duration of the United States operation in Haiti. I would propose defining and limiting the United States mission in Haiti to, first, protecting United States citizens and interests in Haiti, and protecting the safety of the multinational force now deployed in Haiti. The second element of the mission should be to stabilize the security situation in Haiti so that the restored democratically elected Government can quickly reassume the functions of government. This effort includes protecting the key individuals in this transition, such as in the United States role yesterday in protecting the Haitian Legislature so that it can meet and operate. It also includes providing technical assistance to the Haitian Government in order to begin the process of retraining the military and police, and enhancing their noncombat capabilities, to operate in support of the best interests of the people and the democratic constitution of Haiti. The third element of the mission in Haiti would be to facilitate the provision of humanitarian assistance to the people of Haiti. Finally, the fourth mission of the United States operation in Haiti should be to ensure the safe and orderly transition to the U.N. mission in Haiti, which is to replace the current United States-led operation, called for in the U.N. Security Council resolution.

We have all been mindful of the problems associated with vaguely defined missions, which seem to lead, as in the case of Somalia, to mission "creep," so-called, and operations of open-ended duration. I would propose to fund this operation through February 15, 1995, with two possible extensions. I would include a 1-month extension, to March 15, 1995, at the discretion and recommendation of the President, in order to ensure the orderly transition to the U.N. mission in Haiti and to provide for the safe and orderly withdrawal of United States forces, except those Americans included in the U.N. mission. Beyond March 15, I would propose a possible additional extension of the United States operation, if the President requests such an extension, and also the funding, and if the Congress approves the extension and the funding therefore. This request should be addressed under fast track rules, that would allow the Congress to offer germane amendments, but that would also ensure a congressional vote, within a very constricted timeframe, in relation to the President's recommendation.

As a final element, I believe that the President should report to the Congress on a monthly basis on the progress being made toward transitioning from a U.S.-led operation to a U.N.-led operation. These progress reports will help the Congress to evaluate any request for an extension of the United States operation. They also would serve to keep pressure on the United Nations to get its act together in organizing an effective follow-on force to the current U.S.-led operation.

Mr. President, I will have more to say on this subject matter, but I did think it only fair to my colleagues that they know that I do have a proposal that I may wish to advance. I may not have the votes for it, because the administration and others have been very busy in urging that there be no cutoff date. And I have not attempted to corral any votes or buttonhole any Senators. I think I have spoken to two different Senators about it, just by way of asking their opinions.

But, Mr. President, I do feel that my colleagues should know the bare outlines of the proposal that I am advancing. They can make their judgments about it when we get to a fuller discussion of the subject matter.

I thank the Chair and I thank all Senators.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the amendments in disagreement to the conference report.

AMENDMENT NO. 2595

Mr. COHEN. Mr. President, I believe the regular order has been called.

The PRESIDING OFFICER. The question before the Senate is on the amendment in the second degree, amendment No. 2595, offered by the Senator from Pennsylvania [Mr. WOFFORD].

AMENDMENT NO. 2594, AS MODIFIED

Mr. COHEN. Mr. President, I modify my amendment to accept the pending

second-degree amendment, as well as to make the following changes that I now send to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2594), as modified, reads as follows:

At the appropriate place, insert the following new subtitle:

Subtitle ___—Enhanced Penalties for Health Care Fraud

PART 1—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. ___01. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section ___03.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under subtitle B of title V of this Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term "health plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the "Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections ___41(b) and ___42(b), and title XI of the Social Security Act except for those penalties attributable to laws in existence prior to the enactment of this Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law) except for those penalties attributable to laws in existence prior to the enactment of this Act.

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution) except for those penalties attributable to laws in existence prior to the enactment of this Act.

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

SEC. ___02. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health plan,", and

(ii) by striking "State plan," and inserting "State plan or the health plan,".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a public or private program for the delivery of or payment for health care items or services."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. ___03. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1995, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act the (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (hereafter in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) (hereafter in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. ___04. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. ___11. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. ___12. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. ___13. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. ___14. ACTIONS SUBJECT TO CRIMINAL PENALTIES.

(a) RESTRICTION ON APPLICATION OF EXCEPTION FOR AMOUNTS PAID TO EMPLOYEES.—Section 1128B(b)(3)(B) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by striking "services;" and inserting the following: "services, but only if the amount of remuneration under the arrangement is (i) consistent with fair market value; (ii) not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals of patients directly contacted by the employee to the employer for the furnishing (or arranging for the furnishing) of such items or services; and (iii) provided pursuant to an arrangement that would be commercially reasonable even if no such referrals were made;".

(b) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972;

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service;

"(H) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; and

"(I) remuneration given to individuals to promote the delivery of preventive care in compliance with regulations promulgated by the Secretary.".

SEC. ___15. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. ___16. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C.

1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1995, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. ___17. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1995.

PART 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. ___21. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1995, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1) The term "final adverse action" includes:

(A) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(iii) any other negative action or finding by such Federal or State agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any

other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" has the meaning given to such term by section 1128(i) of the Social Security Act.

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act is amended by inserting "and section ___21 of subtitle ___ of the appropriations, 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

PART 4—CIVIL MONETARY PENALTIES

SEC. ___31. CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health plan (as defined in section 1128(i))," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by subtitle ___ of the appropriations, 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section ___01(b) of such Act.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health plan" after "or XX".

(b) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations.".

(c) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is further amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(d) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsections (b) and (c), is amended in the matter following paragraph (6)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each such offer or transfer; in cases under paragraph (5), $10,000 for each day the prohibited relationship occurs; in cases under paragraph (6) or (7), $10,000 per violation" after "false or misleading information was given";

(3) by striking "twice the amount" and inserting "3 times the amount"; and

(4) by inserting "(or, in cases under paragraph (4), 3 times the amount of the illegal remuneration)" after "for each such item or service".

(e) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or".

(f) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(g) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to $10,000 for each instance".

(h) PROCEDURAL PROVISIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

PART 5—AMENDMENTS TO CRIMINAL LAW

SEC. ___41. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128(i) of the Social Security Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. ___42. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that—

"(i) is used in the commission of the offense if the offense results in a financial loss or gain of $50,000 or more; or

"(ii) constitutes or is derived from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

(b) PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. ___43. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

PART 6—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. ___51. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this part.

(b) DEFINITION.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this part.

SEC. ___52. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) IN GENERAL.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) SPECIFIC REQUIREMENTS DESCRIBED.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) STAFFING REQUIREMENTS.—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) REPORTS.—The State Fraud Unit shall submit to the Secretary an application and an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—In addition to those sums expended by a State under section ___54(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section ___01.

SEC. ___53. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. ___54. PAYMENTS TO STATES.

(a) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section ___52(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this part has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) of the Social Security Act.

SEC. . DISQUALIFICATION OF MEMBERS OF CONGRESS FROM PARTICIPATING IN THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has failed to enact legislation that extends health insurance to all Americans and reduces inflation in health care costs;

(2) Members of Congress may obtain health insurance through the Federal Employees Health Benefits Program, which provides Members of Congress with guaranteed and affordable private health insurance, choice of health plans and choice of doctor, and no exclusions for preexisting medical conditions; and

(3) Members of Congress currently receive on average a 72 percent contribution of their health insurance premiums from their employer, the taxpayers.

(b) PURPOSE.—The purpose of this section is to provide that Members of Congress shall not obtain taxpayer-financed health insurance under the favorable conditions established through the Federal Employees Health Benefits Program unless Congress enacts health reform legislation that gives the American people the type of affordable, guaranteed health insurance that Members of Congress have provided for themselves.

(c) LIMITATION ON FEDERAL EMPLOYEE HEALTH BENEFITS PLAN COVERAGE FOR MEMBERS OF CONGRESS.—Effective on January 1, 1995.—

(1) the Office of Personnel Management shall—

(A) terminate the enrollment of any Member of Congress in a health benefits plan under chapter 89 of title 5, United States Code; and

(B) prohibit the original enrollment, re-enrollment, or change of enrollment of any Member of Congress in such a plan; and

(2) the Secretary of the Senate and the Clerk of the House of Representatives shall cease making applicable employee withholdings and Government contributions under section 8906 of title 5, United States Code, for any Member of Congress.

(d) CONTINUED COVERAGE.—A Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, on December 31, 1994, may receive continued coverage under section 8905a of such title.

AMENDMENT NO. 2599 TO AMENDMENT NO. 2594

Mr. DOMENICI. Mr. President, on behalf of Senator DOLE, I send to the desk an amendment to the amendment that is pending.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. DOLE, for himself, and Mr. DOMENICI, proposes an amendment numbered 2599 to amendment No. 2594, as modified.

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

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

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. COHEN. Mr. President, let me just take a moment to explain the effect of the change that has been sent to the desk. The effect of the change is to the working account language in my amendment to fend off a point of order on budget grounds. So any challenge that may lie to the amendment by virtue of its violating the budget has been corrected by this modification.

So the debate that took place yesterday, which I think was fully debated, is the issue of health care fraud, in which there is no disagreement on the part of anyone here that I am aware of, no disagreement from the President of the United States, none from the majority leader or minority leader in terms of the contents of the amendment. I believe it enjoys overwhelming bipartisan support.

At the proper time, I am going to urge my colleagues to vote in favor of it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from New Mexico.

AMENDMENT NO. 2597 TO AMENDMENT NO. 2596

Mr. DOMENICI. Madam President, I understand that it would be acceptable to Senator COHEN from Maine if we ask consent that his amendment be temporarily set aside so we may proceed with the Boren-Domenici amendments regarding congressional reform.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I seek that request at this point, Madam President.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, I am proud to join with the Senator from New Mexico in offering this amendment that is now pending. As my colleagues know, over 2 years ago, both Houses of the Congress acted to pass legislation that established the Joint Committee on the reform of this institution. It was a very unusual joint committee that had an equal number of Members of the House and Senate, an equal number of Members from each party. There were six Democratic Senators, six Republican Senators, and a like number from the House of Representatives, plus the Democratic and Republican leadership of the two Houses.

That committee was asked to do its work expeditiously with the minimum of staff and the minimum amount of expenditures. It worked hard. The committee's work was completed on time within 1 year and, unlike most temporary committees around here, the committee then automatically went out of existence and all expenditures by the committee were stopped. We are exceedingly proud of that record.

The committee brought to us, to the membership of both Houses, a set of strong, constructive reform recommendations which would strengthen this institution. Those recommendations were then taken to the Rules Committee on this side of the Capitol. This Rules Committee made some modifications and reported them to us for our consideration.

Because of procedural problems on the Senate floor, we have been unable to bring those recommendations, those important recommendations of the bipartisan committee on the reform of Congress to this body for consideration. Out of frustration, the Senator from New Mexico, who was the vice chair on the Senate side of this committee, and I decided we should not allow this Congress to adjourn without giving the Members of the Senate an opportunity to vote on these reform recommendations. That is why we have taken the only option available to us and have presented those recommendations in the form of an amendment on the pending legislation.

It is perhaps ironic, and indeed symbolic, that in order to have the reform package—a product of long, bipartisan deliberation, much work, and much study—brought to the Congress of the United States for consideration, that it had to be added as an amendment to an amendment of disagreement to a conference report pending on a totally different subject. The fact that we have had to use this parliamentary device to bring before the Congress a recommendation on reforms that would make this body more efficient, more accountable to the American people, more able to make sound policy decisions, is indicative of the problem we now face.

I do not need to tell my colleagues, I do not need to tell the current occupant of the chair, that this institution is in grave trouble. Public confidence in this institution has sunk to an all-time low. According to some polling data, only 14 percent of the American people now have confidence in the Congress of the United States or approve of the way we are conducting our business —a historic, all-time low approval rating and confidence rating for the Congress of the United States.

According to a study done by the Kettering Foundation, 79 percent of the American people no longer feel that Congress represents or cares about people like them. They look at our process and they cannot understand what is going on. They see that action on important policy decisions simply does not occur and yet the situation is so confusing they do not know which Members of Congress to hold accountable. It is as if we are speaking a foreign language here when the parliamentary tangles in which we find ourselves are viewed by the public, and more and more they have come to view the Members of the House and Senate as Members of a privileged class of people, not living under the laws which we pass as other Americans have to live under those laws, not focusing our attention on the important matters that

need to be decided for the Nation's future.

Some have said that Congress has always been unpopular to some degree. Certainly that is true. People have viewed the political process, they have thought of their own problems, and they have always expressed some frustration with the inability of Congress to come to grips with serious problems. But I suggest that the current level of disapproval of this body, the current lack of trust of this institution, has sunk to levels that are not normal by any standard of judgment.

Yes, it is true at any given time over the last two centuries of our existence as an independent Republic, 40 or 50 percent of the people have disapproved of this institution. There have been moments in the past when the approval rating of Congress has sunk as low as in the range of 30 to 40 percent approval. But we have never been in a period, as we have been in the last 4 to 5 years, in which approval ratings have hovered in the 20's and now dropped all the way down to 14 percent. It is not normal.

What is happening in this country is the development of an unparalleled level of cynicism on the part of people about their own Government. This institution, which belongs to the people, this institution where the people are to have a voice in important policy decisions, has come to be judged by the people as a place where they have no voice and where they are largely unrepresented. I cannot tell you adequately the depth of the concern that I have for the future of our political system in this country if we do not rebuild that relationship of trust between the American people and our institutions.

I will leave this Chamber for the last time in a few days as I will be leaving my membership in the U.S. Senate to go on to other opportunities for public service as president of the University of Oklahoma. I look back on my last 16 years as a U.S. Senator with great pride and in many ways with great satisfaction. As I walk up the steps to the Senate Chamber these days, I find myself pausing on some of the steps, looking up at the Capitol dome, and reflecting upon my experience here. I think about the greatness of this institution and all that it has contributed to this country in the course of its history.

As I sit here at my desk, I sometimes pull open the drawer and I look at the names of those Senators who have served here before me and who have occupied this desk—as we all have a tradition of carving our own names inside the drawers of the desks on the Senate floor where we sit. I have been privileged to occupy the desk previously occupied by late President Harry Truman. On this floor are the desks that have been used by Clay and Calhoun and Webster, by Presidents of the United States, by people who have made a great contribution to this country.

As you sit here you reflect upon the fact we are now the trustees of this institution. It has been said that the greatest thing that can happen to any human being in his or her life is to be able to be part of something larger than oneself; to serve a cause that is far more important than the personal success of any one of us as individuals; to devote your life to some great cause that matters.

All of us who have been privileged to come here by the votes of the men and women in our own States have, indeed, been given an opportunity to be part of something far greater than ourselves. Members of the Senate come and go, the membership of this body changes, but it remains—regardless of the identities of those who occupy these desks temporarily—an essential part, in fact, at the heart of our political process. It is the building block on which the legitimacy of our political system rests. We all remember the cry at the time of independence, "no taxation without representation," that we Americans wanted to establish a system of government in which we had the ultimate voice.

So, Madam President, when we reach a situation in this country in which the people themselves no longer feel that they are represented or heard by the Congress of the United States, we have cast in doubt the very legitimacy of our entire political process.

There is no greater danger to our democracy than the frustration of the American people and the feeling that they seem to be developing of utter helplessness to affect things in their own country. When the American people say to us, as they are saying in poll after poll after poll: We no longer are going to be involved in politics at the Federal level, either by voting or by campaigning for candidates in whom we believe, or participating in our political parties because we do not think we can make a difference—we have a problem that must not be ignored. We have a political system and a social system in peril.

And so, it is not only with a great sense of pride that I have had the privilege of serving here, not only with a feeling of gratitude to the people of my State who allowed me to come and be part of a cause and part of an institution far more important than my own individual well-being, it is also with an overwhelming sense of foreboding about the future of our political system and the future course of American politics that I will leave this institution in a few days.

Madam President, we are going to change what is happening in American politics. If we are going to change those figures in which it is indicated that four-fifths of the American people no longer believe that this institution belongs to them or they have any ability to impact it or even hold its Members accountable, we must act. There is no one else to do it. Those millions of Americans across this country who have lost their trust in this institution cannot come to this floor and vote. They cannot adopt the reforms that are necessary to make this institution, once again, accountable to them. They cannot come here and vote to change the way we finance campaigns.

Under a system in which people have to raise more and more and more money to have any chance to get elected—millions of dollars, $4 to $5 million on the average to win a U.S. Senate race, and the people look at that and they say, "If I don't have the money to give a thousand dollars for a dinner ticket to help some candidate, or $5,000, or if I don't have the power to hold a fundraiser and raise $1,200, why are any of those people going to listen to me?"

The American people do not have the opportunity to come here and vote for reforms in that system, but we do. We are Members of this institution. They have empowered us with their votes to act as their trustees. We have a chance to vote on it, Madam President. They do not have the power to come here as they look at what has happened to the U.S. Senate and the U.S. Congress, in terms of the inefficient way in which we conduct our business. They do not have the power to come here and change it.

They look at the fact that since the last major reform of this institution when we ended up with 38 committees, an equal number in each House, the same committee definitions in the House and the Senate so that if we had a difference of opinion between the two Houses we could get together and work it out. Thirty-eight committees, 19 in each House so the Members of the Senate and the Members of the House could belong to committees, focus their attention on important problems and get action.

They look at the fact that we have disintegrated and fragmented into a bureaucracy of our own that now strangles us. Three hundred committees and subcommittees, 300 committees and subcommittees in the Congress of the United States, all going off in different directions. No wonder we cannot balance the budget. No wonder we cannot get spending under control. No wonder we cannot make decisions on health care. No wonder we cannot get trade legislation like GATT. No wonder we cannot act on Superfund. Why? Because if you have any essential problem in this body, it ends up not going to one committee in each House, it ends up going to 10 or 15 committees in each House.

I have been on conference committees to work out differences between the House and the Senate on a particular bill in which as many as 13 different committees have been represented

from the two Houses, and you have had over 200 Members of Congress trying to sit down in a room and work out a difference of opinion between the House and the Senate. It is more like the Versailles Treaty negotiations in the Hall of Mirrors at Versailles than it is like an orderly process to conduct business here.

Mr. DOMENICI. Will the Senator yield?

Mr. BOREN. I will be happy to yield.

Mr. DOMENICI. Might I ask, would you have a thought as to how many staffers were in attendance when you talked about 13 committees? Was there a big enough room?

Mr. BOREN. When I talked about 13 committees and I talked about 200 Members of the House and Senate, let me say that we had to move that to an auditorium, and in the chairs around the room were probably 400 or 500 staff members as well. That is something else that has happened.

Since 1946, we have gone from approximately 2,000 staff members working for the Members of the House and Senate to 13,000 to 14,000 working with us directly. If we add in the other support research groups, 38,000 staff. I ask my colleagues to ponder this point—the American people have already pondered it: The level of statesmanship in this institution, the quality of the decisions rendered on important policy decisions, has it improved dramatically because we have gone from 38 committees to 300 committees and subcommittees, because we have gone from 2,000 staff to 38,000 staff? We all know the answer.

The members of the American public, the American citizens, cannot come here and vote to change it. They cannot come here and vote to streamline it. They cannot come here and vote to make our process more accountable. But, Madam President, we can. We have the vote. We have been given the vote. We have been given the responsibility of making a decision on those important matters. Not only do we create an impossible bureaucracy with a myriad of committees, with a staff grown so large now that we can no longer even speak with each other, but we talk to each other through staff members.

Mr. DOMENICI. Will the Senator yield again?

Mr. BOREN. I will be happy to yield.

Mr. DOMENICI. I would like to make another observation. Perhaps you can comment on it, considering what you discussed. It is my understanding the bills clearing both Houses and going to the President are five times longer today than they were 20 years ago.

Mr. BOREN. The Senator is absolutely correct. They have become much longer. We micromanage in detail. We create work for ourselves because we have 100 or 200 unnecessary subcommittees.

For example, let us say you give a Member a subcommittee of their own. They also get two or three additional staff members to staff that subcommittee, which should not even exist in the first place. And then they quickly say, "We must show that there is a reason for our existence," and so the staff begins to develop some legislation. And then you begin to hold hearings on the legislation that was not needed in the first place. And then pretty quickly, you are getting letters from your constituents who are alarmed that this unnecessary subcommittee is holding unnecessary hearings on an unnecessary bill that should not have been introduced in the first place, and you have to hire more staff to answer the letters and the inquiry, and more staff members to dispatch to those unnecessary hearings on the unnecessary bill by the subcommittee that should not exist. By the time you are through, we have so clogged our agenda that there is no time left for us to do anything that is important to the future of this Nation.

Our bipartisan committee held 36 hearings for hundreds of hours, with 240 witnesses coming from both parties, thoughtful Members of Congress, thoughtful former Members of Congress, citizens from the grassroots coming here to testify and to talk to us. And one of the themes that came back again and again is, we do not make the long-range decisions on the important issues affecting America's future: How do we get spending under control? How do we change our tax policy to make us more competitive so we can compete in the marketplace in the world and have jobs for our children and grandchildren? How do we educate the next generation? What do we do about the school dropout rate? What do we do about the rising level of crime in our society because our social fabric is collapsing? These kind of long-range decisions. How do we change our foreign policy to develop a new and coherent architecture for making decisions in the post cold-war world?

Why do we not make these important decisions? Because, Madam President, for one thing, we do not have the time to even think about them because we are running from one unnecessary hearing of one unnecessary subcommittee to another, one committee meeting to another, we do not even have time to think. We have what Senator BYRD has called a fractured attention span. The average Member of the Senate serves on 12 different committees and subcommittees. You need roller blades to get from one place to the next. We are called the greatest deliberative body in the world.

Madam President, you are lucky if you can come from one committee meeting and stay there 10 or 15 minutes because you are already being called to go to the next one, or something else has happened on the Senate floor.

I was once asked to represent my party—there were four of us asked to sit down with four Senators from the other side of the aisle—to talk about the civil rights legislation, a very important bill. I remember the Senator from Missouri [Mr. DANFORTH] was leading the group on the other side of the aisle at that time. Eight Senators. We had passed a bill twice; the President had vetoed a bill twice; and we were going to sit down together, with representation from the White House, and work out a bipartisan solution that would bring progress to the country, that would have the support of the President and actually do something.

Madam President, it took us 3 weeks—3 weeks—to find a 1-hour time slot in which those eight Senators could sit down in the same room together and think about this problem and try to work it out. And do you know what happened? When the 1 hour finally arrived when all eight of us were supposed to be able to be there, never were there more than three of us in that room at the same time. A couple of people were there on time. They stayed about 5 or 10 minutes. They said, "I apologize, I have to rush off" to this hearing or rush off to that meeting. A different group of people, three or four different people, came in the middle of the meeting. They left before it was over. And two other, different Senators showed up at the end.

One hour of time that it took 3 weeks to find and we could not even keep eight people in the room to deliberate about something that important.

No wonder we have a budgetary situation like we have. No wonder we do not have any architecture for educational policy. No wonder our foreign policy is floundering all over the lot without any clear sense of direction. None of us has any clear sense of direction. We do not have time to think. It is outrageous that Members of the Senate would spread themselves to belong to 12 different committees and subcommittees. That is average. There is at least one Member of the Senate who belongs to 23 committees and subcommittees and several Members of the Senate who belong to more than 20 committees and subcommittees. We give waiver after waiver after waiver to Members of the Senate to serve on as many committees as they want.

Why would they do that? Print them all on that letterhead. Senator X belongs to this subcommittee and that subcommittee and this committee and that committee. And we have to have all those committees, also, so that everybody can be chairman or ranking member of something. Everybody has a little empire. At the end of the day we have spread ourselves so thin, we have become so fragmented we have spent our time dealing, as I said, with the unneeded hearing on the unneeded bill put forward by the unneeded subcommittee which, of course, is staffed

by the unneeded staff and we do not have any time left to think about the important problems facing this Nation.

The American people cannot come here and vote to change that, but we can. We can. We have an opportunity to vote. We are going to vote at the end of this debate on this package of reform, which will cut in half virtually the number of unnecessary subcommittees, getting rid of them, cut in half the number of subcommittees, reduce the number of committees on which Members of the Senate can serve, set up a scheduling system that will work so that certain committees meet at certain times; they will not be overlapping. We will not be running from one place to the next.

Mr. SIMON. Will my colleague yield for a question?

Mr. BOREN. I would be happy to yield to my colleague.

Mr. SIMON. First of all, I wish to commend both Senator BOREN and Senator DOMENICI for leadership in facing some of our problems here.

The Senator mentioned all the committees. Committees are meeting right now. People come into the gallery and wonder how come the Senate is meeting. Right now, we have five Members of the Senate in the Chamber.

I served in the State legislature in Illinois, and in many ways we were not a strong body. We passed way more legislation than we should have. Committees were not strong. But when you were in the chamber, in the State legislature, whether it was the State Senate or State House of Representatives, the other members were there, and they could hear and listen to debate and thoughtfully take part in things.

I can remember one debate when Senator ROBERT BYRD was particularly forceful, and if all the Members of the Senate had heard what he had to say, his point of view would have carried. But there were just a handful of us here to listen to him.

One of the things—and I recognize the immediate proposal does not deal with this—but one of the things that we have to do, I think, at some point is to change our procedure so that when the Senate is in session, we are really in session and Senators are here.

I thank my colleague for yielding.

Mr. BOREN. I thank my colleague for his comments. He is absolutely correct. He is on target. We hope that these recommendations—which are included in this amendment, by the way—which set up a sequencing of committee meeting schedules would also make it possible for Members to be on the Senate floor when we are really conducting business. We have an opportunity to reform the system, to begin to get the staff back down to reasonable levels. I am here not denigrating the work of staff. Members of the staff are dedicated. They do good work. They would do better work if there were fewer of them.

Now, we cannot go all the way back to 2,000. We have a more complex situation than we had in 1946. But we never should have moved from 2,000 to 38,000. That is quite clear. We should have never moved from 38 committees and very, very few subcommittees to now 300 committees and subcommittees. We cannot allow Members of the House and Senate to continue to have waiver after waiver to serve on more and more committees because they cannot really be a part of the deliberative process.

If we would simplify this process, get rid of our own bureaucracy, the American people would also be able to fix responsibility. They would know which Senator it was or which group of Senators killed a bill or passed a bill. They could hold them accountable in the next election. Now they cannot even figure out what we are doing. It is a mystery. It is a maze.

We cannot even understand it. How many of us can even understand the Budget Act. We have been through a process here in the last few days on the campaign finance reform bill. We have been voting and having filibusters and cloture motions on a motion to disagree with the House, 30 hours of debate, a motion on asking for a conference, 30 hours of debate, a motion on appointing conferees before we can even sit down and talk to Members of the house on that issue.

We could pick 100 other issues. People cannot understand what we do let alone why we do it. We have a budgetary process, and I am going to defer to my colleague and friend from New Mexico to go into more detail on this subject because he has had the privilege of being one of the leaders of the Budget Committee of this institution, and he has provided extraordinary service there, under difficult circumstances because of the process, the process that we have. We pass a resolution to ourselves, telling ourselves what kind of budget we should write. Then we pass another resolution telling us whether we should do it. Then we pass another one enforcing it. And then we give instructions to all the committees to follow suit. And by the time we complete all the process, instructing ourselves and passing resolutions about what we ought to do, we do not have time to do it and very often we do not have it in place at the end of the year.

One of the things we do is reinvent the wheel every year. We go back and every single year you have to pass a reauthorization for every spending program. And then you have to pass an appropriation for every spending program. And of course, before that, you have to have passed a budget resolution telling us that we ought to pass a certain authorizing bill and a certain appropriating bill for that same function. We do it every single year, in spite of the fact that studies indicate that well over 90 percent of the budget does not change from one year to the next. But we spend all of our time and all of our effort and energy reenacting those things that remain the same every year.

Why in the world does the Senator from New Mexico propose to the joint committee, why not have a 2-year budget, 2-year authorizations, and 2-year appropriations? For that 6 or 8 percent that might need changing from one year to the next, we can devote our attention just to that. We can have supplemental appropriations bills that take care of emergency needs, things that have to be changed. But in the meantime we can use that other 92 percent of our time providing oversight over the programs that we passed last year.

Every bit as important, and I would think of more importance, to the average American is not only that we appropriate and spend their money but that we spend some time looking at how it is being spent. We pass a program. We pass billions of dollars to fund it. And then we spend almost no time looking to see if that money is being spent wisely or as it was intended to be spent. What progress could come if we would pass a 2-year budget, 2-year authorization bills, 2-year appropriations bills. The American people could engage in long-range planning, at least 2 years instead of 1 year, and we could spend additional time providing oversight for the American taxpayers to determine how their money has been spent.

Now, Madam President, we are not going to restore the confidence of the American people overnight. I would not pretend to say that this package of reforms solves all the problems. For example, I would like to see included in it—and we were not able to at that time complete our work on this proposal—I would like to see us pass provisions that would make sure we live under the provisions of law under which we insist the American people live. We pass labor rules, wage and hour laws, safety laws, and we say we will send inspectors down to every little, small business to make sure you comply with all these laws, and then we say, by the way, we exempt Congress.

No wonder we are not sensitive to the burdens we are placing on small businesses and other Americans with some of the laws we pass, because we do not have to struggle with living under them ourselves. That needs to be corrected.

We have an ethics process, for example, in which we are the judge and jury of our own Members if they are charged with misconduct. I think the American people would have much more confidence in us if we had some people from outside the membership of this organization looking at ethics cases. It

is very difficult. How do you judge a colleague? Do you judge a colleague with whom you serve on the same committee? Or maybe a colleague who has a life-and-death power over some bill you are trying to pass? Yet you are asked to judge them in terms of their ethical behavior? So are other things that need to be done.

But this proposal now before us, the work of a joint bipartisan committee with hundreds of hours of hearings, 240 witnesses, 36 days of hearings, much tribulation, much working together, with Democrats and Republicans joining hands to do very significant things.

It does cut in half the number of subcommittees. It does cut in half individual Senate committee assignments so that people can focus this time. It abolishes the four joint committees that are unnecessary. It does mean that Members have to be at the committee meetings if they are going to cast a deciding vote on whether a bill is going to pass or not. They simply cannot send in the proxy and let somebody else vote for them.

It reforms the budget process. It establishes a 2-year process. It does require quarterly deficit reports so we know where we are in terms of trying to get the budget deficits under control.

It does bring about a 12-percent reduction in staff so that we can begin to get on the right track and stop the creation of unnecessary work for both the Members and the staff. It does require that we have some kind of control over additional people that are sent to work for us by other agencies of Government.

It does simplify our floor procedures so that we cannot have so many filibusters on so many things. So it begins to fix accountability, and it begins to help this institution function in a more workable way.

Madam President, the American people are going to know whether or not we voted to take this significant first step. I think it would be unthinkable for this session of Congress to adjourn without the Members even voting on recommendations that they themselves said they wanted to receive. They appointed us, 12 Members of the Senate and 12 Members of the House. They asked us to work hard. We did work hard. They said we do not want a proposal that is a pro-Democratic proposal or a pro-Republican proposal. We want to have something that will be in the national interest, something on which Republicans and Democrats can join hands. We have done that.

We had a unanimous-consent vote in our committee in terms of bringing this package of recommendations to the full Senate. The chairman of the Rules Committee, Senator FORD, who is on the floor now, was a member of our reform committee, and he also chaired the Rules Committee deliberations on that proposal. His committee spent many hours working on this proposal as well. It would be a shame and a disgrace if this Congress should adjourn without taking positive action on these recommendations.

There is a major disconnect between what we are doing and what the people want us to do. They want us to function efficiently. They want us to have careful oversight over taxpayer dollars. They want us to engage in long-range thinking and not short-term politics. They want us to quit spending so much of our time raising money from special interest groups to finance our campaigns and concentrate on the problems of the country. Above all they want us to quit playing petty partisan games like children in the schoolyard calling each other names, and figuring out how the Democrats can beat the Republicans or the Republicans can beat the Democrats or how we can use this institution not as a forum for making these decisions that are needed by our country, but as a forum for scoring political points, figuring out how we can get that vote to embarrass with an amendment that will put the other party on spot so it will be on the 6 o'clock network news.

As the American people have become more and more fed up with partisan politics, this institution has become more and more polarized along party lines. Here we come with a recommendation that does not come from that side of the aisle or this side of the aisle. It comes from both sides of the aisle. It comes as a proposal that is in the benefit of this country. It comes as a proposal from a committee that decided we will stop being Republicans or Democrats and we will be Americans for a change.

For us not to act positively after that kind of bipartisan effort would be a message to the American people that we do not care if 86 percent of you do not like the way we are doing business, and we do not care if 80 percent of you think we do not represent you, that we do not care about people like you; we are not concerned that the trust essential for the functioning of our Government has been broken between our institutions of Government and the American people.

We are willing to take that chance. We are willing to put at risk these precious political institutions for which men and women have died in one generation after another, in which those who formed this country in the beginning set up these institutions and had the intellectual insight to form them, and then the generations that have loved them one after another, even risking their lives.

We are willing to jeopardize the future vitality of these institutions because we are more interested in protecting our party's advantage or the little personal empires so we can have three more staff members for that unnecessary committee; so we can put another line on our stationery. Far be it from us to give up any of our little power bases in the name of accountability and efficiency of an institution that does not even belong to us. It belongs to the American people—not to a single one of us.

Madam President, they cannot vote. But we can. We are the trustees of this institution. How long are we going to wait to act? Are we going to wait until only 1 percent of the American people have confidence and trust in this institution? We are down to 14 percent. How long are we going to wait to act? It has been 46 years since the last significant reform of this institution. How long are we going to wait to act?

In the last election the American people spoke in every way they could, even voting for an independent, third-party candidate for President in record numbers. Why? Because they were trying to express their frustration. And in State after State, including mine which passed it by a 2-to-1 majority less than 10 days ago. The American people said we cannot do anything about it, we will turn to term limits as a radical solution if all else fails.

They have told us in every way that they can. How long are we going to wait? Are we going to wait until there is a march on Washington? Are we going to wait until the American people become so angry and so frustrated that they lash out in ways that might be destructive in the long run of the political process?

How long are we going to wait? My appeal to my colleagues is wait no longer.

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

Mr. BOREN. I am happy to yield.

Mr. DOMENICI. Will the Senator from Oklahoma add to his list? He mentioned the shameful things. Would he agree with this Senator that it would be shameful if this measure was defeated on a procedural vote by using an arcane provision of the Budget Act that says you cannot pass a bill on the floor of the Senate that affects the budget process unless it is reported by the Budget Committee? There are no dollars involved in this bill, are there, other than we are going to save money?

Mr. BOREN. Absolutely not.

Mr. DOMENICI. Why should the Senate defeat this bill on a point of order that it violates the Budget Act? The Budget Act most people think has to do with the budget, with dollars. They asked us to do this. They appointed us to do it. And sitting over here in a dark little corner is another part of this process that people do not understand; namely, this whole bill might fall, or we may need 60 votes, because the Senator is going to say it should have gone to the Budget Committee so they could

have looked at two or three provisions that have to do with the budget. Is that not correct?

Mr. BOREN. I thank my colleague for his question. He is absolutely right.

Madam President, if on a matter of this importance, an opportunity to reform this institution, this is sidetracked on a procedural basis and Members of this institution go home and tell the voters, "Well, we would have voted for it but, of course, it would have violated this arcane procedure that we have," all I can say is if it is defeated on a procedural vote, giving Members an opportunity who do not really want reform to say "I had to vote that way because of the procedure," all I can say is I think 14 percent is a true high approval rating for this institution to have if that is what happens.

Let me close with this: I said it had been a privilege for me to serve here. It has been. Some of the finest men and women I know serve in the U.S. Senate. I have great admiration for a large number of my colleagues as individuals.

I am sure that never again in my life will I be associated with people who will have as high a commitment to serving their country as many of the people with whom I serve in this institution. And the saddest thing of all, to me, is to see Members come here, particularly the new Members who come here, with such a strong desire to make a difference, to render a service, to leave this institution stronger than they found it, to put something of themselves back, give something back to the country, so that when we hand over our political institutions to the next generation, to our children and our grandchildren, they will be even stronger than we found them. Think about it. Every succeeding generation of Americans has passed on to the next generation a country filled with more opportunity for them than the preceding generation had enjoyed.

Madam President, what a sad day and what a tragedy it would be if those who have come here desiring to serve, desiring to give of themselves, would pass up the opportunity to change the process, which so beats down the will of individual Members of this institution to make a contribution, and many come to feel it is almost impossible to get things done. It is not only the American people who think it is impossible to get things done here. It is many of the best Members of the House and Senate who have come to that conclusion themselves. And, regretfully, in many respects, I have come to that conclusion. That is why I am seeking another opportunity to serve the public where I think, at the end of the day, I will at least have the satisfaction of knowing that I have made a difference, particularly in the lives of young people who will be coming along in the next generation and providing leadership for this country.

So, Madam President, I appeal to my colleagues. So many have said, "I want to get things done, but the process prevents me from getting things done." Well, this is our chance. This is our chance to reform that process that takes away from our energies, that in the longrun defeats our resolve and our determination. Let us change it. Let us not wait. We have waited far too long. Let us not take the risk that comes from undermining the trust and confidence of the American people in this institution. We would be irresponsible indeed to allow that risk to continue.

It is time to act. Let us do it today. There is an opportunity. Let us put aside our own personal ambitions, our own personal empires, carved out with this institution, and let us take action. Let us take action that will make this institution vital, active, long range in its thinking, and accountable to the American people.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, while I cannot applaud the Senator, I really commend him on what he just said. I only regret that, as he said so eloquently, the way we are getting this reform measure up is not going to permit the American people to find out what we are recommending and what happens here. Obviously this matter deserves a lot of attention and it probably should have had a full week of debate at some point in time, and all those who wanted to pick it to death could come down, one by one, and try it. But put this measure that we were asked to pass before this body and before the American people for a long enough period of time for them to understand.

I thank the Senator very much for his remarks. He will be missed around here.

The PRESIDING OFFICER. If the Senator will suspend, it is incumbent upon the Chair to advise the galleries that the rules of the Senate do not permit the expression of approval or disapproval.

Mr. DOMENICI. Madam President, let us think back a little bit to June, July, and August, 1992, because it was in August 1992 that this body, the U.S. Senate, passed a resolution. I do not think there was a single dissenting Member to that resolution. That resolution asked a joint bipartisan committee to recommend reforming the U.S. Senate.

Why did that come about in August 1992? Because, I say to my friend from Oklahoma, the seeds were sown then that yield the 14 percent approval rating of Congress. Either scandals or alleged scandals in the other body and in chambers around the U.S. Capitol were rampant. The people were absolutely up in arms. They may not be up in arms today, but they are very close to giving up on us. When only 14 percent say they think we are responsible, that we might change things for the better, that August day when this resolution asking that Congress be reformed was a good day for the American people. And then everybody should know that this is one of the few times that a joint committee took a charge as seriously as this joint committee did.

The first hearing had all five leaders from the U.S. House and Senate; the first time in history. They all appeared, and they were saying: Reform, reform, reform. There were 36 hearings in 6 months; 243 witnesses; 37 Senators. Every Senator and 4,000 staff people were surveyed. There were 500 proposals, or more, considered. We continually consulted with our two leaders—the leader on that side and the leader on this side. We completed our work in 1 year, under budget, and returned 40 percent of the money that we got to do the work. Then although there were some who said they are voting for it in committee, with reservations, the truth of the matter is that these were unanimously recommended. That is, the 33 recommendations received everyone's vote on that committee that was assigned to do this job.

(Mr. KERREY assumed the chair.)

Mr. DOMENICI. Obviously, something is wrong with the way we do business. I am not one who thinks changing things will fix everything. But we are hearing a lot about reform these days, reforming the lobbyist activities, reforming gifts to the U.S. Congress and to members of our staffs. We have heard a lot about gifts in the White House and maintaining independence. We have heard many, many hours of talk on the floor about campaign reform. One of the leaders is my friend, Senator BOREN, who just spoke. I say that none of those reforms is as important as reforming the processes, the committees, the subcommittees, and the way we do business here on the floor of the Senate. Those reforms pale in proportion to making this institution and the one across the Capitol, as I see it, more accountable, more responsible, and more understandable.

When I took this job, after 1 week of hearings, I put in my head what I was trying to do. I believe to have a democracy and have confidence in legislators in the Nation's Capitol, legislators have to be accountable for what they do, I believe that they have to be responsible, and I believe they have to do work that is understandable. If you are doing mumbo jumbo and begging off on votes because they are technical, or hiding behind multiple committees that are hearing the same issue, and it was not us it was them, then it is not understandable and nobody can hold you accountable. Maybe that is the way some people like it to be. But I

perceive that is what we were asked to fix, to make this place more understandable and make Members and committees more responsible and accountable.

I believe we did that, and I am going to repeat now and two or three times before we have the first vote because I believe the first vote is going to be on a technicality. I believe the first vote is going to be to wipe this bill out because of a budget point of order. What that is going to do, I say to the occupant of the chair, it is going to put us behind the eight ball right from the beginning because we are going to need 60 votes to prevail over that point of order.

I do not believe anybody assumed when this committee was assigned to reform the U.S. Congress—or excuse me—make recommendations, I do not believe anybody assumed that its recommendations were going to require 60 votes, at least not recommendations that have to do with 2-year budgets, 2-year authorizations. I do not believe anybody thought that the package of reforms were going to come to the floor and be subjected to a point of order on the basis that we did not send it to another committee. Is that not amazing?

We were charged with streamlining the process, make it so it is understandable, make it so you can be responsive and responsible and right off the first time the bill hits the floor we are going to use a process. We are going to say, no, we did not mean what we said. We want it to go to another committee.

Just so everybody will know, we recognized that we had this problem. I want to print in the RECORD a letter that we jointly sent. The chairman and I as vice chairman sent a letter to the leadership on August 10, and that letter clearly said that we do not think the intention was that this should go to other committees. We asked our leadership to help arrange to get this to the Budget Committee and get it cleared and get it out either without recommendation or with recommendation of pass or do not pass.

I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, August 10, 1994.

GEORGE J. MITCHELL, Majority Leader,
ROBERT DOLE, Republican Leader,
U.S. Senate, Washington, DC.

DEAR GEORGE and BOB: We are writing regarding the Senate's consideration of S. 1824, the Legislative Reorganization Act (Cal. Order #503). We fear the Senate's tight schedule and procedural roadblocks could make it impossible to produce reasoned reforms in Congress's operations this year.

Because S. 1824 contains matters in the Budget Committee's jurisdiction, it is subject to a point of order under section 306 of the Budget Act. If this point of order was raised against the bill, it requires 60 votes in the Senate to waive it.

We ask that the bill be referred to the Budget Committee for a limited time period, that the bill be discharged from the Budget Committee at the expiration of the referral, and that the Budget Committee's actions on the bill be limited to making recommendations. We hope that this action could take place quickly so that the bill could be taken up on the floor within a week after the recess.

We realize that this is an unusual request. However, this bill is unique in many respects. Last year, the Joint Committee on the Organization of Congress conducted the most exhaustive study of Congress ever. This effort led to a unanimous recommendation for legislation to reform the Congress, which we introduced as S. 1824.

Two years ago, the Senate passed legislation that called for Congressional reform and created the Joint Committee. After all this effort, it would be ironic indeed if the Senate did not bother to even consider Congressional reform legislation or if it died on a procedural motion.

We appreciate your consideration of this request.

Sincerely,

DAVID L. BOREN.
PETE V. DOMENICI.

Mr. DOMENICI. Mr. President, I lay no blame on anyone. But essentially that request was denied because nothing was done.

So here we are charged with trying to make things work better and we are going to get thrown off this floor by a procedure that says we really did not mean it. We did not mean your joint committee ought to do this. We meant when you are finished you ought to take it to the Budget Committee, take to the Governmental Affairs Committee, and you ought to take it to the Rules Committee. By the time we finished, we would be into the next century.

So we are here today in a very extraordinary way. You are going to get to vote. You are going to get to vote. If anybody thinks when they vote on that point of order—I will move to waive that point of order or my good friend from Oklahoma will—that it is not a vote on this bill, that it is a process vote, they are doing precisely the kind of thing in this body that we were asked to try to fix to make things understandable, forthright and accountable.

I would say to anybody that is going to vote against this, if that point of order is denied, then this would be subject to amendments. So it would be here and if Senators want to amend it, they could. We at least would have one vote indicating that "committee, you did a good job." Let us lay the work of the committee before the Senate.

Having said that, I want to remind everybody in one sense, when they vote to waive the Budget Act—or let me put it another way: When they waive to kill this bill on a point of order, they have just decided that they do not want to cut the subcommittees of the Senate in half. They are going to be voting that they do not want to cut individual Senators' assignments by 25 percent. They are going to vote that they do not want to abolish any committees. They are going to vote that Senators cannot decide the way the committees are going to be reduced. Under our recommendations, Senators are going to have that choice and some committees that do not have enough Senators choosing it are going to be rolled into other committees with appropriate jurisdiction. They are going to be voting against a proposition that says proxies cannot affect the outcome of a vote.

How many times do the American people ask how did that happen? How did this vote get out of there? They happen to catch it on C-SPAN and there were not very many people in attendance. Maybe five Senators. They heard three vote "no" and two vote "aye." And all of a sudden the bill is reported out 14 votes for it. They are saying why? It is because you are going to vote against the proposition that is going to say proxies cannot be used to affect the outcome of a vote.

Committees are meeting right now. I urge every Senator listening to pull out his little calendar for the day and see how many meetings are scheduled at the same time and we are not even in a real legislative session. If this was a month ago and, you took out your calendar you would probably have three meetings at the same time at 10 o'clock this morning. If you are on the Finance Committee, you have one. Obviously, if you were one of those Finance Committee members who is also on Governmental Affairs, you might have an investigative subcommittee there that you are supposed to be at, and then if you are on the Energy Committee, like I am, you would have that there.

Frankly, we believe the time has come to use computers and modern technology to force the scheduling of meetings so we do not have a maximum of overlap. Instead of just kind of arbitrarily saying too bad if you cannot come, the chairman has just decided that 1 week from today at 9:30 there is a hearing. That is what you are going to be voting against.

Mr. President, the Congress of the United States under our Constitution goes in session for 2 years, and 2 years happens to be one Congress. What do we do that befuddles the American people, frustrates Senators? One of our opponents who will raise the point of order, a very distinguished Senator, has said one of the things wrong with this Congress is fractured attention.

My friend from Oklahoma quoted Senator BYRD. He encapsulated what was one of the things wrong, "fractured attention." My notion of fractured attention is that we do things over and over and over again when it is not necessary.

Just think with me. The first year of the 103d Congress—remember it goes on

for 2 years—the Defense authorization bill, they do one for 1 year because the appropriators are going to do one for 1 year. So if they do their work, they come to the floor and we vote on the same issues. My good friend from Arkansas will raise at least three amendments on the Defense authorization bill. Some time later on my good friend from Hawaii, Senator INOUYE, will bring a 1-year appropriations bill. We will again vote on the same issues.

The public is confused. They ought to be. And as it has developed now prior to all that, they will vote on a budget resolution, and even though the budget resolution says there are no line items in this, you just set a big dollar number for defense and all the other discretionary spending, you will have a vote probably on the same three issues because someone wants to make the point that you can get by with less defense if you take out these three things.

So in 1 year in this body you will vote three times on the same issue, and then it goes on to conference. You confer over there and you bring it back, and you will debate and vote again on the same issues in one combined package.

Just think of the wasted time, effort, and redundancy to do that all over again the next year. It is the same Congress. Hardly enough time has gone by for you to have even left the Appropriations Committee.

It seems to me you could almost sit in there and wait around for the next batch of appropriations—it comes so often. The year ends October 1. You come in this January. By February and March you are working on appropriations. You work on it all year. You vote on 13 appropriations bills. You have voted on a number of authorizing bills, some for 1 year, some for 2 years. You would have voted on a budget resolution for 1 year and you come back the next year and do it all over again.

Frankly, there probably is going to be some evidence presented here or some contention that that is good for the country. They will argue that that is how we get oversight, that each year if you do it every year you get a chance to look at the appropriations process annually and that gives you good Government and you get to develop good programs.

I believe that is not the case. As a matter of fact, I believe we are not getting any oversight because we do not have any time to do oversight. Anybody who can tell this Senator that with an annual budget, an annual appropriation and annual authorizations that there is time left over to go over and see what is happening to Medicaid, what is happening to any of the programs you got around—is fraud occurring? Go over and look at the housing programs. They are in such a mess that Congress does not even know which way to turn. We do not have the slightest idea how many billions of dollars it is going to cost for one of the programs that we have been funding on a short term that should be on long term. It could be $11 billion a year that we are short.

That is hardly enough time to have a hearing. Why? Every year you have to do an appropriations bill, you have to do a budget resolution, and you have to do a number of authorizations, at least authorizations for defense.

Now, many, many months ago—in fact, the months have now gone into years—a very distinguished Senator, who also happened to be from Oklahoma, Senator Bellmon, as he left, he kind of delivered one of his "Here's what I've learned and here's what the Senate has meant to me" speech. A very basic, simple suggestion was made. Essentially, the Senator from Oklahoma, Senator Bellmon, said: "Wouldn't it be marvelous if, for 1 year out of the 2, committees that have jurisdiction over programs had no excuse not to have hearings about them and oversight and to think about them because there would be no appropriations bills or a budget to consider that year?"

Essentially, he was suggesting that out of a 2-year Congress, you take 1 year and do all the appropriating, do the budgeting, do the tax writing, and then the second year do oversight, have hearings, in-depth hearings, to find out what is going on in the country, what is going wrong with legislation, what do we really need that we are not doing. He said, "Wouldn't that change things?"

That is exactly what this committee said we ought to do. And they said we ought to get quarterly budget reports and, yes, there could be supplemental appropriations and we are going to have some come down here and say, "That will not work."

Well, the Congressional Budget Office says that only 4 percent of the discretionary spending—and, to put it in everybody's language, discretionary spending is what you appropriate, what you must appropriate, because, by definition here, it lasts for 1 year and you have got to appropriate it again—4 percent of the discretionary spending must be annual because of unpredictable funding patterns.

That means 96 percent of discretionary spending does not need to be funded on an annual basis because it is predictable. Now why do we then insist on letting the 4 percent drive the 96? We could at least figure out a way that the 96 percent that is predictable go on a 2-year basis. That will have to take a little thinking, a little carving out.

Of the 725 discretionary accounts, says CBO, 63 percent changed by less than 10 percent from the previous year. Now, frankly, if we set about to do the 2 years, we would even be able to figure that out where there would not be any problem between the 2 years, because we would learn how to do it and it would not take very long. And then we would do the budget resolution for 2 years. We would not have a reconciliation bill. That is that big hodgepodge we put together to try to make some savings that are required by the budget resolution. We could not do those more than once every 2 years.

Now, I ask the occupant of the chair and every Senator that is listening, would not this make a dramatic, positive change in the U.S. Senate?

The committees that you are on, I say to Senators, that do not have time to have in-depth hearings, 2 or 3 weeks at a time of an oversight nature as to whether our veterans' hospitals are working right or not, whether the Indian programs for the Indian people are working or not, whether the bureaucracy is carrying out our will or have they gotten to a point where they are doing it their way.

In fact, I believe that our programs are in such a state of shambles because of management misdirection, and improper writing of laws, that there are scandals just waiting around to occur.

And guess how we do most of our oversight? I checked for just 3 or 4 weeks to see what some committees were doing. Most of the oversight that goes on goes on because somebody in the press found a program that is not working or they found a scandal out there that we were being ripped off and they write about it. It does not take a committee 2 weeks to get on with that. We ought to find those.

That is why the American people are angry at us. We are not spending enough time trying to find that out. And you speak of reinventing Government. You are not going to reinvent Government by just reducing the number of Federal employees and consolidating a few programs. You are reinventing Government when you find out what is not working in Government and do something about it across the board.

And I defy anybody to come here to the floor—dedicated appropriator, dedicated authorizer, dedicated tax writer, and entitlement writer—and tell this Senate that there is plenty of time under this system to get this done.

And I would also say, for those who think there is plenty of time and we go to the 2-year system, 1 year for one part of it and another year for the other part of it, for those of you who think we have plenty of time, it might be that we could even get out of here earlier. Maybe we could cut all this time in Washington in half.

I know Senator Baker and others have been suggesting we spend way too much time here. One way to do that is not to have to do everything so redundantly, over and over again every 12 months.

Now, when you vote within the next couple of hours to kill this bill on a point of order, you are voting against all these things that I am talking about. And you will have decided that you are going to take the easy way out, use a budget point of order that has literally, literally, said that the Budget Committee should have had this sent to them. This bill that we have ready here, this bill that we have on the reorganization of the Congress, did not go to them. Thus, they did not have time to look at it, although it went to the Rules Committee, although a bipartisan committee voted unanimously to report it out after 1 year of hearings, you just kind of cavalierly vote that it is subject to this procedural deficiency. If you do that, you are voting against these things that I am talking about and more because we have not listed all of them yet. There is plenty more reform.

Senator BOREN has alluded to reducing the number of subcommittees, cutting them in half. Well, I do not have any more confidence that if we do not do something like this that we will ever get them cut back. There is a waiver rule. The waiver gets changed all the time and the subcommittees grow.

Frankly, I have a lot of subcommittees. Somebody could come down here and say, "You serve on slightly above average." Of course, I do. I have been here for 22 years. I take my work seriously. But I cannot even go to all the subcommittees. Nobody works harder than this Senator. I cannot make it, because I have two or three at the same time. That is ridiculous.

The American people are wondering who is doing all this work up here; who is writing all these bills.

I just mentioned to my good friend, since 1970, on average, bills that come out of here are five times longer in terms of number of words used—five times. Why do you think we need so many staff? Because we do not have enough time to put our own attention on it and do it ourselves. We do it very superficially. And very bright, smart staff—God bless them—they help us all. They do the work. That is why the numbers have gone up, too.

We decided if you go with this 2-year cycle, you can reduce the staff, too. And so we are recommending that in here, that Congress get littler and its support agencies be more responsive. At the General Accounting Office, over 5,000 people work there.

Our bill says that in the second year of every Congress when we are supposed to be doing oversight, the primary role of the GAO—primary role—would be to help the committees and subcommittees to see what is going on, right or wrong, with their Government that the taxpayers are paying for. Those are important things.

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

Mr. DOMENICI. I will be pleased to yield.

Mr. BOREN. First, I commend the Senator on the comments he has just been making. I think those who have heard those comments understand why I feel a great debt of gratitude to him for the leadership he provided in this joint committee, bipartisan committee, on the reform of Congress.

Let me say, the spirit which he indicated and demonstrated throughout our proceedings is exactly the kind of spirit we need if we are going to get this country back on track—that is, thinking about what is in the national interest before we think about what is in a personal interest or in a narrow, partisan interest. I salute him for the spirit with which he served as the cochair and vice chair on the Senate side of that committee.

Would the Senator agree with me that it would be best if we could be having this debate in the format in which we are not having to tack on this comprehensive set of recommendations to another pending matter; in fact, an amendment in disagreement to a conference report on appropriations for the District of Columbia? As I have said, it is ironic and, indeed, symbolic that we are having to take this action, because it again demonstrates that it is very difficult in this institution to do our business in a straightforward fashion so we can focus our attention in an orderly sequence on matters that should come before us.

Would he agree with me that it would not have been our preference to have acted in this way and that, indeed, if we could have been assured by the leadership on both sides of the aisle—indeed, if we could still be assured by the leadership—that the recommendations of our committee as they came through the process, through the Rules Committee, both in terms of a bill and also of a resolution, that, if we could have assurance that we could have those matters considered on the floor, scheduled to a time certain, given a chance to have orderly and comprehensive debate on these proposals to amend these proposals and have them considered as they should be considered, that, indeed, is still our preference? It is only because as of this moment—and I suppose there is still time, we could receive such assurance and I hope we would—but as of this moment we are having to follow this procedural mechanism simply because we have not been allowed to receive those assurances which could be given by the joint leadership here, and that would be what would be preferable to us and I am sure to others on a matter of this importance.

Mr. DOMENICI. I could not agree more, and I thank the Senator for his comments about my work. I want to share just one more fact with the Senator.

We have one Appropriations Committee. It really is supposed to spend our money except for those programs we create which are entitlements. Let me, for the record, state what an entitlement is because it is very confusing. An entitlement is a benefit, either in kind or in dollars, that a citizen can go to court and sue for and get the money. So all these other definitions of entitlements pale before that one. That means Social Security recipients, if we stop paying them, they can go to a Federal court and have the Federal Government ordered to pay them. That means Medicaid, Medicare—the same kind of thing.

All those programs that are funded by the Appropriations Committees, the education program and every other program, is supposed to be authorized by a committee. We do not just pull it out and pay for it in appropriations.

This system is so broken down that $57 billion of appropriated money annually is not even authorized. We run around and say we have these two wonderful systems working together: One is the horse and one is the cart. But, frankly, the horse is broken down. The horse is the authorizing committee, and they say we are broken down because there are too many processes around here. They blame the budget process. Then they blame the appropriations process. Why do we not just say we want them all to be stronger? But they cannot all be stronger and have to do their work every year over and over again on the same or similar subject matter.

I want to go through just a couple more of what is in this bill. I repeat, the process we are going for is this: The Boren-Domenici amendment, which is the entire recommendation of the special joint bipartisan committee, is pending. If we defeat the point of order and adopt the amendment, it is subject to amendment. So those who want to amend it could amend it then.

This Senator, as a Republican—I went to those committee meetings in a total and pure spirit of not being partisan. But I must tell the Senate that I did not agree to be for pieces of this, one piece at a time. I am for some floor procedure amendments. They are in this package.

Motion to proceed? We do not take as much time on it. If this package is adopted, Senate resolutions have to have 10 sponsors. We did that, too. But I am in favor of these changes, if we adopt the full package, because I can see them all weaved together and they will make a tapestry that will make this place work better. But I am not going to be for pieces of it, and I urge my friends on this side of the aisle, if we dismember this into little pieces, I am going to urge they reconsider the whole thing and wait around until we can get back and have another package.

Let me conclude. We believe in an orderly process, cutting the number of

subcommittees in half and making it almost impossible to add them by waiver because you have to bring it to the floor of the Senate and vote. We abolish four joint committees. Obviously, we may have lost a number of votes right there, because perhaps those who are on those joint committees will come down here and vote procedurally on killing this bill on a procedure called a point of order. But we think we did what you asked us to do.

On the 2-year budget cycle, some are going to come down and say, "Why do we not do the budget 2 years, but let us do appropriations every year?" Frankly, I believe there is more reason to do a budget resolution every year than there is appropriations every year, and I say that having been here a while and having done both. I believe that. But I think 2 years on both would be far better for this institution and for the American people in terms of our being able to get our job done right.

I want to close by saying this U.S. Senate is a fantastic place to serve. I have been very privileged. I hope I can serve here a lot longer. But I do believe that the most important thing we could do is to make the U.S. Senate work better. I believe we are too fractionalized, we cannot develop any attention span, and we relegate and delegate our job and our work too much to others because we are asked, under a process and procedure, to comply with rules and other things that make it almost impossible to get our job done.

So, sometime today there will be a vote. Obviously, I have told my colleagues what I think it is going to be. I urge everyone to give this reform a chance and deny the point of order and then let us take a look at it once it is before us in its true form.

I yield the floor.

Mr. PELL. Mr. President, I rise in opposition to the Domenici-Boren amendment because it does not reflect the revisions in congressional reorganization which were recommended by the Committee on Rules and Administration.

I am opposed to the proposed elimination of the Joint Committee on the Library, because I believe the Joint Committee fulfills a useful role and its proposed elimination would be a meaningless reform.

I should note for the record that I have served on the Joint Committee on the Library for many years and am its vice chairman during the 103d Congress. I might add that I regard this service as somewhat of a family tradition inasmuch as my father served on the joint committee as a member of the House of Representatives in the 1920's.

I can understand why the Joint Committee on the Library, which dates back to 1802 and is probably the oldest extant congressional committee, might be dismissed as an obsolete anachronism. But I would contest such a view and suggest it is more accurate to view the Joint Committee as a very useful vestige, which has survived precisely because of its utility.

In the early days of the Republic such joint committees were established for administrative purposes, and the Joint Committee on the Library filled just such a role for nearly a century. In effect, it managed the day-to-day operations of the Library, which in those early days must have been a very modest task.

But with the explosive growth of the Library's collections following the passage of the 1870 copyright law requiring the deposit of copyright items, the management task outgrew the joint committee's capacity and in 1897 Congress assigned to the Librarian of Congress direct responsibility for day-to-day management.

There remained a need to oversee and give policy direction to the Librarian, and that is what the role of the Joint Committee has been since that time. It is a role of consultative supervision somewhat akin to that of a corporate board of directors. Since the Joint Committee has no legislative authority, it exerts its influence by verbal advice and written consent, which reflects its members sense of congressional will.

The consultative process is largely informal and unstructured. The Librarian frequently simply advises the Joint Committee of various matters, sometimes seeking the assent of the chairman and vice chairman, representing as they do by tradition, the two Houses.

On matters of substance on which the formal approval of the Joint Committee is necessary and appropriate, the membership is generally polled by document and assent is registered by signature. The Joint Committee meets only infrequently, and then generally for informational hearings when there would be a clear benefit from a multilateral exchange of viewpoints.

I would submit to you that this arrangement, while not perfect, serves very effectively to coordinate congressional supervision of an institution which has a wholly unique relationship to the national legislature. The Library is the creature of the Congress and the Congress is in turn highly dependent on the Library for substantive support. There must be a continuing mechanism in place for transmitting the will of Congress to the Library, and the Joint Committee, in my view, is the most effective mechanism for this purpose.

I would further submit that there are clear advantages to both parties in having the mechanism of a joint committee. It gives the Library a single source to which if can turn for an expression of policy which represents the will of both bodies. And in this connection, I would note that the joint committee structure forces interhouse consultation at the staff level, and then assent by members, before any action of the Joint Committee can result.

The advantage, from the congressional point of view, is that the joint committee structure requires us to find a common ground of agreement on any given issue, and once having done so, we are protected, to a good degree, from having our client, the Library, play off one House against the other in seeking to manipulate congressional will.

I would hasten to add, parenthetically, that in my view the Joint Committee hardly poses a threat to the benefits of bicameralism which were argued so effectively by James Madison, because the function in this case is limited to consultation and administrative approval, relating to an institution which is intimately tied to the Congress as a whole and not to the House or Representatives or the Senate as separate entities.

Finally, I would note that the work of the Joint Committee is performed by staff members who have many other duties but who would probably have to perform the same functions with respect to the Library if the Joint Committee were to be abolished. So I submit that the proposed abolition would yield no significant economy and would only have the effect of removing a useful framework for coordinated oversight.

Turning to another aspect of the proposed reorganization, I would like to record my reservations about the proposal to limit the number of subcommittees that would apply to most committees. Speaking from my perspective as a chairman of the Committee on Foreign Relations, I find this proposal arbitrary and unduly restrictive.

Because the scope of the Foreign Relations Committee is indeed worldwide, we traditionally have organized our subcommittee structure along geographic lines and to a lesser extent along substantive lines as circumstances dictate. We currently have seven subcommittees in all, of which five are regional subcommittees, as follows: Subcommittee of African Affairs; Subcommittee on East Asian and Pacific Affairs; Subcommittee on European Affairs; Subcommittee on Near Eastern and South Asian Affairs; and Subcommittee on Western Hemisphere and Peace Corps Affairs.

In addition, we have a Subcommittee on International Economic Policy, Trade, Oceans, and Environment and a Subcommittee on Terrorism, Narcotics, and International Operations.

It seems to me that any requirement to merge or consolidate the work of these subcommittees could have the effect of reducing the focus and intensity of the committee's attention to the matters it must consider. And I might

also note that most members of the committee already have limited themselves to only two subcommittees, so in that sense the objectives of the proposed reorganization are already attained, or soon can be with minimal adjustments.

I have the same reservations from my perspective as a member of the Committee on Labor and Human Resources, and as chairman of one of its subcommittees, namely the Subcommittee on Education, Arts, and Humanities.

The Committee on Labor and Human Resources has extremely broad jurisdiction over a wide range of social concerns and presently has six subcommittees to address those issues. In addition to the subcommittee already mentioned, the other subcommittees are: Subcommittee on Aging; Subcommittee on Children, Family, Drugs, and Alcoholism; Subcommittee on Disability Policy; Subcommittee on Employment and Productivity; and Subcommittee on Labor.

Given the broad scope of the committee's responsibilities, it seems to me that the consolidation of its structure into three subcommittees would make for unwieldy workloads at the subcommittee level and result in inefficiency and less effective operation of the committee.

Here too, to the extent the purpose of the proposed limitation is to lighten the workload of Senators, that objective can readily be obtained by enforcing the limitation on the number of subcommittees each member of the committee can serve on, namely two.

For all these reasons, I oppose the amendment as offered at this time. I do so with reservations because I supported the underlying reorganization plan in the form in which it was reported by the Committee on Rules and Administration. I regret that the committee's recommendations have not been considered and hope that they may be revived in the 104th Congress. But the amendment as proposed goes too far and comes to us at the wrong time and in the wrong form. It should be rejected.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 4650 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 4650 making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1994.)

The Senate proceeded to consider the conference report.

Mr. INOUYE. Mr. President, I ask unanimous consent that there be 1 hour for debate on the conference report, with the time divided as follows: 30 minutes controlled by the chairman and vice chairman of the committee, 15 minutes under the control of Senator BUMPERS, 15 minutes under the control of Senator MCCAIN, that when the time is used, the conference report be agreed to and the motion to reconsider be laid upon the table.

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

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that the following persons be given the privilege of the floor during the consideration of this report:

David Hennessey, Nora Kelly, Nancy Lescavage, and Herb Nakamura.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. INOUYE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I am pleased to offer the conference report (H. Rept. 103–747) making appropriations for the Department of Defense for fiscal year 1995. The conference report before you provides funds to operate, maintain and equip the Defense Department and our military forces during fiscal year 1995.

There is some urgency to the enactment of this conference report, Mr. President. Title IX provides $299.3 million in fiscal year 1994 supplemental appropriations to meet the unbudgeted costs of emergency relief for Rwanda and for emergency migrant processing and safe haven costs in or around Cuba.

The fiscal year 1995 appropriations bill provides $243.6 billion for the Department of Defense. This amount is within the subcommittee's 602b allocation. Discretionary outlays from the bill will be $250.7 billion or about $50 million below the subcommittee's allocation.

Mr. President, this is a very lean bill. I must advise my colleagues that not every worthwhile program could be accommodated in this austere bill, but the conferees have done their best to produce a bill which meets the needs of our men and women in uniform.

MILITARY PERSONNEL

The bill provides a total of $70.3 billion for military personnel pay, allowances and related costs. This amount includes funding for a 2.6-percent pay raise for our uniformed personnel.

OPERATION AND MAINTENANCE

To operate and maintain our Forces, the conference agreement recommends $80.9 billion. It may be noted that we have exceeded authorized levels for the Service O&M accounts. In the course of our conference, we found that we were able to provide more funding for readiness programs than the authorizing conference had been able to accommodate.

Mr. President, we have added funding for aircraft and ship maintenance programs, unit training activities, and for returning excess Army equipment from Europe. We began this year by emphasizing the need to maintain the readiness of and quality of life for our troops. I believe this bill does preserve that critical readiness for another year.

As a matter of particular concern to the members of the subcommittee we have provided additional resources for the recruiting efforts of the Uniformed Services. We have provided a total of $89 million above the budget request for this purpose.

Also in this title, funds were added for select Defense conversion programs supported by many Members in this body. For example, the conference agreement adds funds for military youth programs, small business loan guarantees, and economic development programs in California, Florida, Michigan, and many other States affected by base closures.

PROCUREMENT

The bill would fund $43.4 billion for procurement, a decrease of nearly $1.2 billion below the amount provided last year.

Significant Army highlights of this action include providing $108 million to keep the main battle tank industrial base alive. The bill also provides funds for Apache and the advanced helicopters to keep these lines open.

For the Navy, the agreement provides funds to complete the procurement of the CVN–76 nuclear aircraft carrier and to support the purchase of three DDG–51 destroyers as requested by the administration.

Significant highlights for Air Force procurement include providing $2.2 billion to buy six C–17 aircraft this year and advance procurement funds for buying eight in fiscal year 1996.

Mr. President, the conference report reflects the strong support of the Senate regarding National Guard and Reserve equipment. While the House earmarked funds for specific projects, the Senate did not.

The conference agreement allows the chiefs of the Reserve components to determine which specific items will be purchased. The statement of the Managers earmarks $800 million for miscellaneous equipment and lists items

which it believes should be given priority, but does not mandate which equipment must be acquired. Within this amount the statement earmarks $505 million for Guard and Reserve aircraft. The conferees intend that these aircraft can be either new production or newly refurbished aircraft.

RESEARCH AND DEVELOPMENT

Mr. President, in order to preserve the technological advantages which the United States enjoys over potential adversaries, the conference agreement made only modest changes to the research and development request.

In other highlights, the agreement funds the Army's Comanche, funds the Navy's F/A-18 E/F program, and the Navy's new attack submarine.

Mr. President, the conferees provided $2.5 billion for ballistic missile defense. In keeping with past practice, the conferees agreed to recommend a number of discrete reductions in this program.

OTHER RELATED AREAS

Mr. President, when H.R. 4650 was considered by the Senate a number of foreign policy provisions were added to the bill. Unfortunately, in conference, the House conferees, backed by their authorizing committees, were adamant that these provisions be removed from the bill. To gain agreement on the overall conference, the Senate conferees found it necessary to recede from the Senate position.

Mr. President, this has been a tough year for the Defense Subcommittee. The funding constraints that the committee had to meet were quite stringent. After 10 straight years of reducing Defense spending, development of a Defense appropriations bill is not an easy task. The Senate, I believe, met that challenge when it passed the Defense bill, and I am happy to say the conferees have also responded to that difficult challenge.

This report reflects a good compromise between the priorities of the Senate and the House. But most importantly, it is a good agreement which will provide for the safety and support of our men and women in uniform. So I urge all Members to support the conference report.

Mr. President, it has become my custom to identify a member of the Defense Subcommittee staff for individual recognition each year. There is one staff member who has served with particular devotion over many years who has not been singled out, one who is most deserved of tribute for his dedication to the Senate Appropriations Committee and this institution. I am speaking of our fine staff director, Mr. Richard Collins.

Mr. Collins began his tenure with the Senate Appropriations Committee on June 12, 1974, assigned to the Foreign Operations Subcommittee. As chairman of that subcommittee, at that time I soon realized that Mr. Collins was a man who possessed great wisdom, uncompromising integrity, and a finely honed sense of duty to his country. Mr. Collins quickly learned the business of the Foreign Operations Subcommittee, and in 1981, I was privileged to promote him to staff director of the subcommittee. He served in that position with me through 1988.

In 1989, I was selected to chair the Defense Subcommittee. There were many who suggested that I needed a staff director with a strong military background to run the Defense Subcommittee. But, for me, there was no doubt who to choose. I knew Richard Collins was the man who could best serve the Senate's interest as staff director of this subcommittee and I was proven correct.

Mr. Collins attacked the issue, learning everything about the Department of Defense. He spent countless days in briefings from each of the military departments, gaining a deep understanding of the pressing defense issues of the day. But he was not satisfied just to listen to what those in the Pentagon were saying. He traveled throughout the United States talking to our military commanders and soldiers, sailors, marines, and airmen in the field.

He reported back to me on the strengths and problems in the Defense Department as he continues to do so today. Richard Collins is my compass. He guides me every day in carrying out my duties to the Senate as chairman of the Subcommittee on Defense. As staff director, he is fully informed on all defense matters and he keeps me updated on the needs of our men and women in uniform.

Richard Collins has served me and, more importantly, this body for 20 years. We in the Senate owe him our undying gratitude for his tireless efforts, his moral certitude, and his dedication to this body. And, Richard, I salute you, sir.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator's 10 minutes has just expired.

Mr. INOUYE. I yield myself 2 more minutes.

Mr. President, this bill, as I indicated, involves over $243 billion. We have just passed a unanimous-consent request to conclude our debate in an hour, and upon its conclusion the report would be adopted, hopefully without a vote.

For those who may not be aware of the process in the legislature, it would seem that this was a very easy process with no controversies. This bill is filled with controversy. This bill is the most expensive measure facing the Congress of the United States. And yet, we come to this day and make it seem so easy. It is so because of one reason. This committee has been blessed with an extraordinary staff on the majority side and on the minority side. If it were not for the staff, I think we would be nitpicking and higgling and haggling for weeks and weeks to come.

So I would like to recognize these staff members: Richard Collins, Charles Houy, Peter Lennon, Jay Kimmitt, John Young, David Morrison, Mary Marshall, Dick D'Amato, Mazie Mattson, and Hallie Hastert. I would also like to make special recognition of Steve Cortese, who has been most helpful, Jim Morhard, and Dona Pate.

We have also had support from the Department of Defense: David Hennesey, Herbert Nakamura, Nora Kelly, and Sidney Ashworth.

So, Mr. President, I know the subcommittee joins me in extending our undying gratitude to these staff members.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I join the Senator from Hawaii, the chairman of our subcommittee, in presenting this conference report to the Senate and urge that it be approved. We filed this conference report on Monday, and it has been printed in the RECORD. It is a credit to the subcommittee as a whole, under the leadership of my good friend, Senator INOUYE, that this bill is before us prior to the end of the fiscal year. It has been facilitated in terms of the work we have done in the subcommittee by the support given to us by the chairman of the full committee, Senator BYRD, and the ranking member, Senator HATFIELD.

This bill, as the Senator from Hawaii has noted, meets the 602(b) allocation that was submitted to our subcommittee. We have not made any broad general reductions. There are no across-the-board cuts in this bill. I do not believe in them anyway. I am pleased to say that this conference has gone through this bill item by item. We have made specific adjustments. They have been consistent basically with the positions taken by the two military committees in both the House and the Senate. We have done this through consultation with leaders of the military and with representatives of the President through the Department of Defense and the White House. In other words, this bill has been very well staffed. It has been the subject of a great many individual consultations through the services of my good friend, the chairman, Senator INOUYE, and myself, with many other Members of the Senate and the House. We are privileged to work with a great team in the House, headed by Chairman MURTHA and the ranking member there, Mr. MCDADE.

I wish to say that when I appeared on the floor of the Senate earlier this year and talked about this bill, I was very much concerned that the authorized funding presented to us was too low to

maintain our national security. I did not think it would support the efforts of our military to provide for our national defense consistent with our existing international obligations and those that seem to come on us now one by one. We are expanding our role as far as the use of our military, and the events of the past weeks confirm my concerns that I expressed here before. I see no reason to repeat them. I will add some comments concerning the stress that exists now for the men and women who serve in uniform for our country throughout the world, and particularly upon their families.

But let me state, Mr. President, over the recent recess, along with Senator WARNER of Virginia, I took the occasion to have some meetings with a series of military commanders and with our intelligence officials in Europe. We did discuss the operations in Bosnia and Rwanda and Iraq. I have returned heartened by the commitment and dedication of those armed services and the personnel we have overseas. But I continue to be troubled by the nature of the increasing deployments that we face as far as the Department of Defense is concerned.

Specifically, this bill contains a supplemental appropriation of $299.3 million to address some of the shortfalls that have been created by the deployments in Europe, Africa, the Middle East, and the Caribbean. The funds are designated as "emergency," consistent with the President's request. As such, the bill does not dip into existing funds that have been requested to maintain our military strategy and to provide for the quality of life of the people of our armed services. It is a bill that I consider to be vital today.

Let me point out that we had to have this bill done today, so it could be signed and made available for tomorrow. This is because some of the funds in this bill must be obligated in this fiscal year which expires tomorrow night.

I applaud the efforts of Secretary of Defense Bill Perry, the Deputy Secretary, John Deutch, and the Comptroller, John Hamre, who have worked with us to see to it that these funds could be secured in a way that would meet these obligations now and not impair the funds that might be necessary for the next fiscal year.

This supplemental only covers the expenses incurred by the Department of Defense for the missions that I have mentioned through September 18 of this year. All of those people who urged the President to utilize our armed services in Haiti I hope will be prepared next year to fund the costs that we have incurred. We are not funding those costs in this bill. The Department of Defense is currently operating under authority that gives them the right to incur obligations in advance of appropriations for the missions in Haiti. I am not sure how many people really realize that. We are not funding those operations with this bill.

When the Congress returns—hopefully, it will be in January, but when we do return we undoubtedly will receive a supplemental request for the military operations in Haiti. Certainly, that will be in excess, according to the current estimate, of over $0.5 billion.

It will be necessary for all Members of the Congress to work with the appropriations committees to ensure that the funding that we have here for the men and women in our military, their quality of life and for the systems to support them in the event that they are called upon to defend our country, will not suffer, that the funding for their ongoing programs will not suffer by virtue of the mission that we have undertaken in Haiti.

So far this year, Mr. President, the Department of Defense has expended $1.57 billion for peacekeeping and refugee support contingencies. That does not, as I say, include Haiti.

I ask unanimous consent that I may put in the RECORD a chart that reflects the funding that I have mentioned. It has been provided by the Department of Defense to show the cost for the missions that I mentioned and the number of personnel previously or currently engaged in those deployments.

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

CONTINGENCY COSTS IN FISCAL YEAR 1994

[Dollars in millions]

	Costs	Current U.S. military
Somalia (UNOSOM, USLO)	$406.2	[3] 0
Southwest Asia (Provide Comfort, Southern Watch, Desert Storm)	462.3	21,000
Bosnia (Deny Flight, Provide Promise, Sharp Guard, Able Sentry	266.6	6,550
Rwanda (Support Hope)	[1] 87.9	565
Haiti interdiction/migrant processing (Uphold Democracy, Sea Signal, Distant Haven)	[2] 170.6	[4] 17,700
Cuba refugee operation (Able Vigil, Able Manner, Safe Haven)	106.3	2,700
Korea readiness costs	67.3	37,000

[1] Supplemental pending.
[2] Excluding Haiti Democracy Restoration.
[3] U.S. forces peaked at 24,165 during Dec. 1992–Sep. 1994.
[4] U.S. force level change daily per OPLAN; expected to increase as the operation unfolds.

Mr. STEVENS. Mr. President, again, this includes the Haiti migrant interdiction and processing, but it does not include the military operations in Haiti.

Let me say this. I am going to be brief because I see my good friend from Arizona is waiting to speak.

Mr. President, we have all said the cold war is over and that this is peacetime. But I think that Members ought to look at this chart and see that that status is little solace to the families of the men and women in the armed services and to those men and women who have been deployed this year. This year alone, 85,000 people have been deployed off our shores.

When we were in Europe, we discussed with pilots the problems of the men and women who are flying our aircraft that are maintaining the surveillance of Iraq. They are maintaining the surveillance in no-fly zone of Bosnia. They have been involved in Somalia and in the Rwanda operation. They have been involved in increased tensions in Korea. They have been involved in terms of trying to save lives as people tried to leave Cuba and come to our country. They have been involved in the problem of the surveillance of the Haiti refugee people. They are involved literally around the world today on a day-to-day basis. Speaking as someone who flew in wartime, they are flying more time daily than we used to fly in the war. It is having its toll now.

We talked to some of the people in the Navy. There is a blockade still in Iraq and a blockade still at Bosnia. They still have people in American vessels off Somalia. We still have the involvement in the Caribbean dealing with the Cuban refugees and the Haiti people, including the support of the Haiti military operations.

Mr. President, this is not normal peacetime. It certainly is not the peacetime that I knew in my youth. This is a time now when people have to realize that being in the armed services today means to be called on day after day, month after month after month and sometimes year after year after year to be away from one's family. We cannot afford to see the support for these people dwindle because of the constant erosion of the funds that are necessary for their support. This is caused by increased contingencies that Congress does not fund. We have an increased tendency now to say, "Well, the Department of Defense just ought to absorb that money. Somehow or other it ought to find the money and it can take the pay raise out of the funds that we previously allocated to them." And to an extent we do that in this bill. We also have them absorb other increases that are brought about by changes in law.

I think it is fortunate that we have people who are involved today in oversight of our military forces who have served in the armed services during wartime. But that time is going to disappear soon. There are not many of us left really. I am worried about the future of the men and women of our armed services if Members of Congress do not get out and find out what is happening to them: do not go on these trips that some people called junkets; and do not take the trips and go visit the Americans that we have deployed abroad because of some special interest of the United States in another part of the world. It is necessary, in my opinion, for more Members of Congress to take it upon themselves to go visit the sons and daughters of our constituents that are serving abroad. I am highly critical of those who call those trips

junkets. They ought to come along sometime and see what goes on on those junkets.

But the thing that bothers me most, as I have returned now from this last visit, is this continued report about the fatigue of our men and women who are involved in these blockades and flying these constant day after day routine missions, and the fatigue of those who are providing for their support. They are also flying long resupply missions, flying them into everywhere, from Rwanda to Somalia to Italy, to Turkey, into the support for the Bosnian people. It seems to me that we owe a lot more to these men and women that are going out there on these routine missions than any of us realize.

I want to close, as I started, by thanking the chairman for his kind consideration to the many requests that I have made for special items that concern Members of the Senate on this side of the aisle. I can assure my colleagues that this bill has been cleared by all concerned. We have had every request that was made by any Member of the Senate considered by both Senator INOUYE and me and by our staff. We have given favorable consideration to everyone we could and we have tried to work out the problems for every State so that this bill could be fair in the allocation of moneys that we have available to run the Department of Defense for the next fiscal year.

I had the occasion to be chairman of this subcommittee at one time. I know that the Members of the House committee who worked with us feel as I do—that we have not only some great staff members but we have members of the staff of the House Subcommittee on Appropriations who have been working with us.

I want to mention specifically the retirement of two of the members of the House staff and want them to know that we will miss them. Mr. Don Richbourg has served as clerk to three different chairmen of the Defense Appropriations Subcommittee. It is a tribute to his professionalism. Also, Mr. Dave Willson is the senior member of the professional staff of the Defense Subcommittee on the House side. He has worked tirelessly over the years that we have worked with them to protect the readiness of our Armed Forces. I wish to state here that I think every Member of the Senate who has worked with the House Defense Appropriations Subcommittee and who has come to know these two gentlemen respect them and wish them and their families all the best in the future.

Mr. President, I too have been very fortunate to have the assistance of my good friend, Steve Cortese, and the assistance, provided by the Department of Defense, of Sid Ashworth who has worked with me, as well as Dona Pate and Jim Morhard of our staff.

I do not know. I am sort of stepping on a feathered pillow. But I heard my good friend from Hawaii give such great commendation to our good friend, Richard, that I do not know whether this is a swan song for Richard or just the praise that he deserves. I am going to take it to be the latter, Mr. President, and say that I too appreciate working with the majority staff. I think we have the best subcommittee in the Congress in terms of the attitude of our people. We all work for the same goal without regard to who is chairman. It has been probably the most nonpartisan and professional group that I have worked with in my service in the Senate.

It is a privilege to be once again here on the floor to present this bill that I commend to the Senate for its approval.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized for up to 15 minutes.

Mr. McCAIN. Mr. President, the events of the last few days and weeks have again indicated that we have gone from the very dangerous, yet very predictable, world of the post-cold-war era to a still dangerous and much less predictable world. We now find 15,000 to 20,000 American troops in Haiti.

The talks with North Korea are approaching an apparent impasse. NATO air strikes and a renewed siege of Sarajevo indicate an unraveling situation in Bosnia. The effects of Islamic fundamentalism are being felt in Egypt, Algeria, Malaysia, Indonesia, and countries throughout the world. While any objective observer can see many situations in which the United States may have to become militarily involved, what we see today is a continued decline in the defense budget.

The defense budget has declined by nearly 35 percent in constant dollars since 1985, with another 10 percent reduction planned by 1999. Mr. President, I am convinced that if we continue this decline, it will result in a hollow military force which is unready to fight and win in future conflicts.

I would like to point out that the size of the defense budget begins with the submission of the President's budget, and its review by Congress. Then, as my colleagues know, the appropriations are divided up amongst various types of requirements, such as those of the Defense Appropriations Committee. As an example of the failure of the Senate and the Congress to appreciate the importance of defense spending, the fiscal year 1995 budget resolution this year cut $500 million in outlays from the overall discretionary spending account. It cut $42 billion over 5 years, all of which was taken from the defense bills and the appropriations allocations to defense. Now, the entire $500 million cut did not have to be taken from defense. This was a conscious decision on the part of the Appropriations Committee.

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. This effectively made a billion-dollar cut in the President's request before we began the formal review of the defense program. Then, once we began to alter the budget request, we indulged in a process which resulted in many billions of dollars being taken out of the defense budget request and being reallocated to areas which have nothing to do with defense.

In fact, 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 through 1995. The results are astonishing: A total $52 billion was spent on nondefense programs out of the defense budget over the past 6 years. As has been pointed out by my friends from Hawaii and Alaska, we are taking further funds out of the defense budget for our peacekeeping obligations in Somalia, in Bosnia, or in Iraq, and now in Haiti. Our commitment in Haiti has cost well over $300 million since we began to enforce sanctions and prepare for an invasion. Some estimate it will probably exceed $2 billion before we are finished, and $850 million in the short term.

These expenditures are all coming from a defense budget which has been cut already 35 percent since 1985, and which has another 10 percent reduction planned for the future. The effect of such efforts is then dramatically exacerbated by the incredible ways we find to spend American tax dollars. Let me give you one example from the current bill, Mr. President. Let me quote from the portion of the bill called "Job Creation/Retention":

> The conferees strongly encourage the Department to make job creation and retention a selection criterion as a condition of the TRP award process—

That is the Technology Reinvestment Program.

> to make unions explicitly and directly eligible to apply for funds; and also to include union representatives among the list of eligible applicants for Technology Reinvestment Program grants in the next round of proposals.

I ask my friend from Hawaii, why not include the Sierra Club? Should they be in this? They are about as qualified as the unions. What about the Boy Scouts? Should we include the Boy Scouts? I think they are probably more qualified.

The bill then goes on to say:

> Other conversion initiatives. The conferees suggest that the Defense Department consider funding the following conversion projects during the course of fiscal year 1995:

Some of the suggested recipients are: Berkshire County Regional Employment Board; Hunters Point Civilian Job Training in Environmental Remediation; Domestic Fuel Cell Manufacturing; Great Lakes Environmental

Manufacturing Technology Center; Methanol Plantship Technology; Georgia Tech Plasma Arc Remediation; Great Lakes Environmental Manufacturing Technology Center; Torque Converter Project, and Michigan State University.

We have found out over the years, Mr. President, what the effect of these suggestions is. They happen. These suggestions get the money, Mr. President. So what we are doing, in addition to the earmarking that is already in the bill, is earmarking even more money away from real defense needs. Further, there are additional expenditures in this conference report which were not in either the House or Senate bill: $1 million for a police research institute; and $1 million for the southwest Oregon narcotics task force are just a few examples.

Meanwhile our military leaders are warning us about readiness. As you may know, I did a report last year called "Going Hollow," which analyzed the erosion of our readiness using the views of the heads of each of our military services. I went back this year and asked our chiefs similar questions about their state of readiness and their views of the future capabilities. Their responses are an even firmer warning. Let me give you a few quotes:

The Chief of Staff of the Army said:

Although still trained and ready, the Army is now at the lower edge of the band * * * at the razor's edge.

This [FY95] budget represents the minimum resources required to maintain the unmatched superiority your Army enjoys today. Any reduction in this budget request would jeopardize that assured superiority. However, this budget request will not pull us away from the razor's edge of readiness.

Infrastructure/Facilities [are] still underfunded * * *. Quality of life [is] still underfunded * * *.

* * * The "average" soldier * * * spends approximately 138 days each year away from home. * * * The situation will not improve.

Retention rates are expected to decline this year. * * * The major factor is the perception that an Army career may not provide a secure future in the present environment.

The Navy says:

The major problems the Department of Navy faces in terms of readiness are the increasing risks we are having to face in order to maintain adequate readiness levels * * * [including] increased readiness costs due to unforeseen contingency operations.

Readiness levels have declined slightly from their peaks in the mid-1980s. * * * Programmed readiness levels nonetheless involve risk. These risks include * * * depot maintenance backlogs * * * reduction in afloat inventories.

We are experiencing difficulty in maintaining unit integrity throughout full workup cycles for deploying units as we use force shaping tools * * * to decrease end strength.

The Marines said:

Ongoing [budget] reductions, coupled with contingencies, have created a situation where existing assets are insufficient to support major operations plans simultaneously executed in separate theaters.

* * * The fundamental truth is, readiness is directly proportionate to funding. Our analysis of Marine Corps requirements in the current years is that the Corps has inadequate resources to maintain the level of readiness expected by the Congress. * * *

All of the responses by our chiefs of staff are basically the same, Mr. President—problems and shortfalls in sustainability, readiness and morale, and the list of examples goes on and on. All of our service chiefs, whom we entrust with the responsibility for evaluating our military capability, are saying that we are treading on dangerous ground.

The Chief of Staff of the Air Force says:

Over the last 7 years we have had a fourfold increase in deployment obligations, as we have been drawing down the Air Force by nearly one-third to meet Congressionally-mandated end strength requirements.

* * * We've seen a subtle rise in overall cannibalization * * * rates.

We ought to pay attention, Mr. President, to what our military chiefs are saying. The fact is that we are already in a very serious situation, and we have major further budget problems to come. This is best illustrated by a recent GAO report saying the Department of Defense may be underfunded by about $150 billion. GAO cites such shortfalls as the failure to budget for inflation, overstated projected management savings, underfunded potential cost increases for base closures, et cetera.

The Department of Defense admits some of the problems exist. In a recent letter in response to the GAO report, Comptroller John Hamre, a man that all of us respect and admire, noted that "we do have a problem ranging from $26 billion to as much as $40 billion because of inflation and congressionally directed pay raises." Mr. Hamre also noted that the Department of Defense has not fully addressed these recognized funding shortfalls, leaving "a $20 billion adjustment to be made in future years."

These funding problems impact on more than readiness. Just last month, Deputy Secretary of Defense John Deutch published a memo written to the military services which directed that the services explore the idea of terminating the major procurement programs in their budgets. The memorandum directed the services to propose terminating such key projects as the Comanche helicopter and the Advanced Field Artillery System of the Army, deferring the F-22 and TSSAM programs of the Air Force, cancelling the V-22 and new attack submarines, and on and on.

The Assistant Deputy Secretary of Defense John Deutch is saying we may have to cancel virtually every new weapons system that the services are seeking. We all remember that in the 1970's, we spent money on new weapons systems but we allowed our military personnel situation, readiness, and sustainability to degenerate and deteriorate to the point where we had the most deplorable of conditions. This was exemplified by the failed rescue effort of the Iranian hostages. Now, we have gone to the other extreme. We are putting our few available funds into readiness and we are on the edge of terminating the kind of modernization and advance technology that gave us one of our greatest victories: Operation Desert Storm.

Mr. President, we now have a Hobson's choice between inadequate readiness and inadequate modernization and technology, and it seems to me one only answer is to do what the President of the United States said at his State of the Union Message last year when he said, "Do not let Congress cut defense any more." Those were his words.

This will not be enough to deal with the problem. First of all, I would like to see the President come over with a much larger proposal in his budget for defense. Instead of threatening to eliminate every major modernization program which will ensure technological supremacy in the future, the President, in my view, should allocate additional resources to the defense budget to make up for these shortfalls. And second of all, I have not heard the President say one additional word about defense spending since he said it that night before a joint session of the Congress. I would like to hear him repeat this statement and I would like to support him in that effort.

At the same time, I would like to see the Congress use the defense budget for defense. Mr. President, I talk often about nondefense spending in the defense budget. What Congress does is really mind-boggling at times. I will not belabor the resulting problems. I discussed them the last time this bill was up in the form of the appropriations bill before it went to conference.

But, there are some examples which in this bill are very hard to understand.

A national center for toxicological research in Jefferson, AR. Mr. President, you know what would happen if you asked any member of the military if they need a pay raise or more money in their weapons system or do they need $5.8 million for a national center for toxicological research in Jefferson, AR.

A remediation effort at Cordove, AK.

A total of $1 million earmarked for Derector Shipyard environmental remediation. Finally, $5 million to Charleston Naval Hospital to establish a coastal cancer control program.

The fact is that what we do when we take hard-earned American tax dollars and use them on such projects, is to use them wastefully, or on low priority projects.

We also seem to have found a new name for pork called defense conversion. We now justify one local or parochial project after another to preserve what is called a defense industrial base. We now have a defense industrial base argument for bombers. We now have a defense industrial base argument for MRE's, meals ready to eat. We now have a defense industrial base argument for combat boots. We now have a defense industrial base argument for submarine reactors. You name it, Mr. President, we have a defense industrial base argument to fund it.

I think this kind of waste is outrageous. When we are cutting the defense budget so dramatically, we cannot maintain a defense industrial base for everything that has to do with the military. We need the Department of Defense to come forward with a set of criteria and clearly defined spending priorities—in fact, I met with some of their people this morning—which we can use to judge where a defense industrial base is really needed and where capabilities are not needed or may be nice to have but are not needed.

Mr. President, several times in this century we have found this Nation in a military crisis, and without the ability to cope with it, because of the mistakes the Congress and the President of the United States made in reducing our defense capability to such a degree that we could not defend this Nation's vital national security interests. Fortunately, in those prior times we were separated from Europe by a large body of water. The nature of technology and warfare gave us time to catch up and prevail.

Mr. President, I worry about the next time there is a severe national crisis which requires us to react strongly with a capable, well-manned military establishment, and I am afraid we are dramatically eroding the capabilities we need, and we have to act very soon to reverse current trends if we are not to be too late.

Mr. President, I appreciate the indulgence of my colleagues, and I thank the Senator from Hawaii and the Senator from Alaska for their usual outstanding job.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for a period of up to 15 minutes.

Mr. BUMPERS. Mr. President, first, I want to pay tribute to my chairman of the subcommittee. Senator INOUYE and I have differences on different weapons systems. We have differences on a lot of things. But I want to say he is eminently fair, unfailingly polite, and extremely conscientious about the status of our defense forces. So what I have to say today is certainly not intended as a denigration of my very good friend of 20 years, Senator INOUYE. I want to express some of my own personal thoughts.

First of all, I am constantly chagrined by the fact that we start a weapons system such as the B-1 bomber to penetrate the Soviet Union and then we make a conventional bomber out of it in order to have a rationale for building the B-2 bomber. We started the Milstar communications system in 1981 as a communications satellite system to communicate during a 6-month nuclear war. If you have a nuclear exchange with Russia, there is not going to be anybody left to communicate with. Everybody is going to be vaporized. That never made any sense.

So now the Defense Department says, well, we no longer need it to fight a nuclear war; we need it for conventional warfare such as Desert Storm even though it would handle only a minuscule portion of the communications traffic that the Defense Department would use during a war such as Desert Storm. And the costs are just staggering, staggering. Everybody knows that I tried this year to kill that program and got, I think, maybe 44 votes. I was shocked that I got 44 votes to terminate that program. But it is never quite enough.

Mr. President, the Defense Department admits that they are going to be $40 billion short over the next 5 years. In other words, they have programed the policies of the Defense Department, including procurement, and they will admit that they are $40 billion short to carry out their plan.

But do you know what the General Accounting Office is saying? The General Accounting Office says they are $150 billion short. And until this very moment the Defense Department has not told me, and I very strongly suspect they have not told the chairman of our subcommittee, where they are going to find that kind of money. We are trying to get the deficit down. This Congress, if GAO is right, is not going to be in any mood to increase defense spending by $30 billion a year. We could not do it if we wanted to. And yet the Defense Department has yet to tell us what they propose to do about this $150 billion shortfall.

The day before yesterday, I talked about the Republicans' Snake Oil Convention, NEWT GINGRICH stood on the Capitol steps saying, "Here is what we will do to the American people." And in a sense saying, if there is somebody out there that wants something that we did not include, let us know and we will give you that, too.

And how are the Republicans going to pay for it? They will add $300 billion to $400 billion on the deficit, and how are they going to pay for it? Well, they are going to put a little clause in the Constitution saying we must have a balanced budget.

What else do they say? That whatever it takes to pay for these tax cuts for the wealthiest people in America at the expense of education, health care, you name it, whatever it takes to pay for it, will come out of domestic spending, and $19 billion of it out of Medicaid and Medicare. The first thing you know, we are going to cut Medicare so much the doctors are going to have to pay people to come into the office; $200 billion in program cuts so the Republicans can take care of the wealthy.

But they say of all that roughly $400 billion in tax cuts, none of it—none of it—can come out of defense spending. It must all come out of domestic discretionary spending and entitlements. The things that we spend money for to make ourselves a civilized nation. They would cut domestic discretionary spending still further, almost in half from what it was 10 years ago.

Yesterday, I did a television interview and the interviewer asked me:

> Do you think we are headed for a hollow force? Do you think our defenses are going to become a hollow force when you consider all of our cuts?

I said:

> Well, I will say one thing. If we become a hollow military force while we are spending more money on defense than all the rest of the world combined

Let me repeat that, Mr. President—

> If we become a hollow force while we are spending more money than the rest of the world combined, twice as much as our 10 most likely adversaries, including Russia, China, Iraq, Iran, North Korea, we deserve it, because it means we will have presided over the most seriously mismanaged defense spending in the history of the world.

I do not say that to be dramatic. I simply say that to say, how on Earth could anybody conceive of us being a hollow force when we are spending between $250 and $275 billion a year on defense, more than the rest of the world combined?

Mr. President, I used to be a great champion of the C-17. As a matter of fact, we have a plant up in the Ozark Mountains that makes doors for McDonnell Douglas. It is not easy for me to oppose the C-17, considering the fact that Douglas has a good plant in my State. But $450 million for one C-17, which is about twice to three times what it started out to be, when we could have bought modified Boeing 747's for one-third that amount and gotten 80 percent of the capability we get out of the C-17.

The *Seawolf*. I confess before all the world that I voted for the last *Seawolf*, and I have regretted it ever since. Why are we going ahead building another *Seawolf*—there is no money in this bill for it, but next year there will be—and the last *Los Angeles* class attack submarine was launched just last week. Those submarines have a 30-year life. But we are soon going to retire some that are half that. You think of that.

The F-22 fighter plane. Who could be opposed to such a sophisticated aircraft as the F-22? And yet, Mr. President, GAO said we could save billions by delaying for 4-7 years the building

of that airplane, which is going to cost right now $130 million each—$130 million for one fighter plane. And the F–15 is superior to any other interceptor in the world and will be for 15 more years.

Oh, yes, the good is the enemy of the best. No matter how good something is, the Defense Department can conjure up something that will be better that we have to have. And all of the sudden that weapons system that used to be the best, all of the sudden it is the enemy of the best. We even sell some of our most sophisticated weapons to other nations and then the Defense Department comes over here and says, "Look at all these sophisticated weapons the rest of the world have. We have to build something new to overcome that," when we sold it to them in the first place.

And I personally do not believe we need 12 aircraft carriers; 10 would be more than adequate. They cost $3.2 billion in today's dollars. And that does not include the cost of the planes on that aircraft carrier.

Mr. President, last—and again I would not presume to speak for the chairman of the committee, but I believe he is relatively sympathetic to an issue that I raised in the conference, and here it is.

Under the START II Treaty, which we must implement by the year 2003—and which Yeltsin and Clinton both yesterday said they want to hurry up, speed it up, do it before 2003—we are allowed 1,750 warheads in submarines.

Now today, we are planning on having 18 Trident submarines by 1998. Each Trident submarine carries 24 missiles. Each missile has eight warheads. That means that to come into compliance with the START II Treaty, Mr. President, we have to do either of two things: We have to either download those missiles from 8 warheads per missile to 4 warheads per missile, which would come out to about 1,750, the permissible number; or put 12 missiles on each submarine instead of 24. They cost about $40 million each. Put 12 on a submarine with their existing 8 warheads, and that will bring you in compliance.

I thought that made a lot of sense, but the Defense Department was not having any of that. That saves billions, incidentally; billions. It does not reduce our strategic capability one whit. But they are not having any of that.

And do you know why? Because they want to keep the D–5 missile production line open.

As long as the Soviet Union existed, we could use the cold war and the Soviet Union as the threat that kept us building these things. Today, we do not talk about the threat. We talk about our industrial base.

If you shut down the D–5 missile line, what will the Brits do? They want to buy some more D–5 missiles. Well, who are we to be protecting Britain in the purchase of D–5 missiles?

Three months ago, Mr. President, 3 months ago, the Navy said we will settle for 347 D–5 missiles. I wanted to have 10 less than that, but I said, "That's fine. We will go with 347." That will equip all of the 10 Trident submarines we have in the Atlantic. We also have eight Tridents in the Pacific. But they carry the C–4 missile.

All of a sudden, between the time we passed the bill here and went to conference, the Pentagon came out with a new nuclear posture review and now the Navy says, "No, we don't want 347. We want 425." It is only $3.4 billion more.

"What are you going to do with them?"

"We have decided we want four of our submarines in the Pacific to have the D–5 missile."

Everybody knows those submarines are now equipped with what we call the C–4 missile. It is a magnificent missile. It will last as long as the submarines will last. It lacks 450 feet being as accurate after a 4,000- or 5,000-mile trip as the D–5; less than half the distance of where I am standing to my office. That is how much accuracy you lose with a C–4 as opposed to the D–5. And there is not going to be anything alive within 50 miles of where it hits, anyway.

Mr. President, $3.4 billion to backfit four of those submarines and take off a perfectly good C–4 missile and put D–5's on. I can tell you categorically one of the reasons for this is not because it enhances our nuclear superiority or our nuclear posture. It is to keep the industrial base of the D–5 missile. Keep the line open. It does not make sense—any other argument you want to put on it makes no sense whatever. Yet, when I brought this up in the conference, the House was having none of that.

I said, "How do you answer this question?" The Defense Department did a study, which they completed November 9, 1992, less than 2 years ago, on this very subject: "Shall we backfit the Trident submarines in the Pacific Ocean?" And they came back and the results of the study were: No. The Defense Department, DOD, said, "No, we are not going to retrofit those submarines. The C–4 missile is fine. It will last as long as our submarines will."

Do you know what the Navy did? They went off in a corner and pouted and then they came back and said, "We want them anyway."

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 3 additional minutes.

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

Mr. BUMPERS. Mr. President, do you know what happened? The downpayment for those extra 88 missiles is in this bill.

I have vented my spleen on things that are of great concern to me. I do not know any other way to express what I see as a continuing skewing of what I think the Defense Department's priorities ought to be. I have done everything I know to do, to point out things where they could save money. But we do not ever save money. We do not ever kill a weapons system.

I have talked about this with the Assistant Secretary of Defense, John Deutch. He was Assistant Secretary of Energy when Jimmy Carter was President—I was on the Energy Committee and Secretary Deutch and I got to know each other reasonably well. I had great confidence in him. And I pleaded with him to look at the Milstar communications system very carefully, think of the cost as opposed to the benefits you are going to get. I said please, do not buy all those MK–6 guidance systems. Please consider putting 12 missiles on each submarine with 8 warheads and save billions of dollars. And please, for god's sake, consider not backfitting those submarines in the Pacific—for nothing except spending $3.4 billion worth of the taxpayers' money.

He promised me that every one of those things were under serious review. This is not to denigrate him, but it is the same old story. Unless the Defense Department tells you they no longer want a weapon, nothing happens.

Mr. President, I am a former marine. The Marines want the V–22 Osprey worse than they want to go to Heaven. The Defense Department wanted to kill it and I voted with the Defense Department. It is still alive and kicking because of Congress. The Defense Department could not even kill that one. They did not want an additional 20 B–1 bombers, but we put $150 million in to keep the line open.

So Secretary Deutch may have reviewed them, but they all came out exactly the way I knew they would, and the way they have come out every year during the 20 years I have been in the U.S. Senate. I told the committee, in a different situation, though, this morning: These battles are kind of like me fighting with my wife. "Those I win just ain't over."

So I will be back at the same stand next year doing my very best to raise these issues to a level that the Members of the Senate will not only understand but appreciate and possibly adopt. We have been able to do a few things around here, but I am going to be anxious to hear the Defense Department testify next spring in our subcommittee about how they are going to find the $150 billion they have to find.

I would be remiss if I did not again pay respects and tribute to our distinguished chairman, who is so untiring and unstinting in his efforts to get this bill here. Those conference committees are very difficult. There is a lot of parochial interest, a lot of interest, sincere interest—I do not question anybody's sincerity about any weapons

system. But there obviously is a lot of parochialism, and I am not above it myself when it comes to something for my State. But I tell you, we must start to do something about the billions of dollars we are prepared to waste on some of these weapons systems.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

WILLIAM LANGER JEWEL BEARING PLANT

Mr. INOUYE. Mr. President, the conferees agreed to eliminate Senate bill language—amendment No. 56—providing $2,500,000 only for "capital investment, operations, and such other expenditures as may be necessary to maintain the William Langer Plant as a going concern while it is being excessed under the provisions of the Federal Property and Administrative Services Act." The conferees felt that bill language was unnecessary to carry out the Senate's direction and therefore agreed to provide the $2,500,000 required for this effort within the statement of the managers in the "Missile Procurement, Air Force" account. The conferees specifically provided an additional $2,500,000 within the Industrial Facilities line—page 1 line 10—only to carry out the Senate's directions as explained in Senate Report 103-321, page 129. It was further the intent of the conferees that the Air Force transfer the funds provided for the Langer Plant to the manager of the National Defense Stockpile for execution.

DFAS CENTER FOR FINANCIAL MANAGEMENT EDUCATION AND TRAINING

Mr. President, before we conclude our business on the fiscal year 1995 Defense Appropriations Act, I want to bring to the attention of my colleagues a matter of importance that was not addressed in the conference report on this act. This matter concerns the establishment of the Defense Finance and Accounting Service's Center for Financial Management Education and Training in Southbridge, MA.

On May 9 of this year, the Department of Defense announced plans to establish the DFAS Financial Management Education and Training Center at Southbridge as part of its overall plan to consolidate DOD financial and accounting operations. The purpose of this facility is to support the planned consolidation and continued operation of DFAS accounting centers.

As determined by the Department during its review of DOD financial management operations, this new education and training center will be needed to assure the success of the envisioned consolidation. Though no funds were included in the President's 1995 defense budget request to initiate the establishment of this center, the Department has determined that it needs to move quickly to do so. Unfortunately, this budget inadequacy was brought to the conferees' attention very late in our deliberations, limiting our ability to fully address this issue.

Nonetheless, I can unequivocally state my full support for this vital project and that of my House counterpart. We believe the Department should move expeditiously to establish the Southbridge education and training center, using funds available to the Defense Finance and Accounting Service. Should any additional legislation be required to facilitate the establishment of this center, I can assure my colleagues that I will work to secure its prompt passage.

B-2 BOMBER CONVENTIONAL CAPABILITIES

Mr. President, this conference report represents an important step toward maintaining and enhancing the Nation's conventional bomber forces, especially the B-2 advanced technology stealth bomber. Contrary to assertions by some, the B-2 bomber can justifiably lay claim to being the foundation of our long-range, conventional, air power projection capabilities. No other aircraft embodies its unique combination of high survivability, long range, and large payload.

This conference report includes funds to maintain and improve all our bomber forces—the still useful B-52 bombers, the ailing B-1B bombers, and the superlative B-2 aircraft. Most noteworthy is the recommended appropriation of $125 million to protect the nation's B-2 production base and ensure that the option of producing additional B-2 aircraft remains viable for at least 1 more year.

Also noteworthy is the initiative to provide $25 million to support the acquisition for the B-2 of a limited stockpile of near precision conventional bombs, known as Global Positioning System [GPS]—Aided Munitions [GAMS]. In association with the GPS-aided targeting system, these weapons provide an early and accurate bombing capability for the B-2. They are a bridge to, not a substitute for, the Joint Direct Attack Munitions still being developed by the Air Force.

Mr. President, it is the conferees expectation that the Air Force will implement an acquisition strategy which provides an operational GAM capability as early as practicable and prudent—from the taxpayers' perspective of minimizing costs and the Air Force's perspective of improving our combat capabilities.

Mr. President, the conference agreement provides $243.6 billion for DOD. Together with military construction and nuclear energy programs, the amount appropriated for all national defense programs for fiscal year 1995 is $261.9 billion.

This amount, for total national defense, is $1.4 billion below the amount contained in the Defense Authorization Act in new budget authority. In outlays, the appropriations bills save $700 million from the authorized level.

But the Defense appropriations bill does not cut readiness. The Appropriations conference report provides more money for each military service and reserve component for critical readiness money than was authorized. The increases, above authorization, are as follows:

[In millions]

Army	+$271
Navy	+189
Marines	+2
Air Force	+116
Army Reserves	+5
Navy Reserves	+4
Marines Reserve	+1
A.F. Reserves	+7
Army Guard	+42
Air Guard	+1
Total	+638

Mr. President, in addition, the conference agreement provides $299.3 million in supplemental appropriations for fiscal year 1994 to replenish readiness funds used for operations in Rwanda and refugee assistance in Guantanamo Bay.

The bill cuts some modernization programs to allow for funding the increases in readiness. The conferees chose to protect readiness above the levels authorized at the expense of some investment programs. However, the majority of cuts made in investment programs were made because of programmatic delays or other fact of life changes that are already recognized by DOD.

Mr. President, the appropriators protected readiness. Of that, there can be no question.

THE FISCAL YEAR 1995 DEFENSE APPROPRIATIONS BILL

Mr. DOMENICI. Mr. President, I rise in support of H.R. 4650, the fiscal year 1995 defense appropriations conference report.

The conference report provides a total of $243.6 billion in budget authority and $164.2 billion in new outlays for programs of the Department of Defense for fiscal year 1995.

When outlays from prior-year budget authority and other completed actions are taken into account, the conference report totals $243.6 billion in budget authority and $250.7 billion in outlays for fiscal year 1995. The bill is $2 million in budget authority and $52 million in outlays below the subcommittee's 602(b) allocation.

I want to thank the conferees for the support they have given for the Defense Department's counterproliferation initiative. The conferees provide $60 million for this important effort.

These funds will serve to "jump start" the administration's multiyear plan to deter the spread of nuclear, biological, and chemical weapons.

Proliferation of such weapons may well be the most important threat to national and international security in the post-cold war era. The counterproliferation initiative will focus on deterring, detecting, protecting

against, and responding to the threat posed by such weapons.

I also want to express my appreciation to the conferees for their support for several priority items important to the military presence in my home State of New Mexico.

Finally, I commend the distinguished conferees for bringing this bill to the floor within the subcommittee's section 602(b) allocation. As a member of the Senate defense appropriations subcommittee, I know how difficult a job it has been to sustain readiness in the face of ongoing, significant budget reductions.

I thank the conferees for the fine job they have done, and I urge all Senators to support the conference report.

HEAVY EQUIPMENT TRANSPORTER

Mr. BOND. Mr. President, I would like to raise one issue that was, I believe, inadvertently left out of the conference report. As we did last year, the conference committee left to the leaders of the Guard and Reserve the right to prioritize and buy their own equipment. Rather than earmarking funds for specific items, the committee instead provided a list of items that should be given priority consideration. That list was supposed to include the heavy equipment transporter [HET] for the Army Guard and Reserve, however, the HET was inadvertently left out of the final report.

I would ask of the chairman and ranking member of the subcommittee that they address this issue and, specifically, confirm that the HET was one of the programs that was intended to be highlighted.

Mr. INOUYE. Mr. President, I thank the Senator from Missouri for raising this issue. He is, in fact, correct that due to a printing error, the heavy equipment transporter was not included in the list of programs which the conference committee highlighted to the Guard and Reserve for priority. The HET System is an important one which addresses important logistics needs of the Army, and I will be sure that the leadership of both the Army Guard and Army Reserve are aware that we intended to include it in the conference report.

Mr. STEVENS. Mr. President, I would concur with the statement of the chairman. The conference committee intended to include the HET in the conference report, and we will ensure that the Guard and Reserve are aware of that.

Mr. BOND. I thank the chairman and ranking member for that clarification, and also for their continued strong support of the National Guard. As cochairman of the Senate National Guard caucus, I can say that the Guard has no stronger friends in this body than these two Senators.

With regard to the HET Program, I would just like to highlight the importance of this program. In hearings held earlier this year, members of the subcommittee heard from National Guard witnesses concerning their equipment shortfall. Specifically, we were told that the Guard is facing a severe shortfall of the most modern heavy equipment transporter [HET], the M1090 tractor and the M1000 trailer.

In Operation Desert Storm, modern and capable heavy equipment transporters were in short supply. When Gen. Norman Schwarzkopf briefed the subcommittee following his return to the United States, he cited HET as an item that should be a priority for both the Active and Reserve Forces. Unfortunately, the active Army faces a shortfall and, according to testimony, they will attempt to buy additional units if funding is available. The Army, however, has said it will not buy additional HET's for the Guard or Reserve out of its procurement funds. These HET's remain a priority for the Guard and for the Reserve, and it is my understanding that they plan to use some of the funding in this bill to purchase additional systems. I believe that makes a lot of sense, I am supportive of it, and I hope that they follow through on its plan to buy more HET's.

Mr. LEVIN. Mr. President, I want to commend the chairman of the Defense Appropriations Subcommittee for his excellent and successful effort in defending the Senate position with respect to funding for the Defense Contract Audit Agency [DCAA] and the Defense Contract Management Command [DCMC]. When this bill was considered by the Senate earlier this year, I had intended to offer an amendment to put the Senate on record in support of full funding for these two agencies. I withdrew that amendment when the chairman assured me that he would fight hard in conference for full funding and in no event would support a cut greater than the $36,500,000 for DCMC contained in the Senate bill. As I knew he would, the chairman kept his word and this conference report contains only this $36,500,000 cut for DCMC.

I do have one point I would like to make on this part of the conference agreement, Mr. President. And it concerns the statement of managers. The statement of managers reflects concern by the conferees that DCAA and DCMC achieve savings over the next few years by consolidating and streamlining. I take no issue with that recommendation. However the statement of managers also recommends that DCAA "reduce its incurred cost audit backlog to 1 year by 1997." I think that is an important goal and one that DCAA should try to meet. However, I think we should also recognize that DCAA needs some assistance from the contractors and DOD in order to reduce this backlog. DCAA needs the contractors to submit their incurred cost claims in a timely fashion, and DCAA needs the Department to provide DCAA with appropriate staffing.

There is a contractual requirement that each contractor submit incurred cost claims to the Government 90 days after the contractor's fiscal year ends. I have been advised that approximately 65 percent of contractors take 6 months or longer to submit incurred cost claims to the Government. DCAA cannot start the audit until it has the contractor's claim. Clearly, the timeliness of contractor incurred cost claims must improve in order for DCAA to reduce the incurred backlog to 1 year.

Mr. INOUYE. Mr. President, if the Senator from Michigan would yield.

Mr. LEVIN. I would be happy to yield to the senior Senator from Hawaii.

Mr. INOUYE. I agree with what the Senator from Michigan has said. The 1997 goal for reducing the backlog is an achievable goal, only with the cooperation of both the Department of Defense and the contracting community. I appreciate the Senator's remarks and his longstanding support of the work of these two agencies.

SENATE AMENDMENT NO. 24 TO H.R. 4650

Mr. INOUYE. Mr. President, I would like to clarify a matter that has arisen with regard to Senate amendment 24 to H.R. 4650, which provided $8 million for upgrades to the Air Force CAMS/REMIS System. This is the major Air Force data management system to provide maintenance technicians with up-to-date information on the maintenance and supply status of missiles, aircraft and other critical operation equipment.

During deliberations with House conferees on the fiscal year 1995 Department of Defense Appropriations Act, the Senate conferees receded to the House on amendment 24, but added funds to the Air Force Operation and Maintenance account for CAMS/REMIS, as identified in the table for this account in the accompanying statement of the managers to this conference report. This table confirms the decision of the conferees to provide $8 million only for the CAMS/REMIS upgrades. Inadvertently, additional explanatory language for the statement of the managers was not included in the final version. There should be no question that the $8 million identified in the operation and maintenance account for CAMS/REMIS is to be available only for upgrades to this system. These funds are in addition to any other funds included in the Air Force budget for the normal operation of CAMS/REMIS.

Mr. STEVENS. Mr. President, I fully concur with the statement made by the distinguished chairman. The $8 million appearing in the operation and maintenance account table for the Air Force in the statement of the managers may be used only for upgrades to the CAMS/REMIS System.

NATIONAL DEFENSE SEALIFT FEATURES

Mr. MITCHELL. Mr. President, I would like to engage the Senator from

Hawaii, chairman of the Subcommittee on Defense, in a brief colloquy regarding a program of significance to national defense. Mr. President, I am concerned that the conference agreement does not appear to provide funding for the National Defense Sealift Features Program. Can the manager of the bill explain the conferees action on this program?

Mr. INOUYE. Mr. President let me respond to the majority leader's request. As you will recall, the authorization conference included $43 million for the National Defense Sealift Features Program, as an alternative to expansion of the inactive Ready Reserve Force. The Senate-passed appropriation bill also funded the National Defense Features Program at $43 million. The House-passed appropriation bill, however, provided no funds to begin this program in fiscal year 1995. In the final analysis, the conferees on the defense appropriation bill were unable to identify sufficient funds for the National Defense Features Program.

Mr. MITCHELL. I thank the Senator for that explanation. Would it be correct to say that the conferees are in favor of the program, but simply did not have the money to pay for it at this time?

Mr. INOUYE. The majority leader is correct. The conferees support the program and encourage the Defense Department to include funding in the fiscal year 1996 budget request for the National Defense Sealift Features Program. Furthermore, because the authorization conference agreement authorizes funds for the program in 1995, I believe the conferees on the defense appropriation bill would support DOD efforts to initiate the program in 1995 through a reprogramming.

Mr. MITCHELL. I thank the chairman of the subcommittee for explaining this matter to the Senate. Would it be correct to summarize the manager's view that the conferees support the National Defense Sealift Features Program, hope it will be included in the DOD budget for fiscal year 1996, and would be supportive of efforts to reprogram $43 million to begin the program in fiscal year 1995?

Mr. INOUYE. The majority leader has expressed it correctly.

Mr. COHEN. Mr. President, I appreciate the comments from the Senator from Hawaii, chairman of the Appropriations Subcommittee on Defense, in support of the National Defense Sealift Features Program. As the Senator from Hawaii noted, the fiscal year 1995 National Defense Authorization Act contains $43 million in initial funding of the National Defense Sealift Features Program—for which Congress provided specific statutory authority in the fiscal year 1993 National Defense Authorization Act.

I also appreciate the fact that the Senator from Hawaii has encouraged the Defense Department to include funding for the National Defense Sealift Features Program in the fiscal year 1996 budget request, and to consider a fiscal year 1995 reprogramming for this purpose. The National Defense Sealift Features Program offers a cost-effective dual-use solution to the need for supplemental defense sealift assets in time of international crisis. It can also assist the preservation of defense-critical American shipyards, U.S.-flag merchant ships, and the jobs and vital skills of American shipyard workers and merchant mariners.

Mr. President, the Senator from Alaska, ranking minority member of the Appropriations Subcommittee on Defense, has expressed interest in joining this colloquy. I thank him for his supportive remarks to the Senate on the National Defense Sealift Features Program.

Mr. STEVENS. Mr. President, let me join the Senator from Hawaii, chairman of the Appropriations Subcommittee on Defense, in confirming to our colleagues from the State of Maine that I fully support the National Defense Sealift Features Program and its funding.

LHD–7 AMPHIBIOUS ASSAULT SHIP

Mr. COCHRAN. Mr. President, I am pleased to note the $50 million in funding for the LHD–7 amphibious assault ship in this conference report, as well as bill language directing the Secretary of the Navy to extend the option on the ship for not less than 1 year. The conferees have unambiguously endorsed this ship, and it is my understanding that the LHD–7 will be a priority in next year's Defense appropriations bill.

Mr. STEVENS. Mr. President, the amount of budget authority available this year was severely limited. That we were able to put even $50 million into the ship is testament to the strong support for LHD–7. It will be a high priority next year, and it is my intention to seek to fully fund the ship, even if it is not included in the administration's budget request for fiscal year 1996. The requirement for the ship is clear-cut, and by acting next year to complete the funding for the ship we will still be able to save several hundred million dollars.

Mr. COCHRAN. Mr. President, both the House and Senate placed a high emphasis on providing a sufficient amount of funding for the operations and maintenance account this year. Like many of my colleagues, I am concerned that the administration is failing to ask Congress to provide the Department of Defense with resources adequate to perform the mission it is charged with. I am also concerned that, notwithstanding administration pronouncements to the contrary, we are sliding back toward the hollow force of the late 1970's. Though we have increased the amount of money provided for the O&M account this year, there is only so much our military—the people and equipment—can do. We have reached the point, in many cases, where more people and more equipment are necessary, not just additional O&M funds.

Mr. STEVENS. Mr. President, the point raised by the Senator from Mississippi is entirely correct. On August 16, 1994, Secretary of Defense Perry was present to welcome the U.S.S. *Inchon*, an amphibious assault ship, back from the Caribbean. This ship deployed to the waters off of Haiti 2 weeks after returning from a 6-month deployment, where it was stationed first off of Bosnia and then off of Somalia. Despite the policy of having Amphibious Ready Groups—which are formed around amphibious assault ships, such as the LHD–7—at sea for 6 months and then back in port for 12 months, the *Inchon* had to steam out of Norfolk for Haiti 2 weeks after returning from a difficult 6-month deployment. Secretary Perry, when welcoming home the *Inchon*, said that the current operations and personnel tempos are too high, and that there continues to be a military requirement for 12 Amphibious Ready Groups. We currently have 11 Amphibious Ready Groups, and the only way to form a twelfth is to build LHD–7. I concur with Secretary Perry's comments, and ask that they be included at the conclusion of these remarks.

(See exhibit 1.)

Mr. COCHRAN. Mr. President, I thank both the Senator from Alaska and Senator INOUYE, the chairman of our subcommittee, for their support for LHD–7 again this year. I look forward to working with them next year to fully fund the ship.

[Exhibit 1]

SECRETARY OF DEFENSE WILLIAM J. PERRY REMARKS—TO "INCHON", AUGUST 6, 1994

SECRETARY PERRY: First of all, I wanted to simply welcome these marines and sailors back home. Secondly, I wanted to thank them, not just for a regular deployment, but for an extraordinary deployment. As you probably know, this was a second deployment—a two month deployment—tacked onto a six month deployment to Somalia.

I wanted to also comment that they had two extraordinary missions during these two different periods of deployment that they're on. In Somalia, they were executing a tactical withdrawal one of the most difficult military maneuvers to do well—and they did it very, very well. I wanted to thank them for the excellence of the operation that they performed there.

In Haiti, it was a standby operation. Even though some of the gossip was that we were down there for an invasion, the fact is, we were down there to provide an emergency evacuation capability should it be needed. Luckily, it was not needed, so we were able to bring them back. And they're now replaced with the WASP which is there to provide that function—again, if it were to be needed.

One of the specific reasons I came was to get some first-hand flavor for the stresses and strains that come from extra long deployments. We have what's called a personnel tempo, which is designed to be six

months on deployment and then 12 months back in training and work outs. So we had them on the six-month deployment and then, instead of having them back for 12 months, we had them back for two weeks and sent them out again for two months. I wanted to assure them that the decision to send them out again after two weeks was not made lightly at all. In fact, General Shalikashvili and I both agonized over that decision before we actually did that. We did it because the mission was an important mission and needed to be met right then. And they were the best ready—the best trained unit—for doing it at that time, and we wanted to send the best. But we also committed, at the time we did that, that we would get them replaced just as soon as it was feasible to do that, and we've done that now by sending the WASP.

It's also worth noting that we expect to catch up with this. That is, the next planned long deployment of this battalion will be next December—December of '95—so there will be some catch up in the deployment phase.

All in all, one of the biggest problems we have today with the reduction of the military forces but no reduction in military needs—in mission needs, an increase in military needs—is a strain on the operational tempo that we're conducting. It has two different potential effects. One is it could take people out of the normal training cycle. We have to be very careful to ensure that we maintain the training cycles, that we maintain an adequate readiness for our forces. Second is the wear and tear on the morale of people and their families.

So what I was really trying to do today was get a first hand feeling of that latter point—the wear and tear on morale—by talking with the Marines, talking with the families. You don't get a flavor of that from reading the statistics and reading the reports. You get it by going out and talking with people and this seemed like a particularly good day to do that.

Q: What was the reaction?

A: Generally positive today, but mixed. There is no question that the families felt the stress and the strain of this long deployment, particularly the second deployment. There's no question that there was some resentment on the part of some of the families about this second deployment. I would like to have promised them that the next big deployment wouldn't occur until December of '95. But the fact is, all I can promise them is that's what the plan is, and that I cannot control the emergencies that might come up in the world between now and then. It's always possible that there will be an emergency and we'll have to pull them out sooner, but our plan is . . .

Q: [There was a Time magazine] article (inaudible) deadline for an invasion of Haiti. Does that mean you're opposed to an invasion?

A: My position on that, which I've stated several times, is that I think an invasion of Haiti is the last alternative that we should consider. We have plenty of other alternatives to develop first. We already have a course of what I call coercive diplomacy underway which are very heavy duty sanctions. And those are not, even today, not fully in effect, not fully biting the regime in Haiti today. We have just recently started to shut the back door on the sanctions—blocking off the Dominican Republic. That has to happen first. We're some period of time away from seeing the effects of that diplomacy.

Q: How long . . .

A: The last thing I will do is give you an estimate on that as to when or even whether. I have some optimism that this coercive diplomacy is going to be effective. I want it to have its full chance to work. If we have to go to an invasion, the conventional wisdom is that this will be a piece of cake. And I don't like that point of view. Any time you have a good operation an invasion, a forceful entry—you have a danger of a very high risk of casualties. The casualties from the possible resistance on the part of the Haitians, a large complex operation like that, some casualties, some accidents can happen. So we don't take that decision lightly and we will take every alternative we can to see that we don't have to do that.

Q: Have you made a decision about how many ARGs are appropriate, then, to help relieve some of this?

A: Yes. Our plan is to have . . . Let me put this in terms of LHAs and LHDs which is sort of the flag—the main ship of an ARG. Our plan is to maintain 12 of those. Coincidentally, that's the number that we have for carriers. But it's more than a coincidence. In both cases what that means is as we expect to be able to deploy three of them in three regions of the world simultaneously; and with 12, you can work out the ratio on that. That means if you're on a six-month overseas, there's 12 to 18 months then back in the States. It also allows a little time to rework on the ship.

So we will have enough ships to maintain the personnel tempo that we consider desirable—the operational tempo that we consider desirable.

Q: Your operational budget? These deployments have gone right into . . . You haven't had any additional funding for these * * * .

A: Yes. We have gotten—I don't want to be complacent about the funding—but we did put in for, and got approved, a supplementary for most of our extra deployments last year. As we speak, we have a supplemental being considered by the Congress for the deployments we made to Rwanda for humanitarian purposes. And I think we're probably likely to get $170 million supplemental appropriation for that.

The defense budget is just for maintaining the defense force. When you go on operations, that costs additional. So [for] every operation we go on, we have to somehow find additional funding for it—or the alternative is to take it out of the training and take it out of the operational account. That's what my job is—to resist that, and to be sure that we take on additional operations, we get the additional funding that goes with it.

These are not necessarily negative to readiness, if you can supplement the funding. What is happening on these operations would be generally good training in and of itself. But if you fund them out of the O&M account—the operations and maintenance account—then what you are doing is taking away the money that would have been used for training, that would have been used for quality of life initiatives, that would have been used for things around the base. That's what I'm resisting.

PRESS: Thank you very much.

CARRIER REPLACEMENT PROGRAM

Mr. SASSER. I would like to address a question to the distinguished floor manager of the bill. I noted that in conference the House receded to the Senate with regard to the amount appropriated for the carrier replacement program. The conferees thus cut the Navy's original request by $162 million, as was proposed by the Senate. According to the Senate report, however, the Senate's lower figure reflected concerns about the prices contemplated by the Navy, not about the specific equipment and services to be procured. Thus, I would assume that it was not the intention of the conferees to cancel the procurement of any equipment or services—such as the procurement of components or reactor fuel—that were contemplated by the Navy in connection with this and earlier requests. Is my assumption correct?

Mr. INOUYE. It is in fact correct.

DOD APPROPRIATIONS CONFERENCE REPORT

Mr. BYRD. Mr. President, I commend the chairman of the Defense Appropriations Subcommittee, Senator INOUYE, and the ranking member on the Defense Subcommittee, Senator STEVENS, for their superlative efforts in guiding this measure to completion prior to the beginning of the new fiscal year. Their work becomes ever more difficult with each year, as the budgetary constraints imposed upon the defense budget, and all discretionary budgets, become tighter. The chairman and the ranking member of the Defense Subcommittee, and their fine staff, have worked very hard to balance all of the competing needs and desires within the fiscal year 1995 Defense appropriations bill.

I also want to thank the Defense Subcommittee, and the conference, for agreeing to fund the restoration of a limited, three-plane, SR-71 reconnaissance contingency force, which was authorized in the conference agreement on the fiscal year 1995 Department of Defense Authorization Act. We are all aware that in the last few years, the world has been beset by troubles. One of these troubles has already required the deployment of United States military forces in a war against Iraq. Another troubling situation is still bubbling away on the Korean Peninsula, sometimes at a low simmer, sometimes looking like it is coming up to a boil. One of the critical lessons we learned from the Persian Gulf war is that, in a threatening situation or during the conduct of a war, a military commander cannot have too much information, too many maps, or too many "looks over the hill" to see what the enemy is doing. The Department of Defense's "Final Report to Congress on the Conduct of the Persian Gulf War" in 1992 noted that:

> Imagery was vital to Coalition operations, especially to support targeting development for precision guided munitions and Tomahawk Land Attack Missile attacks, and for BDA [bomb damage assessment]. Operations Desert Shield and Desert Storm placed great demands on national, theater, and tactical imagery reconnaissance systems. The insatiable appetite for imagery and imagery-derived products could not be met.

The U.S. Defense Mapping Agency had to use Landsat and SPOT data to create maps for the U.S.-led coalition's use in that war.

Mr. President, our national ability to meet that "insatiable appetite" has

not improved in the intervening years. The "Final Report to Congress on the Conduct of the Persian Gulf War" went on to note that:

The SR-71 could have been useful during Operation Desert Shield if overflight of Iraq had been permitted. In that case, the system would have provided broad area coverage of a large number of Iraqi units * * *. During Operation Desert Storm air operations, the SR-71 would have been of value for BDA [bomb damage assessment] and determining Iraqi force dispositions.

It is for this reason that I again, as I had in a letter to the Secretary of Defense before the war with Iraq, broached the subject of bringing the SR-71 Blackbird reconnaissance aircraft out of forced retirement.

In 1991, my suggestion to then Secretary of Defense Cheney was not adopted. The SR-71 program had been terminated as a full-fledged operational activity involving 12 aircraft in 1990 on the grounds of cost, lack of need due to the end of the cold war, and the promise of follow-on systems then in development. The follow-on to the SR-71 has since then also been canceled. The SR-71 Blackbird remains our sole manned, survivable, penetrating reconnaissance aircraft. The Congress had acted to preserve that capability. In June, 1990, the Secretary of the Air Force directed the Air Force to "place three SR-71A aircraft and six associated reconnaissance sensors and electronic countermeasure suites into long-term storage, rather than a flight ready status, as a hedge against a protracted conflict some time in the future." This was a far-sighted move. I believed in 1991 that we should have taken advantage of that foresight, and I continue to believe that we should take advantage of this fortuitous circumstance and create a contingency capability for the SR-71 in the face of the potential for conflict that continues to exist on the Korean Peninsula. Our military forces deserve access to every tool that we can provide, particularly tools of such demonstrated capability and need.

Unmanned aerial vehicles, or UAV's, have been touted as a penetrating and survivable follow-on to the SR-71 and, indeed, in a few years they may be developed to that point. Very high expenditures are under consideration for a family of various UAV's, amounting to almost $2.3 billion over the next 5 years. The funds for UAV development have come in part at the expense of upgrades and overhaul to other existing airborne reconnaissance platforms like the U-2 and RC-135, which unlike the SR-71 are not survivable over hostile territory. While potentially useful, the current program of UAV development is extremely ambitious and may not be fully attainable in the current constrained budget environment. The SR-71 is a cost-effective stop gap that makes use of existing, but still state of the art, equipment to fill an inarguable gap in battlefield intelligence. I do not view it as a competitor of UAV's—I support funding for an effective tactical UAV program.

The SR-71 as an aerial surveillance system complements other "national technical means," as satellite systems are euphemistically termed. A 1991 report by the Office of Technology Assessment, "Verification Technologies: Cooperative Aerial Surveillance," cites a 1990 report to the Department of Defense that states:

The existence and utility of reconnaissance satellites is accepted . . . Satellite orbits are highly predictable. It is taken as a given by each side that the other will refrain from some activities, which would otherwise be observable, during a satellite pass—once or a few times a day, say for a total of 20 minutes. The long advance predictability of reconnaissance coverage makes it possible to hide, by careful advance scheduling, even very large and elaborate activities. Each side might worry, in the extreme case, that preparations for war or treaty breakout could thus be hidden.

The scheduling and route flexibility provided by aircraft platforms such as the SR-71 make it very nearly impossible to avoid detection. Properly employed, there should be no advance warning of when or where an SR-71 might fly. Given the repute of the North Koreans in concealing their facilities and installations even in peacetime, this flexibility might be essential should tensions escalate or hostilities erupt on the peninsula.

"National technical means" of intelligence collection will remain essential, but have some limitations, as I have just illustrated. Another weakness of current satellite intelligence systems, but a strength of the SR-71, is the ability to provide synoptic broad area coverage of large swaths of ground, needed for monitoring overall enemy forces dispositions and for specialized and updated mapping. Prior to the Persian Gulf war, the United States acquired Landsat and SPOT satellite images from which to build maps, because United States intelligence systems were swamped trying to monitor Iraqi military activities. Buying Landsat and SPOT imagery for these needs was a stopgap measure. We might not be so fortunate the next time a crisis arises. Nor may we benefit from 6 months to prepare for a conflict, as we did during the Persian Gulf conflict. Military reconnaissance missions' requirements for timeliness often exceed the current capabilities of civilian satellite systems. According to a 1993 Office of Technology Assessment report, "The Future of Remote Sensing From Space: Civilian Satellite Systems and Applications," Landsat satellites pass over any given place along the equator once every 16 days, while SPOT passes over once every 26 days. Each system may require weeks to process orders. The report goes on to state that "existing civilian satellite data are not adequate to create maps with the coverage or precision desired for military use."

The same report also notes that because other nations control some of the most capable civilian satellite imaging systems, they could in the future deny the United States access to their systems. Additionally, since all countries now generally follow a nondiscriminatory data policy, any purchaser can buy imagery at the same price and on the same delivery schedule. This means that in the future, Iraq or some other belligerent could purchase Landsat, SPOT, and other civilian satellite imagery to prepare their own battle maps for their troops or for their own future cruise missile systems. During the Persian Gulf conflict, both the SPOT and Landsat organizations cut off Iraq's access to satellite imagery, but such cooperation is not assured in the future as more and more companies and countries attempt to enter the satellite imaging business.

The SR-71, on the other hand, could have provided photographic coverage of Iraq in under 3 hours of flying time. It could have covered the country at regular intervals—daily or every several days, if necessary—to help update battle maps showing the widely dispersed Iraqi troop positions. Such missions might also have helped to reveal other Iraqi activities involving their nuclear, biological or chemical weapons industries that were uncovered only with great effort after the war. With electronic intercept sensors available for the SR-71, Iraqi air defense equipment could have been pinpointed prior to bombing raids. And with a different camera, the SR-71 could have followed bombing missions in to provide post-bombing damage assessments. An existing radar suite allows the SR-71 to support U.S. forces even in bad weather or at night, helping to keep an unblinking eye on every movement of enemy forces.

In any future conflict, the capabilities of the SR-71 would augment support to U.S. combat forces. A limited contingency capability involving three aircraft can be reconstituted for as little as $100 million, and maintained in standby status for under $50 million per year, according to estimates provided by the Defense Airborne Reconnaissance Office and by the contractor. The contractor is confident enough in these estimates to willingly accept a cap on the amount provided for the reconstitution of this capability. Over $700 million worth of spare parts remain in storage, ranging from spare engines to spare tires. By basing the contingency aircraft with the NASA-operated SR-71 fleet that is used for scientific studies, additional savings are possible for sharing support equipment. In this scenario, 12 months of operations would include one 30-day deployment in which 10 overflights would be

conducted. If or when military tensions escalate, the operating tempo could be readily increased to meet the needs of the local commanders.

More creative use of the SR-71 is possible even while the aircraft remain in contingency status. In March, 1993 for instance, the United States used Landsat and SPOT data to create maps of the former Yugoslavia in order to support airdrops of food and medical supplies to towns and cities under siege in eastern Bosnia. With the greater resolution and finer detail achievable with SR-71 imagery, greater precision in airdrops would have been possible. Similarly creative use of the system is possible in support of humanitarian efforts now underway in Rwanda and Zaire, without drawing national collection systems away from other areas of interest.

Finally, I would note that an overflight by an SR-71 can be a potent signal to a potential adversary of the seriousness of U.S. intentions. Even moving an SR-71 into a region underscores U.S. intentions to support possible military actions by every means possible. It is a mechanism that the President can use selectively to demonstrate national will as a political instrument. Imagine the message received by an adversary when an unarmed, nonhostile SR-71 aircraft sweeps across their country at high speed—a portent of future waves of bombers that could follow. It is a message that no satellite blinking across the night sky can send.

During the period leading up to the Persian Gulf war, a political decision was made not to overfly Iraq, despite the potential intelligence that might be garnered for the United States and the coalition forces. But to conclude from that decision, as some have, that no American political authorities will ever have the "political will" to overfly another country, even when the vital interests of the United States demand it, denies the idea that any lessons were learned from the Persian Gulf war experience. A New York Times article from July 4, 1994, says that "senior officers questioned whether the United States had the political will to use the aircraft against North Korea, its likeliest target." I reject the assumption that we are incapable of learning from the past. It is not the job of military officers or professional intelligence officials to second guess the political will of our elected national leaders. Far better for the political authorities to have an instrument in hand to use if necessary, than to deny them the opportunity to use it by assuming that the Nation's leadership will never have the political will to overfly a nation if our intelligence needs, and our combat forces at risk, demand it. Reestablishing a limited contingent of SR-71 Blackbird reconnaissance aircraft is a prudent move, and one that I am glad that the conference has approved in this measure.

TECHNOLOGY REINVESTMENT PROJECT

Mr. PRYOR. I would like to thank my good friend and colleague, Senator INOUYE, for his assistance regarding funding for the Clinton administration's technology reinvestment project [TRP]. I am pleased the conferees agreed to fund this important defense conversion program at $550 million for fiscal year 1995.

However, I am concerned about language in this bill requiring the military services to exclusively select focus areas for $75 million of these funds. I am specifically concerned that the word "exclusively" would be interpreted to mean that the military services would operate outside of the current structure of the TRP when selecting these focus areas.

I therefore ask my friend, the Senator from Hawaii, whether the word "exclusively" was intended to encourage the military services to operate separate from the other agencies in TRP when selecting focus areas for this important program?

Mr. INOUYE. I thank Senator PRYOR for his question. I can answer by simply saying that it would be appropriate for the military services, in selecting focus areas for TRP, to consult with the other TRP agencies. Indeed, it is our hope that the military services will play an integral role in setting all TRP focus areas. The services have a unique perspective on how to maximize the military utility of these dual use funds. As a result, this subcommittee hopes that the military services will be allowed to actively work within the framework of the TRP to ensure the military utility of TRP funds.

Mr. PRYOR. I thank Senator INOUYE for his leadership and for his assistance with this important program.

Mr. NUNN. Mr. President, I would like to commend the managers of the fiscal year 1995 Defense appropriations bill, Senator INOUYE and Senator STEVENS, for their work in bringing this conference report before the Senate today.

As I well know, the managers faced many difficult choices this year. The defense budget is stretched very thin, even without the many contingencies which the Defense Department has been called on to respond to in recent months. The supplemental included in this bill will help the Defense Department meet the fiscal year 1994 costs of these contingencies without cutting funds from other readiness-related efforts.

I particularly want to commend the managers for their efforts in preserving the requested funding for the Cooperative Threat Reduction Program. Now that many of the international agreements are in place, I believe this program is ready to move forward more rapidly. The full funding of the $400 million request included in this bill will support projects which I believe will make significant contributions to our national security.

I also want to commend the managers for continuing to fund DoD's efforts in support of the 1966 Atlanta Olympic games, and for providing funding to preserve the bomber industrial base for another year while the Defense Department studies our bomber requirements.

Mr. President, this bill does a good job of protecting the quality of our military forces, but many tough decisions lie ahead. The administration's budget forecasts continued declines in defense spending in years ahead, even as Congress is voting to make further reductions in discretionary spending. At the same time, Secretary Perry and Deputy Secretary Deutch are attempting to find the money to increase military pay raises above the levels currently included in the administration's budget, which I believe is essential.

I remain concerned that the projected funding levels for national defense over the next several years will not be adequate to maintain the current readiness of our forces; provide for their needed modernization; support the compensation and quality of life improvements that we all want for our military members and their families; and still support the force structure necessary to carry out the full range of missions that we expect our military forces to be able to carry out.

Finally, as the new fiscal year starts on Saturday, our troops are deployed in Haiti. The costs of this operation are not included in the fiscal year 1995 authorization and appropriation bills, and will have to be addressed in a supplemental next year. The defense budget is going to continue to be under enormous pressure in the months and years ahead.

DON RICHBOURG

Mr. INOUYE. Mr. President, as a final note before we adopt the conference report, I wish to call attention to the dedication and service of a member of the professional staff who will not be with us to work on the Defense appropriations bill next year. He is a thoroughly competent professional, a quiet man whose depth of knowledge of the appropriations process is unmatched. He has earned the respect of the Senators and Senate staff with whom he has worked for the past 25 years.

Mr. President, I am pleased to have this opportunity to recognize Don Richbourg, a member of the professional staff of the House Appropriations Committee. I have worked with Don for many years, first on the foreign operations bill and more recently on the Department of Defense appropriations bill.

Mr. President, Don Richbourg has served the Congress well. He has served

the Nation well. We will miss him, and we wish him well.

Mr. President, has all time been consumed?

The PRESIDING OFFICER. All time has expired.

Under the previous order, the conference report on H.R. 4650, the Department of Defense Appropriations Act, is agreed to.

The conference report on H.R. 4650 was agreed to.

The PRESIDING OFFICER. The motion to reconsider that vote is laid upon the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

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

The bill clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the bill (H.R. 4649) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes," and concur therein with an amendment.

Mr. HELMS. Mr. President, as I understand it, the amendment sponsored by Senator DOMENICI and Senator BOREN is the pending business. Is that correct?

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator is correct. That is the pending question.

Mr. HELMS. I thank the Chair.

Mr. President, a lot of people who profess to admire Thomas Jefferson do not want to get even in the vicinity of the positions that Thomas Jefferson took. One of the great books that all Senators ought to read is a little book written by Thomas Jefferson, entitled, "Manual of Parliamentary Practice for the Use of the United States Senate." In this book, which is sort of a second Bible to me, Thomas Jefferson implicitly but nonetheless clearly warned those who in the name of institutional reform or ending gridlock or any other such contrivance seek to alter the rules which govern debate in the Senate.

Jefferson clearly sounded a warning which is being ignored time and time again. You hear all of these arguments about changing this rule and changing that and expediting this procedure. I wish Thomas Jefferson could come in that door and say, "Look here, fellows. Stop it." In my judgment, if Tom Jefferson were around today, he would disdain those who propose to change the Senate rules. In 1801, 12 years after the convening of the first Congress, Thomas Jefferson wrote this:

> Nothing tended to throw power into the hands of administration and those who acted with a majority of the House of Commons, than a neglect of, or a departure from the rules of proceeding.

Parenthetically, let me say, he was talking about rules of proceeding of the Senate. He was talking about those who might propose to change these rules. Then he continues. He said:

> * * * that these forms [rules], as instituted by our ancestors, operated as a check and control on other actions of the majority, and that they were in many instances, a shelter and protection to the minority against the attempts of power * * *
>
> * * * and whether these forms be in all cases the most rational, or not, is really not of great importance.
>
> It is much more material that there should be a rule to go by, than what the rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members.

Unfortunately, Mr. President, there are some among us who are poised to head down the very path that Thomas Jefferson warned us not to take.

I have reviewed the recommendations of the Joint Committee on the Organization of Congress, and I acknowledge that the pending amendment contains some proposals of which I approve, such as the abolition of joint committees, limiting committee assignments, and the reduction in the size of personal office staffs and committee staffs. I am all for those.

But there are proposals that I believe Thomas Jefferson would reject out of hand—for example, the projected restrictions on the ability of a Senator or a group of Senators to debate and examine legislation could ultimately fracture the constitutional balance of power which has existed between the two Houses of Congress since the year 1789.

I do not make this observation lightly. There is no right as essential to maintaining our freedoms, nor is there a right as misunderstood, as the right of unlimited debate in the Senate of the United States. For more than 200 years the Senate has wisely guarded its role as a check on the "passions" of the House—to use James Madison's words—and as a court of last resort for the views of a minority—be it a minority of one Senator, a minority party, an ideological minority, or a regional minority. We must not do harm to unlimited debate.

In 1841, John Calhoun fought against the rechartering of the Bank of the United States. In debate, he remarked that what set the Senate apart from the controlled atmosphere of the House was:

> * * * the minority's unquestioned right to question, examine, and discuss those measures which they believe in their hearts are inimical to the best interests of their country.

As a result of Calhoun's fight, the Senate's role as the forum for protecting the rights of the minority became an accepted facet of American Government. Last year, a group of western Senators—Republicans as well as Democrats—used the same tactics, practiced by Calhoun and others, to prevent the majority of both Houses from trampling on the rights of sparsely populated States which derive substantial revenue from those who use public lands. If the right of unlimited debate had been curtailed, the needs of this regional minority would not have been served. The filibuster forced a recalcitrant Congress and adminisration to pay attention to those who otherwise would have been ignored, as if they were a ship passing in the night.

The so-called parliamentary reform advanced by the plan of the Joint Committee is the abolition of the right of unlimited debate on a motion to proceed to the consideration of a bill. Because recent Senate custom has allowed the majority leader to move to consideration of legisaltion at his pleasure, this change will represent a major expansion of the majority leader's power to set and dictate the Senate's schedule.

The majority leader is supposed to lead the Senate but he is not supposed to dictate to it. And that line has been crossed time and time again. The reform package would also require a three-fifths majority to overturn a parliamentary ruling of the Chair after cloture is invoked, again broadening the scope of the majority leader's power.

Mr. President, it is clear to anybody who reads the history of the Senate that the Founding Fathers never intended that any Member of the U.S. Senate, including a majority leader, assume the trappings of the Speaker of the House of Representatives who singlehandedly controls the timing of debate, controls interpretation of the rules of the House, and through his surrogates on the Rules Committee, even controls what amendments will or will not be considered by that body.

If and when the Senate majority leader—regardless of which party, and there are a lot of folks hoping that the mantle of control moves from one party to the other after the November election—is allowed to acquire such powers, and this legislation is the first step toward that, the Senate will be reduced to being nothing more than "an

appendage of the House," as the distinguished President pro tempore, the Honorable ROBERT C. BYRD, has so eloquently noted in his history of the U.S. Senate.

There is no Member of this body who understands more clearly what is at stake here than Senator BYRD. I look forward to his remarks on the pending amendment. Senators had better heed it because he knows what he is talking about and he knows what is afoot.

Those who have argued for the elimination of unlimited debate contend that in a democracy the majority must always rule.

I dissent from that with all my being, and I call attention to a guy named Pontius Pilate, who abdicated his responsibility to a mob. Must the mob always rule? That position is at odds with the very principles upon which this Government was built. Do not forget how we honor the men whom we call our Founding Fathers and what they created at Philadelphia over 200 years ago. They got down on their knees and they prayed for guidance in the creation of this country, because they understood that nothing can be created if there is no Creator. The Founding Fathers viewed the Senate as the last check—the last check—on the potential excesses of the House of Representatives and the executive branch. Without the power to filibuster, the Founding Fathers' plan would be decimated, destroyed. During his first days in the Senate, a man named Lyndon Johnson discovered why the Senate's prerogatives must be carefully protected. Here is what Lyndon Johnson said:

> If I should have the opportunity to send into the countries behind the Iron Curtain one freedom and only one, I know what my choice would be * * * I would send to those nations the right of unlimited debate in their legislative chambers * * * If we now in haste and irritation, shut off this freedom,—

Meaning in the U.S. Senate,

> we shall be cutting off the most vital safeguard which minorities possess against the tyranny of momentary majorities.

Mr. President, it is true that from time to time there have been abuses of the right of unlimited debate. At times, unlimited debate has been inconvenient to some. How many times do we hear, "Well, I have to catch a plane, I have a fundraiser back home, and if you keep on talking, I will miss my plane." I always say to them, "You ought not to have made the plans to go home on a working day."

This system was not designed for the convenience of a President of the United States, or the whims of a majority leader, or any party. This system was designed to protect all citizens from the dangers of hurried, arbitrary, and ill-considered legislation. And the Lord knows a pile of it flows through this Senate Chamber every year.

The current rules of the Senate strike a necessary balance between the need of the Senate to carry on its business and the need to ensure that the minority is not overwhelmed by the majority, because as history shows, a majority in this town is not always in step with the wishes of the American people. I could cite a number of pieces of legislation this year and last year that are in that category. The defeat of the President's so-called job stimulus package last year is just one prominent case where the majority was proved wrong.

So if the Senate is really concerned and really serious about reform, it should not dispose of the rules which have made this body the most powerful Upper Chamber in the world. Instead, the Senate should focus on: First, ethics reform; second, making the laws we pass here in the Senate Chamber applicable to Congress—Senators and Members of the House of Representatives; and third, a plan for using unspent Senate funds to reduce the Federal deficit and get that burden off the taxpayers' back. These are meaningful reforms, which would increase public confidence in, and respect for, the U.S. Senate.

I close, Mr. President, with words from a reporter's account of an address delivered by Vice President Aaron Burr on March 5, 1805. That was the day of his departure from the Senate. Aaron Burr's speech has been described as "the most dramatic ever delivered before the Senate." I think it is proper to close my remarks by quoting from that speech, or at least the reporter's account of what Burr said:

> He [Vice President Burr] further remarked that the ignorant and unthinking affected to treat as unnecessary and fastidious a rigid attention to rules and decorum. This House, said he, is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

That is a very, very interesting comment by Aaron Burr. I thank the Chair.

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. LEAHY. 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. LEAHY. Mr. President, I ask unanimous consent I be allowed to proceed as in morning business for a period of time not to exceed 10 minutes.

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

IN MEMORY OF HARRY NALTCHAYAN

Mr. LEAHY. Mr. President, a couple of weeks ago, I was at my home in Vermont and received a call from Washington that Harry Naltchayan, the preeminent photographer of the Washington Post, had died unexpectedly.

Harry had been a photographer at the Post for 35 years, over a third of a century. I first met him when I was a very, very junior and very new Member of the U.S. Senate and I had taken my family to the premiere of the first Star Trek movie. We had gone, after the movie, to the Air and Space Museum, where the cast was meeting, and I had with me children ranging from about 5 or 6 years old to around 12.

Harry was there, looking for a photograph to take. He took photographs of the children talking with the cast. Frankly, I was far more pleased with that than I would have been with a picture of myself. I must say, they photograph a lot better than I. But he went beyond that. He had checked their names, where they lived, made up some prints, and sent them to them.

That was about 18 or 19 years ago, and my children to this day—now grown, two married—have those prints. And over the years, members of the LEAHY family have received other copies of pictures that Harry took.

He was an extraordinary person. It got so that anytime I went to something or saw a head of state visiting or a Presidential visit or major event at the White House, we would see Harry Naltchayan, a large, affable man with a poet's use of the camera. He would always holler out to me, I would see a great smile, and a flash would go off.

About a week ago, I was at an event where the White House press corps and White House photographers were, all of whom are extremely good—prize winners, excellent people. But I went over to them and I said that as much as I enjoyed seeing them there, I felt a sense of sadness not seeing Harry, because I think it was one of the first times I had been to something where he was not.

I feel so extremely sorry that this wonderful man, a great husband, father of some of the nicest children you might know—his daughters, Anie and Joyce, and sons Neshan and Haik. And, of course, his wonderful wife for all these years, Elizabeth. It is a shame that they could not have him for so many more years. But it is a great benefit to all of us, and to the people of this city, that we have had him for so many years.

So I am sorry to see a good friend go, but I am so proud of what he has left behind, with his family, his friends, and a tremendous body of work.

I ask unanimous consent the obituary that appeared in the Washington Post of September 17 be printed in the RECORD.

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

[From the Washington Post, Sept. 17, 1994]

PHOTOGRAPHER HARRY NALTCHAYAN DIES; WORKED FOR THE POST FOR 35 YEARS

(By Martin Weil)

Harry Naltchayan, 69, a photographer for The Washington Post for 35 years who won many awards and was widely recognized for his artistic gifts and personal charm, died yesterday after suffering a heart attack at his home in Annandale.

Adept in many areas of photography, Mr. Naltchayan showed a particular talent for portraiture, which he used to great effect in chronicling the Washington social scene at the White House, along Embassy Row and elsewhere. Among the city's movers and shakers, Mr. Naltchayan was recognized and welcomed for the quality of his work and for the warmth and humor of his vibrant personality.

A sophisticated man with a working knowledge of five languages and a feeling for the human condition, Mr. Naltchayan was a photographer and amateur athlete in his native Lebanon before coming to the United States in 1958 to make of his life an immigrant's success story.

He covered every president since Eisenhower, cut an imposing figure at work in his tuxedo at White House dinners, and was himself a guest at a State Dinner during the Johnson administration.

Photography was one of his life's constants. "He loved the business," said Jim Atherton, a former Post photographer editor. "That's why he was still working."

Although Mr. Naltchayan, with his white hair and air of old-world wisdom, seemed especially at home on the diplomatic circuit, he "went out and did the best he could" on the full variety of assignments that came the way of a newspaper photographer, Atherton said.

The assignments included crime and civil disorder. In the midst of some of those events, colleagues at The Post often got a chuckle from communicating with Mr. Naltchayan via his two-way car radio.

Invariably and eagerly, he responded "four-10" in place of the standard "10-four" familiar to citizens band radio enthusiasts and followers of television police stories.

"He was a real pro," Atherton said. "Fun to work with and always an asset to the staff."

A member of an Armenian family that settled in Lebanon, Mr. Naltchayan was born in Beirut and educated there at the College de St. Gregoire.

Photography was an early interest, as was bicycling. He and his brother Jean, were cycling champions as young men. In 1952, while they were pedaling along the Mediterranean shore, they came upon an event that helped determine Mr. Naltchayan's life.

The French liner Champollion, carrying pilgrims to Jerusalem, had run aground. Panic-stricken passengers were jumping overboard.

Mr. Naltchayan grabbed his camera. The pictures were exclusives. They appeared in magazines worldwide.

Later, Mr. Naltchayan received many assignments in the Middle East from news organizations, and he worked for the U.S. Embassy in Beirut.

Amid the factionalism of Lebanese politics, this association made life dangerous for Mr. Naltchayan and his wife, according to Washington photographer Fred Maroon.

"He probably would not have lasted if he stuck around," Maroon said. The Naltchayans came to Washington in 1958, and Maroon hired Harry Naltchayan as his assistant until a job opened at The Post.

"He had class," Maroon remembered. "He was a real gentleman."

Mr. Naltchayan was also a prominent figure in the Armenian American community in the United States.

"I don't think there was a celebrated Armenian in the country that he didn't cross paths with or get close to," Maroon said.

At the Post, recalled Dick Darcey, a retired director of photography at the newspaper, Mr. Naltchayan quickly demonstrated a variety of skills.

Faced with the need to get to a story quickly, he "drove like a French cab driver," Darcey said. He also demonstrated a gift for portraiture. Confronted by newspaper deadlines and the need to work quickly, Mr. Naltchayan snapped away on the fly at diplomatic receptions or embassy dinners.

Yet, when the pictures appeared the next morning, Darcey recalled, there frequently would be a telephone call from the ambassador of this or that country or from his wife, saying that their spouse had never been shown to such advantage.

"There's a special talent in photographing people," Darcey said. "Harry developed that talent."

Mr. Naltchayan won numerous honors, including at least four first place awards in the White house News Photographers Association contest and three first places in the Washington-Baltimore Newspaper Guild's Front Page contest.

In 1982, he won first prize in the World Press Photo Competition for a picture of President Reagan with three former presidents as they prepared to depart for the funeral of slain Egyptian president Anwar Sadat.

In addition to his brother, Mr. Naltchayan is survived by his wife, Elizabeth, of Annandale; two daughters, Anie, of Arlington, and Joyce, of Annandale; and two sons, Haik, of Annandale and Neshan, of Arlington.

Mr. LEAHY. Mr. President, I see a colleague on the floor and I yield the floor to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2600 TO H.R. 1137

Mr. BAUCUS. Mr. President, Yellowstone National Park is a unique and fascinating place. Back in the 1850's, Americans first heard about Yellowstone's geothermal features from an old mountain man by the name of Jim Bridger.

He told about a place where water ran so quickly it heated the stream bed through friction—this explained why steam rose up from the edges.

He told folks about how you could cook a trout without taking it off the line—just catch the fish in the Firehole River and swing it into one of the steam cauldrons on the river's bank.

Well, folks in the 1850's were a little hard pressed to believe Jim Bridger. Today, however, millions of Americans have visited Yellowstone to see the geysers and mudpots and hot springs that make this such a singularly special place.

On behalf of myself and Senator BURNS, I submit an amendment to H.R. 1137, as reported by the Senate Energy Committee, that guarantees that Yellowstone will remain the marvel that it was, is, and should always be.

Last week, the Senate Energy Committee reported out H.R. 1137, the Old Faithful Protection Act of 1994. Unfortunately, this legislation, as reported, doesn't live up to its name.

During the committee's debate on this legislation, an amendment was accepted which substantially weakens the protection that Yellowstone National Park, this Nation's first national park, clearly deserves.

As amended, H.R. 1137 protects Yellowstone against damaging geothermal development in Montana but allows such development to occur in Wyoming and Idaho.

This approach makes about as much sense as leaving your wallet in the backseat of your car but only locking one door. Yellowstone deserves more than that.

My amendment restores complete protection to Yellowstone's world famous geysers, paint pots, mud volcanoes, and hot springs. It is identical to the original substitute amendment that was offered by Senator BUMPERS and accepted during the Energy Committee markup.

My amendment forbids geothermal development on Federal lands within approximately 15 miles of Yellowstone's boundaries.

It permits Montana, Idaho and Wyoming themselves to regulate geothermal development on State and private lands within this 15-mile buffer zone provided that each State develops a regulatory program that adequately protects Yellowstone.

My amendment is drafted so that Yellowstone Park is protected, private property rights are respected, and the appropriate role of the States in managing the water resources is recognized. It has the uniform, bipartisan support of the Governors of Montana, Idaho, and Wyoming.

While I recognize that time is short, I believe that there's very little more important than maintaining the integrity of Yellowstone National Park.

We owe it to future generations to preserve Yellowstone so that they can see the same wondrous sights that Jim Bridger saw 140 years ago. This amendment goes a long way to achieving as much, and I urge my colleagues to give it their strong support.

The amendment (No. 2600 to H.R. 1137) appears in today's RECORD under "Amendments Submitted."

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment 2599 to amendment 2594.

Mr. GRAMM. Mr. President, parliamentary inquiry. If I ask for the regular order, would that bring the Gramm crime amendment to the D.C. bill back before the Senate?

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator is correct.

AMENDMENT NO. 2585

Mr. GRAMM. Mr. President, I want to take this opportunity this afternoon to talk about several issues. Like many Members of the Senate, as we face the end of this session, I have been busy doing many things related to the interest of my State on various bills that are working their way through the body. I have been involved in trying to absorb the President's GATT proposal, which is very difficult since—I do not know about other Members of the Senate, but I have not received the detailed explanations that I had hoped to receive, which has made it more difficult.

So we have had discussion now for several days on the floor of the Senate of issues to which I am at least tangentially related. And so, as a result, I wanted to come talk about them, even though they are not directly related to each other.

First of all, I want to go back to the amendment that is currently pending to the D.C. appropriations bill, an amendment that I offered on Friday. I was ready on Friday to have a vote.

Mr. President, I am not calling for the regular order. I am simply expositing.

At the end of last week, I offered an amendment to an amendment in disagreement on the D.C. appropriations bill that would have brought before the Senate for debate at that moment—in fact, did bring before the Senate—the Republican revisions to the crime bill. It is a very simple provision. Every Member of the Senate understands it.

When the Senate passed the crime bill—I am sure the presiding officer will remember—we voted for a crime bill that cost $22 billion. It went to conference with the Democrats. It came back as a $33 billion bill. The Senate adopted mandatory minimum sentencing for selling drugs to children of 10 years in prison without parole. The bill, as it initially came out of conference, overturned mandatory minimum sentencing for drug felons selling drugs at a junior high school and, in fact, did it retroactively in such a way that it could have let out of prison an estimated 10,000 convicted drug felons.

Needless to say, we had a very contentious debate on the crime issue. There were those who argued, as I did, that if social programs solve crime problems, that our Nation would be the safest spot on the planet. But demonstrably, this is not the safest spot on the planet. So Republicans wanted to offer a crime bill that went back and took $5 billion of pork-barrel spending on social programs out of the crime bill as adopted in the Congress and put back into the bill our mandatory minimum sentencing provisions.

Let me briefly go over those. First, in addition to taking the $5 billion of pork-barrel spending out of the bill, we wanted to guarantee that the $7.9 billion that we provided for prisons was actually spent on prison construction. As all Senators know, there is language in the final bill that is very general as to how this money may be spent. It makes it possible for some of the money to go to alternative correctional facilities. But it was the intention of the Senate that this money go to build new prisons.

It was our hope that we would stop building prisons as though they were Holiday Inns and that we would put prisoners to work. We then wanted minimum mandatory sentencing, 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug felony, 20 years for discharging the firearm, life imprisonment for killing somebody, and the death penalty in aggravated cases.

We wanted 10 years in prison without parole for selling drugs to a minor or using a minor for drug trafficking. As our presiding officer is aware, I am sure, one of our problems in drug enforcement is that minors are often used to deliver the drugs and pick up the money and, as a result, the drug kingpin ends up not being at the critical point where arrests are often made and where evidence collected from that point is in turn used for prosecution. We wanted to try to get at these people to say if you use a minor in a drug conspiracy and you were convicted of it, it was an automatic 10 years in prison without parole, and if you got out and were stupid enough to do it again, you went to prison for life.

We wanted to be certain that we deported criminal aliens. We have the absurd situation today where someone comes into the country illegally, robs a liquor store, is sentenced to prison for 10 years, serves about 18 months of their sentence in a State prison, they are let out of prison, they walk away and then a month later or 6 months later, the Border Patrol or the INS has to try to find him to deport him.

We had a provision in the bill that passed the Senate that said when they let them out of prison, the INS agent was there to pick them up and at that point they were deported. That provision, like our mandatory minimum sentencing for gun offenses and selling drugs to minors, was dropped from the final crime bill.

Finally, we wanted to overturn the provision of law which the President and the Attorney General spent 16 months to try to get adopted, and that is a provision that will overturn mandatory minimum sentencing and circumvent the will of the people of this country, as expressed through the Congress, that is, if somebody traffics in illegal drugs, they go to prison and they serve their full sentence.

Last week, I offered these crime provisions as an amendment to an amendment in disagreement on the D.C. appropriations bill. It was my hope at that point that we would have a debate on the amendment and that we might actually vote at the end of last week.

The distinguished majority leader, who was waiting to get recognition to basically end the debate at that point, asked me to agree in advance, which I was happy to do, that the manager of the bill would be recognized to suggest the absence of a quorum after I offered the amendment to give the majority leader an opportunity to decide how he wanted to proceed with my amendment.

Today is Thursday. This represents 1 week that this amendment has been pending before the Senate. The point I want to make is a fairly obvious point; and that is, I offered the amendment because I wanted to vote on it. I want to pass a crime bill that cuts the pork-barrel spending out of our initial crime effort that was adopted about 4 weeks ago. I want to pass a crime bill that grabs violent criminals by the throat and does not let them go to get a better grip. I offered the amendment last week because I am for the amendment. I believe if we have an up-or-down vote on it, the amendment will probably be adopted. If we divide the amendment into 10 parts, which we can do under the rules, I am certain that at least 5 or 6 parts will, in fact, be adopted.

The House will then be forced to vote on those amendments. If they accept them, then they would become the law of the land—well, they would go to the President as part of the D.C. appropriations bill. If he signed the bill, they would become the law of the land.

Now, since that time, there has been a great deal of suggestion that I am holding up the D.C. appropriations bill. Let me simply repeat that I offered my amendment last week. I was ready last week to debate the amendment, to vote on the amendment. I am ready today to debate the amendment, to vote on the amendment. I am willing to offer the majority leader a time limit on the amendment. I would be happy to have an hour equally divided, have an up-or-down vote on the amendment. I would be willing to have an agreement that if the amendment goes over to the House and they defeat it, that we would drop it for the rest of the session. I would like an agreement obviously, if they accept it, that we follow the regular procedure and, of course, the bill goes to the President and he can sign it or veto it.

So the point I want to make is, that while so many are unhappy that the D.C. appropriations bill has been imperiled by this and other amendments,

my point is that I offered my amendment last week. I have no desire whatsoever to hold up the D.C. appropriations bill. I would like a vote on my amendment. I am ready at any moment to have a short debate on the amendment. I would like to have a vote on the amendment.

I would simply like to say that we have been held up because the majority has not been ready to bring up the amendment.

Now, I am not complaining about it. I think the majority leader is perfectly within his rights to ask that the amendment be set aside to go to other business. I have tried, as I always do, to be reasonable and allow the majority leader to conduct the business of the Senate. But the point I want people to understand is that I want a vote on my amendment. I have no interest in holding up the D.C. appropriations bill. We are getting toward the end of the fiscal year. It will put hardship on the District of Columbia if we do not act. I think it is a terrible indictment of the District of Columbia that we are here still a day or so from the end of the fiscal year and yet they are already gasping for air in that they need this Federal money to spend at the first part of the fiscal year.

But that is another problem on another debate on another day. My point is this: Last week, I offered a crime bill because I am for that crime bill. I believe the American people are for it. I believe the American people do not believe that social spending will solve the crime problem. I believe the American people are for mandatory minimum sentencing. They want to grab by the throat people who use guns in violent crimes and drug felonies. They want to deal harshly with people who sell drugs to minors.

I want a vote on my amendment, and I urge those who express great concern about holding up the D.C. appropriations bill to engage in the debate. Let us set a time limit. Let us vote on my amendment. Let us move on with the D.C. appropriations bill.

On the other hand, I would have to say, Mr. President, that if the majority is unwilling to bring the amendment up to vote on it, when I am willing to do that, when I offered the amendment last week, then I hope they will do me the favor of not saying I am the person who is delaying this whole process.

All I want is a vote on my crime bill. If I am given that vote, I am willing to set a very short time limit on the debate. Let us have the vote. We either win or lose and then we go on about our business. The District of Columbia can go on about its business, and hopefully people will be happy. So I hope everybody understands where I am coming from on that issue.

GATT

Mr. GRAMM. Mr. President, I now want to turn to a discussion of GATT. I think we have had a lot of discussion about GATT. We only recently have received the President's bill. As I said, it is a 600-page bill. I think everybody is trying now to go through it and understand it.

What I wish to do today is to try to talk about GATT in general. I wish to talk about some very real concerns I have about what the President has proposed, but I want to make it clear where I stand on the fundamental issue because I think we are coming down to the moment of truth on this issue. It is a very important issue. In fact, I think those familiar with my record know that there is no stronger supporter of trade in the Congress than I am.

So let me first talk about GATT, the agreement, the procedure, what the President has done, what I object to, where we are, and where I come down on the issue.

First of all, expanding trade is vitally important to the future of America. I oppose protectionism in all of its forms. I think it is absolutely outrageous that we still have a world where protectionism is practiced, where the well-being and living standards of the working people of countries all over the world are artificially depressed to benefit special interests that would lose from full and free competition.

I take a back seat to no person in the Congress on the issue of supporting free trade.

The GATT process is a very important process. It represents one of the great achievements of the postwar period. I give Ronald Reagan a lot of credit for winning the cold war, for rebuilding the fence, for recruiting and retaining the finest young men and women who have ever worn the uniform of our country, for leading America, for pressuring the Soviet Union in tearing down the Berlin Wall, for liberating Eastern Europe and transforming the Soviet Union. But the most important ingredient in building the post-World-War-II world, the most important ingredient in winning the cold war, was trade. Trade made it possible to rebuild Europe. Trade made it possible to rebuild the economy of Japan. Trade made the economic miracle in Korea and Taiwan possible, and the growing wealth machine that was created by world trade ultimately applied such immense pressure that it mutated communism in China and it collapsed the Soviet Union internally.

GATT is a continuation of that process. As a continuation of that process it deserves our attention. I believe that the process itself deserves our support.

One of the objections that I have—and it is a very strong, profound objection—is that when the Clinton administration came into office, one of the changes it made to the GATT proposal was, for the first time, to make it possible for nations under specific sanction of the GATT to engage in industrial policy.

This was a new facet of the agreement reached by the Clinton administration. While the language in previous trade agreements had been either silent or vague, and I think painfully so, for the first time ever, under the agreement negotiated by the Clinton administration, it will be acceptable government policy under GATT for countries to engage in industrial policy. With GATT approval they can specifically set out a policy within the country to use government resources, government privilege, government favor to try to foster industries that are under political favor by the host country.

I think that is a very bad mistake. I think it flies in the face of everything we know about economic development. I think it is counter to the overall objective of trade and competition and free enterprise, and I strongly oppose it.

One of the things, however, that you have to condition yourself to in a democracy is that you lose elections. When the American people elected Bill Clinton, they in essence moved the country toward a greater role for Government in the economy. In the process, part of what they voted for, whether they knew it or not, was a movement toward having the government participate in an activity of choosing winners and losers in the economic process. I have no doubt about the fact that the country will be poorer and less free as a result of that policy.

When it got down to the bottom line in looking at the industrial policy built into the GATT agreement, which provisions I adamantly oppose, and the overall GATT agreement, which will lower tariffs, which builds on our success in the postwar period, and which is, I believe, essential to expanding world trade and continuing the world wealth creation process in motion, I decided that this is one of these provisions you have to swallow hard and you have to accept.

So while I am strongly opposed to the industrial policy section of GATT, it is far outweighed by the positive aspects of the GATT agreement. If I believed that we could put GATT on hold until 1997, when I hope and believe we are going to have a new President, and we could renegotiate GATT and take this industrial policy stuff out, I would do it.

Let me tell you, however, that I am afraid that if we let Humpty Dumpty fall off this wall, we may not be able to get him back together again. And so while there would be gain in waiting for a new administration for a new GATT without this industrial policy provision, I think it is inherently dangerous to do it. I am afraid that we

could have growth in protectionism in the world. This is one of these unhappy occasions where if you lose an election it makes a difference; it changes policy. But that is what democracy is about.

Since the President has negotiated the GATT agreement, I would like to remind my colleagues that the GATT agreement was completed 9 months ago, over the last 9 months the President has been involved in a political process, trying to put together votes for GATT primarily by negotiating with members of one party, the Democratic Party.

Under our trade agreement procedures that we follow in Congress, we have what is called fast track. To the average guy that means absolutely nothing. To the trade process and to Congress, however, it means a great deal. What it means is that we have found in the past that you cannot go out and negotiate a treaty on trade with another country, or in this case with 125 countries, then bring the agreement back to Congress with the prospect of Congress rewriting it. You just would not have any hope of negotiating trade agreements.

So Congress reluctantly agreed to the process of the fast-track procedure, whereby the President's trade agreements were not subject to amendment. Congress had to accept them or reject them. It is a procedure that I support. I think there is no logical alternative to it if you want to expand world trade. Until the President submitted this GATT agreement, the procedure had been one where he submitted the agreement that had been reached internationally, and Congress either accepted it or rejected it. In each and every case we have accepted it.

What the President has done on this agreement is that he has fundamentally changed the fast-track process. Quite frankly, Mr. President, I worry that President Clinton may well have killed the fast-track procedure with this bill, because this bill is full of provisions that have absolutely nothing to do with the GATT agreement. Whereas, the Congress passed the fast-track process to allow the President to get an up-or-down vote on his trade agreement, what we are seeing now is all kinds of provisions in this bill, which we cannot amend, that have absolutely nothing to do with the GATT agreement that was signed 9 months ago.

Let me list some of these provisions.

We have a textile and apparel provision having to do with the rules of origin, that has nothing to do with GATT, that is counter to the stated objective of GATT, and that has only one purpose. That purpose is to buy votes in the Congress, from people who fundamentally are against expanding trade, by changing the rules of origin in such a way as to restrict imports and make working families in America pay more for clothing. This provision has absolutely nothing to do with GATT.

Mr. President, I am not opposed to the process of putting together bills and cutting deals. That is something that happens in Congress every day. I think some people are outraged by it, but I think it is a fact of life, and I am not criticizing the President for it.

What I am criticizing the President for is that this textile protection provision has nothing to do with GATT, and it should never have been put into this bill under fast-track procedures. This is something we should have been able to debate, to have amended, and to have thrown out of the bill or modified if we wanted to do it. What the President has done, in my opinion, is that has jeopardized passage of another fast-track bill because he has put in provisions that have absolutely nothing to do with the GATT agreement.

The President's bill extends the generalized system of preferences. This is not part of GATT. It has nothing to do with GATT. It is something that ought to be dealt with independently. The bill renews the Super 301 legislation, which is legislation whereby protectionist measures can be imposed if someone in the country claims that they are facing unfair trade practices. Mr. President, I am not wild about the Super 301 provisions, and I readily admit it. But the point is that these provisions have absolutely nothing to do with GATT.

We have in this bill a reform of the Pension Benefit Guarantee Corporation. That has absolutely nothing to do with GATT.

Mr. President, in order to pay for the GATT bill, since GATT loses revenues under the way we score bills—quite frankly I would like to change the way we score bills, because everybody knows that GATT will create jobs, that GATT will generate Federal revenues, and that the country will be a winner from the overall GATT agreement. I would like to see us change the way we score bills so we could look more realistically at things like GATT and at things like cutting the capital gains tax rate. But the current law of the land says that this bill loses money. And so under our budget process, the President had to come up with a way of paying for it.

We spend $1.5 trillion a year in Federal outlays. In order to pay for this bill, the President had to come up with about $3 billion a year of cuts. He had to save $3 billion out of $1.5 trillion of annual outlays of the Federal Government.

Republicans and many Democrats said to the President, "Do not ask us to waive the Budget Act. Do not ask us to say that we are willing to look the other way and violate a budget agreement which has been one of the few impediments to runaway Government spending and has been one of the few things that has kept the budget from exploding in the last 2 years." What did the President do? What the President did is basically come up with a series of gimmicks and tax increases because the President was unwilling, out of a $1.5 trillion budget, to find $3 billion of spending that was less important than passing the GATT agreement.

I have spent a considerable amount of time talking about it. Let me sum up where we are. The GATT agreement is far from perfect. I do not like the industrial policy parts of it. I do not like the abuse of the fast-track process. If I thought we could defeat this bill and hold the trade system as it is until we have a Republican in the White House and do it again and do it right, I would oppose this bill. But I am afraid that if we let Humpty-Dumpty fall off this wall, we are never going to get him put back together. So what I have decided about the GATT agreement itself, when you look at GATT as an overall agreement, the good in GATT far outweighs the bad in this proposal.

Questions have been raised about national sovereignty. I do not know, Mr. President, who made up the term "World Trade Organization." Whoever did has never run for sheriff in a small county in Texas or anywhere else, because that term is a term that just scares people to death. Most Americans hardly believe in national government. They certainly do not believe in world government. So this has created an outpouring of concern all over the country that somehow we are giving up national sovereignty as part of this agreement.

What we are talking about here is the enforcement of agreements. If you have an international trade agreement, you have to have an organization that prevents people from cheating. For example, we entered into the free trade agreement with Mexico. That free trade agreement allowed us, for example, to shift livestock back and forth across the United States-Mexican border. If the Mexican Government comes in and says that we in the United States use growth hormones for our cattle and, therefore, to protect their people from those growth hormones, they have to restrict American cattle being sold in Mexico, we have to have somebody come in and look at their charge and make a determination as to whether they are violating the trade agreement or whether there is a legitimate concern. In this case, if they did that, they would clearly be violating the trade agreement. Under that agreement, we have a panel made up of Mexicans and citizens of the United States, and what they would do is look at this claim and decide whether it was within the limits of the free-trade agreement. That is what we have in GATT, a dispute resolution process. You cannot have an international trade agreement without such an enforcement process, just as you cannot

engage in commerce without a system to enforce contracts, or in investment without a system of justice that would enforce property rights.

Had others negotiated the agreement, would this World Trade Organization have been structured differently? Probably it would have. Would it have been called a World Trade Organization? Almost certainly not. But I do not see the great threat to national sovereignty here that others have talked about. I do not believe that that concern would justify defeating GATT.

The bottom line is that we are not just voting on the GATT agreement. We are voting on many other provisions that have been added by this administration that have absolutely nothing to do with GATT. Some of these extraneous provisions have profound impacts on the trading system. Others cover everything from pensions to super 301 trade enforcement mechanisms, none of which have anything to do with GATT.

We also are going to have to vote on waiving the Budget Act to bring the bill up. I am still looking at this bill. In the end, I will likely support GATT. But here is where we are. The administration has added so many bad things to the enabling legislation that they are forcing people like me to look at GATT and say, given all these other factors that have nothing to do with GATT that are tied into this bill, is it worth taking all of these rotten provisions in order to get the GATT agreement?

I am not ready today to make that judgment, but I will say this: I know that we have a lot of negotiations underway. I know the distinguished chairman of the Commerce Committee has said that he is not going to bring the bill up until he has had the 45 days established by law. I do not have a dog in that fight. Quite frankly, I hope after the election that we will have a more Republican Senate and House. I hope at that time we will have more support for trade, and perhaps the President would not have to have so many rotten provisions in the bill to get it passed.

But I want to make this point clear: It may be that with a big clothespin on my nose, I can overlook all these rotten provisions which the President has put into the enabling legislation, that have absolutely nothing to do with GATT. It may be in the end that GATT is so important to the future of free enterprise and economic growth and job creation in the world that I can overcome all of these problems in this bill. But if the President cuts one more deal and puts one more rotten provision into this enabling legislation, I am going to oppose GATT and I am going to fight it to beat it.

So I hope the President is listening. I know he is trying to get Democratic votes. I know he is trying to cut deals with them. But at some point, the President is going to begin losing votes of people who believe in trade, people who support GATT. It is already a very heavy, smelly wagon that the President is asking us to pull. Put one more thing in this wagon, and I will not pull it; one more provision and I will certainly vote to sustain the budget point of order. I do not know, I have not gone through the whole agreement, and in the end I may not support it anyway. My inclination is to support it. But if the President adds one more deal, adds another provision, I hope he is getting votes for doing so because he is going to lose my vote,

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

Mr. GRAMM. Certainly.

Mr. FORD. You are talking about cutting deals or adding something to GATT. As I understand, the Finance Committee has already reported GATT out from their committee, and it is on the fast track and it is unamendable. So if it is unamendable, there are no other deals to be cut. Unless you withdraw it and take it back, I do not know how you do that. As I understood the Senator and as I understand the rules of the Senate and fast track, to which he has alluded already, there are no amendments.

So, therefore, regarding the so-called arrangements that are accommodating Senators, as we have seen done around here for the last 20 years, we always try to accommodate Senators and their States and particular problems. So I just wanted to be sure, and I think I am right.

Mr. GRAMM. Let me reclaim my time. Let me go back to my point. There is no doubt about the fact that if the President allows the current GATT arrangement to stand, it is unamendable. But the point I am trying to make is this. Given the substantial roadblock from our colleague from South Carolina, the chairman of the Commerce Committee, there may be a temptation on the part of the White House to pull the GATT provision back to the White House, perhaps looking at withdrawing it and resubmitting it with some further change.

I wanted to say, for the RECORD, that this bill is already laden with a lot of irrelevant provisions, that have nothing to do with GATT. If they add one more provision, I am going to oppose GATT. I am going to fight it hard on the point of order, and I am going to fight it on final passage. I want to be sure they understand that, if they are cutting more deals, engaging in more protectionism with the idea of getting another vote, there is at least one vote they are going to lose. I am hopeful that they are not going to withdraw the bill and start the process over.

I say to the Senator from Kentucky that I do not believe they are going to. But I wanted to make it clear, because I know there are immense pressures, given the position that has been taken by the chairman of the Commerce Committee, and I know the President desperately wants this bill voted on this year. I just wanted to let the President know in advance, because when you believe in trade as strongly as I do, when you are talking about voting against GATT, it is a very serious matter.

We have reached the point where the benefits of GATT relative to the cost of all of these add-on, extraneous provisions is getting smaller and smaller.

Mr. FORD. Mr. President, this is interesting. I thought statutorily, once a bill is introduced, you do not withdraw it. Since it is introduced, I do not believe you can withdraw it. Your staff probably will give you the answer. But my knowledge of the rules and so forth is that you could not withdraw.

Mr. GRAMM. Reclaiming my time, Mr. President. I have been around here long enough to know that ways can be found. For example, on the crime bill, after a conference report was reported, the House went back into conference on that bill. I am concerned that the administration is obviously in trouble on this bill, and their opposition is coming from people who oppose GATT because they do not support more trade. I support more trade.

What I want to be absolutely certain of is that the administration understand that whatever they gain by doing more to restrict trade, to offset the objectivse of GATT, will cause them to lose people on the other side.

I hope that our colleague from Kentucky is right and that there is no possibility the bill will be withdrawn and resubmitted. I do not know in parliamentary terms whether it could happen or not.

I know that if people want to do something, and they are determined enough, and they are clever enough, under our rules they can almost always do it. Certainly, they could have a side deal dealing with another piece of legislation. There are many things that could be worked here.

I am simply trying to say that as a person who wants to support GATT, I believe that the President is making it very, very hard for people like me to support a position which we are very much in favor of. It is already hard. It was hard when the President put industrial policy into GATT. It got harder when the President added a variety of different provisions to the enabling legislation that have absolutely nothing to do with GATT.

I am saying that it is already a close call, and if we go any further, by any means, either by withdrawing this bill or by having a side deal where other bills would be passed as a part of the agreement, which happens all the time and could happen here, whatever the

President gains in votes he is going to lose at least one vote. That is a simple point and that is my point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, this GATT treaty will not go to conference. It has already been to conference and the House and the Senate came together and then the passable treaty language was sent to the White House for them to consider and then send to us.

So, one, I do not know of any statutory provisions that allow them to withdraw. It does not go to conference. What you see is what you get.

I do not understand why the Senator from Texas wants to threaten us with the fact that if he gets something else in GATT he will not vote for it.

I am sure he is aware of side deals. I do not know. I have not been able to culminate a side deal yet. But maybe he knows more about that than I do.

But, one, there is no statutory provision for withdrawing the treaty.

Two, it does not go to conference because it has already been there. So GATT is what you see is what you get. The Finance Committee has already met and they considered it. They have sent it out to the Senate floor. The rules here are the rules.

Under fast track, every chairman who has something to do with GATT has the ability to have that bill assigned to his committee or go to his committee for consideration and has so many days to keep it there.

Now, the time of persuasion is here. So we go from there.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with consideration of the amendments in disagreement to the conference report.

AMENDMENT NO. 2597 TO AMENDMENT NO. 2596

Mr. FORD. Mr. President, the Senator from New Mexico offered an amendment which was Joint Committee on Organization of the Congress legislation. It is S. 1824.

Mr. President, I am not opposed to this piece of legislation. There are an item or two in it that I have agreed not to support.

I favor the 2-year budget very much, but that will not pass. The 2-year authorization is in the bill. So let me kind of go through a little history of what happens.

Mr. President, I oppose the amendment offered by the Senator from New Mexico because this amendment is not the bill which was reported by the Rules Committee.

When the Senate members of the Joint Committee on the Organization of Congress met on November 10, 1993, they unanimously adopted the recommendations of the chairman and vice chairman, Senators BOREN and DOMENICI. Those recommendations formed the basis of S. 1824, as it was introduced in February 1994.

The recommendations contained in S. 1824 called for, among other things: A 2-year congressional budget process, including biennial appropriations; stricter committee assignment limitations; a 2-hour limit on the motion to proceed to legislation; the elimination of all joint committees; limitations on the number of Senate subcommittees; reductions in the number of legislative branch staff; the abolition of standing committees if at the start of a Congress they fall below half their previous membership; and the periodic reauthorization of the legislative support agencies.

However, when the Senate members met, many Members made it clear that they did not support all of the recommendations. As a member of that joint committee, along with Senator STEVENS, I recall that several Senators made known their reservations about some of these recommendations.

At the outset of the Rules Committee's consideration of S. 1824, I said: "Although the Senate members of the Joint Committee voted unanimously to report the recommendation contained in S. 1824, no one should be misled. All the provisions of the bill do not enjoy unanimous support."

It was with that knowledge that several of the provisions of S. 1824 did not enjoy unanimous support, that the Rules Committee began its consideration of the bill in February 1994.

The Rules Committee held a comprehensive series of hearings to consider this legislation. In fact, the Rules Committee held five separate hearings on every aspect of this legislation. The sponsors of S. 1824 appeared before the committee on February 24, 1994.

And in four subsequent hearings, on March 10 and 17, April 28, and May 5, the committee received testimony from other Senators, congressional experts, the leaders of several legislative support agencies, and the former director of the Office of Management and Budget, and now Chief of Staff for President Clinton, Leon Panetta.

The committee hearings on this issue of legislative reorganization built upon the hearing record of the Joint Committee on the Organization of Congress. We had the benefit of all the hearings of the Joint Committee, and then we built upon those in our hearings. Many of the witnesses who appeared before the joint committee were witnesses at the Rules Committee hearings. These witnesses testified on issues ranging from Senate committees and floor procedures to biennial budgeting to oversight of the legislative support agencies.

As I stated, we heard from the former Director of OMB, Leon Panetta. We also heard from James Blum, the Deputy Director of the Congressional Budget Office.

The committee heard testimony on those portions of S. 1824 dealing with the joint committees and the legislative support agencies, including the Library of Congress. Several Senators presented testimony on the importance of retaining the joint committees.

The committee heard testimony from the senior Senator from Rhode Island, the Senator from New York, and the senior Senator from Maryland. These Senators all gave convincing testimony on the role that the joint committees play and the need and importance for their retention.

Another important factor that was considered in retaining the joint committees is that membership on the Joint Committee on Tax, the Joint Committee on the Library, and the Joint Committee on Printing is taken from existing standing committees. In fact, only the Joint Economic Committee is considered a separate standing committee with membership on that committee counting toward a Member's committee assignments. Membership on the Joint Committees on Tax, the Library, or Printing do not count against the limits on committee assignments.

The heads of the legislative support agencies stated their views on provisions that directly affected their organizations, such as the periodic reauthorization of the support agencies, preparation by the support agencies of annual cost accounting reports, and the feasibility of establishing a voucher allocation system for committees and Members using agency facilities and services.

In fact, the Comptroller General of the United States voiced opposition to repealing the permanent authorization of the General Accounting Office. He said that if that permanent reauthorization were repealed, it would subject GAO to partisan political pressure which would jeopardize the agency's independence and credibility.

Several of the other support agency leaders raised concerns about the voucher allocation system, cost accounting, staff reduction, and the applicability of certain Federal laws to their organizations.

All these considerations and views were considered by the Rules Committee when we met on June 9 to mark up the bill. After a lengthy debate and several amendments, the Rules Committee unanimously reported a substitute amendment. At that time, there was concern that S. 1824 included several provisions which would amend the Standing Rules of the Senate. Because the Senate is solely responsible for determining its rules of procedure, it was determined that these matters

should be included in separate resolutions which would be acted on only by the Senate. The substitute amendment to S. 1824 includes those matters that should be appropriately considered by both Houses of Congress.

Mr. President, the Rules Committee acted in good faith to give S. 1824 a full and fair consideration. We built upon the record which was established by the joint committee, and considered the views of the Members of the Senate, and of the legislative support agencies. To adopt the amendment by the Senator from New Mexico, in my opinion, is unwise and ignores the work of the Rules Committee.

More importantly, Mr. President, there is a real institutional concern that is raised by this amendment. It would permit the House of Representatives—I want to take notice of this—it would permit the House of Representatives, the amendment that is now before us submitted by the Senator from New Mexico, to determine the rules of procedure for the Senate. I do not think the House wants us to determine their rules and we certainly do not want them to determine our rules.

As this amendment is drafted, it permits the House to legislatively change the committee structure of the Senate—I do not think we want that—the rules of committees, they can change that, and the rules of the floor procedure for the Senate.

That is the reason we separated these out into resolution form so the Senate could vote on what applied to the Senate and the House could then vote on what applied to the House.

When the Rules Committee considered S. 1824, we separated the rules changes and incorporated those into two separate resolutions. Those resolutions, Senate Resolution 227 and Senate Resolution 228, were reported by the Rules Committee on June 16, 1994.

Senate Resolution 227 would make changes to committee assignments and structure. Senate Resolution 228 contains several provisions to revise Senate floor procedures.

To permit the House to debate our rules, to permit the House to have an opportunity to amend the Senate's rules through legislation is simply wrong and is in direct violation of the Constitution.

Mr. President, the Rules Committee has given this issue its full and fair consideration. In the name of reform, it is inappropriate to disregard the work of one of the Senate's committees, in my opinion. This is not the way we should be considering the reform of the Congress.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I am sure we are not going to be too much longer as far as Senator BOREN and myself.

But I just want to tell the Senate as to the last statements by the distinguished chairman of the Rules Committee with reference to giving the House authority to change the rules of the Senate, clearly, I hope that Senators know both Senator BOREN and Senator DOMENICI well enough to know we would not do that and we do not believe we have done that.

As a matter of fact, we have checked that very carefully. And the reason we put it all in one bill is because we agreed to all of it or none of it when we did this work, at least the principals did. We were not going to consider rules changes in the Senate, which are strictly the Senate's prerogative, if we did not adopt the rest of the bill.

We have been told that it is out of order for the House to consider any changes in that section of this bill that applies to the rules of the Senate. They have no authority, no power to do that. So it is in that context that we put it in. We would not put it in to send them something they could amend or change. They have no power to change, according to our readings from the Parliamentarians in both bodies.

Mr. FORD. I just say to my good friend from New Mexico, the very fact that we allow the House to vote on these rules, they then, in my opinion, are jeopardizing our ability to be the sole decisionmaker for the Senate. So the House rules are going to be voted on by the Senate and the Senate rules are going to be voted on by the House, because this changes the rules of both the House and the Senate and we allow the House to approve or disapprove it.

So, under those circumstances—I think that I am correct; the learned Senator from New Mexico is a lawyer and very articulate and he understands this; he has been through these procedures many times—but when we allow the House to vote on our rules under this amendment, then we are giving up the ability of the Senate to provide its own rules.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, I repeat, it is not the opinion of the Senator from New Mexico that the House of Representatives can do anything to our rules under the procedure we have chosen to follow. We do not believe they have any authority to amend any part of this.

But let me give you my last observations. I hope Senators will not vote in favor of a point of order on this entire reform package because of that argument, because, let me repeat, if the point of order is defeated, then the bill is before the U.S. Senate. And once it is adopted, it is subject to amendment and we could have debates as much as we would like on pieces of it. We could have a full-blown debate on any part, including the part that my good friend, the chairman, alludes to with reference to the rules changes.

I want to repeat my simple argument with reference to why the point of order which is going to be made shortly should not be granted. Frankly, it is kind of amazing—I hope Senators will consider it rather amazing—that we are asked to suggest reforms to the U.S. Senate, streamlining the committee system so that we can get our job done, we do that and we offer that here in good faith, and now we are told that it is subject to a point of order because it did not go to another committee to have an opportunity to look at some piece of it. What an irony.

I mean, here we are suggesting a way to reform, pursuant to a direction given us by this body to help streamline, have your hearings, report a bill, and now somebody is going to come down and say, "Kill the bill because it did not go to the Budget Committee for their consideration."

I really believe that would not be something that most Members would feel very proud of. After it is adopted, they can clearly take pieces of it and debate them and strike them and amend them.

But we just want an opportunity to lay before the Senate the product of the bipartisan, bicameral commission that worked very hard and reported out exactly what is before the Senate.

Now, as far as the Rules Committee, the Rules Committee had hearings and did what it thought it ought to do to the package we recommended. And, in a very real sense, Senator BOREN and I, who worked long and hard for almost a year, think that the package that was presented by the bicameral, bipartisan commission is the best product, better than what the Rules Committee did.

Now, that is nothing without precedent around here. We all vote changes to what committees recommend. It is nothing lacking in deferential treatment toward the Rules Committee. It is just saying that the two of us who cochaired this think this is a better product.

And, again, rather than kill this with a procedural point of order, let it live and let them offer that Rules Committee package as a substitute and let the Senate decide which they prefer, rather than to get rid of reform in one fell swoop with a point of order that seems to me to be the kind of point of order that cries out for a waiver.

Whenever we waive the Budget Act—you understand there is a little provision in there that says it is subject to a point of order unless the Senate in its wisdom decides to waive for good reason. And if there was a good reason to waive the point of order against this, we ought to consider that as a substantive matter.

There is no budget involved. There are no dollars involved. It is just the

process of sending it to the Budget Committee. After it has been heard, reported, and gone to the Rules Committee, send it to one more, and since you have not, you need 60 votes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Madam President, as the Senator well knows, he and I agree on a lot of items in this bill, items that I have long advocated. Some of them are not doable, the support is not there. So you take as large a step as you can.

The Senator from New Mexico indicated that this legislation as an amendment on the D.C. appropriations bill does not break the Senate rules. And I want to reiterate that we looked at the rules of the Senate very closely, and we felt that this package that set the rules of the Senate, the number of committees, the size of committees—and the House vote on what we could or could not do was taking away the authority of the Senate to promulgate its own rules. I think that is simple enough.

So what we did to try to prevent the House from having an opportunity to vote up or down on our rules, to amend this bill, we separated those items that we determined were changing the rules of the Senate, and we put those in resolution form.

Now the Senator says we ought to use that as a substitute. I cannot substitute a resolution for a bill. I have to change the resolving clause, I have to do a lot of other things. So I cannot do that, and I think the Senator understands that.

So I have the two resolutions and an amendment. And if the Senate in its wisdom could approve those two resolutions, then we have a piece of legislation that can go to the House, that those of us on the Rules Committee—and I say to my friend, we have the Republican leader on that committee, Senator DOLE. We have Senator BYRD, who is President pro tempore, on the committee. We have several learned chairmen and ranking members. They indicated this was what they thought we ought to do and supported that position. I am not sure if we had any opposition. It may have been unanimous when it came out of there. But those positions were accepted.

Now, I hate to see the House voting on Senate rules and procedures and the Senate voting on the House rules or procedures. That is not going to work. It is not going to fly. Even though you say you have it fixed, I think, any way you fix it, that if the House is put in a position to vote on ours and we are put in a position to vote on theirs, that we are not doing the right thing as it relates to the rules of the Senate.

I do not want to be cynical. I do not want to be obstructionist. I do not want to do those sorts of things. I want to pass some of these things. And under the circumstances and the rules of the Senate is where we are running into problems here. I think if my colleague would separate out what the Rules Committee had, and do that, you have a better chance of not stumbling and we would have a better chance of making provisions that I think most of the Senators want.

I do not have but two A's and one B. I am fine. So whatever is done under assignments of committees it does not bother me; I have my hands full. I have two committees I am chairman of on each of the majors, so I am really short. I am really short, based on what this reorganization group put forward. So it does not bother me any at all. I think that is all anybody should have. So I am for those things.

But under the rules of the Senate it just will not work. Now, if we get 60 votes then you can do anything you want to—that is the rule of the Senate. But I sure do not want the House telling us and voting on our rules. And I can assure you, Madam President, that the House certainly does not want us voting on the rules and procedures of the House. As long as it is that way, then we are not moving in the right direction.

Madam President, I yield the floor.

Mr. BYRD. Madam President, while I oppose this amendment for a number of reasons, I nevertheless recognize the sincerity of its authors, Senators BOREN and DOMENICI, in bringing this amendment to the Senate. They very ably led a delegation of 14 Senators that served on the Joint Committee on the Organization of Congress. For the past year, that Joint Committee spent a great deal of time and effort looking at ways to reform Congress to make it a more accountable and responsible institution. The product of their efforts was referred to the Rules Committee. On June 9 of this year, the Rules Committee, upon which I serve, ordered reported S. 1824, based on the Joint Committee's recommendations. However, there were a number of changes agreed to by the Rules Committee which, I note, have been deleted in the pending amendment. In other words, the authors of this amendment have reversed the decisions reached by the Rules Committee in perfecting the recommendations of the Joint Committee on the Organization of Congress.

The first of these changes made by the Rules Committee, which this amendment reverses, has to do with biennial appropriations. The Joint Committee recommended a biennial budget and appropriations process. During the Rules Committee markup on June 9, I offered an amendment to delete the provisions relating to biennial appropriations, leaving in place a requirement for 2-year budget resolutions and a requirement that all authorization measures be for periods of at least 2 years.

The committee agreed with my amendment to strike biennial appropriations by a vote of 13–3. The case for biennial appropriations has simply not been made. In fact, many of the arguments advanced to justify biennial appropriations are close to specious. And the benefits claimed for biennial appropriations turn out, upon close analysis, to be almost entirely illusory.

We are told that a biennial appropriation cycle will promote more effective oversight. Shifting to a biennial scheme will enable the legislative committee to focus on this function in the second session of each Congress. So runs the argument.

The facts simply do not support the contention that annual appropriations consume an inordinate amount of the Senate's time. For one thing, most of the heavy lifting on appropriations bills is done by members of the Appropriations Committee, not by the legislative committees. Moreover, appropriations bills *per se* are not as a rule subject to long debate and delay on the Senate floor. The data from last year are instructive.

The Senate enacted a total of 19 regular and supplemental appropriation bills last year, including continuing resolutions. Action was completed on six of these on the same day they were taken up. Six others were taken up one day and passed the next.

In four cases, third reading was reached on the third day. Two other bills took the better part of a week and one was cleared on the twelfth day of consideration. In each of these instances, debate was prolonged by amendments dealing with controversial policy issues, rather than funding levels. For example, the Senate revisited both abortion and the Davis-Bacon Act on the Labor, Health and Human Services, Education Act (H.R. 2518).

For fiscal year 1995 appropriations bills, as Senators are aware, six have been signed into law: Legislative, Foreign Operations, Military Construction, Energy and Water, Commerce/Justice, and VA/HUD. Of the remaining seven bills, all except D.C. have been cleared for the President's signature. If we can complete action on the D.C. bill this week, we will have enacted all 13 appropriation bills prior to the beginning of the fiscal year, for only the third time in the last two decades.

It would be ironic if the D.C. appropriation bill were not enacted into law by October 1 because of the adoption of amendments, such as the pending amendment, which, according to its authors, is intended to assist the Congress in completing its appropriations work in a timely and orderly fashion.

The appropriations process is itself an important instrument of congressional oversight. Requiring the agencies of the executive branch to submit justification for and to defend their

programs and budgets every year provides a regular, predictable, and inescapable opportunity to delve into the management, utility, and costs of their activities.

Proponents of biennialism also allege that the annual appropriations cycle creates too much unpredictability in funding and inhibits effective planning by Federal managers. This notion does not hold much water either. True, funding for programs and personnel may be—and probably is—somewhat uncertain from year to year. But this is a consequence not of the schedule of appropriations decisions but of changing priorities and a diminishing discretionary budget.

Moreover, where there are legitimate requirements for multiyear commitments, the annual appropriations cycle can and routinely does accommodate them. Most education programs, for instance, are already forwarded—funded a year in advance. And in virtually every case, appropriations bills contain appropriations that remain available either for more than one fiscal year or until expended. In fact, the General Accounting Office has found that about 70 percent of the accounts on an annual appropriations cycle contain some multiple year or no year funds. So the financial needs of projects or activities extending over several years can easily be met within the framework of annual appropriations.

As for planning, I would suggest that Federal managers and budget analysts already have enough difficulty projecting the costs and scope of the programs and services of their agencies. The formulation of the President's budget under the current cycle begins 15 to 18 months prior to the beginning of a fiscal year. Predicting actual requirements that far in advance is hardly an exact science. Extending the planning horizon another 12 months by moving to a biennial appropriations cycle would not improve the quality of agency estimates or eliminate unanticipated requirements.

It is arguable that even within an ostensibly biennial framework, annual budget submissions would be unavoidable. Changing circumstances and congressional adjustments to the President's budget will have important implications for the second year of the biennial request. It follows that the President will be forced to submit a revised budget for the second year, and the process will simply start over.

It is also argued that a biennial cycle will save executive branch agencies time and resources and enable managers to focus more on administering and improving their programs. This, of course, conveniently overlooks the fact that every department and agency has a specialized budget office primarily responsible for the actual formulation and execution of the agency's budget. Thus, there is a clear division of labor between budgeting and program management. The people who do the actual work on developing and implementing a budget are not the same people who are responsible for managing an agency's programs. Biennial appropriations will not save program managers time nor improve their performance.

In addition to the change in biennial budgeting, the Rules Committee made other significant modifications to the product of the Joint Committee. Several of these changes affect the organization of the Senate and its consideration of legislation. And as I have said, would reverse the decisions of the Rules Committee in marking up S. 1824. For example, the pending amendment would allow the appointment of committee members by majority and minority leaders. The Rules Committee deleted that provision from the Joint Committee's recommendations. The pending amendment would limit the use of proxies in committee to votes where their use would not affect the outcome. The Rules Committee deleted that provision from the Joint Committee's recommendations. Finally, this amendment would charge time on quorum calls to the Member calling for a quorum in postcloture situations. Here again, the Rules Committee deleted that provision from the Joint Committee's recommendations.

I supported the action of the Rules Committee in each of these matters that I have just raised. Therefore, I oppose the pending amendment in these areas and will be pleased to discuss any or all of them further if any Senator wishes to do so.

Another very serious consideration is the response of the House to the pending amendment, if it were adopted. While the Rules Committee in the House has not completed action on a congressional reform package, Roll Call, in its Monday edition, reported that the committee's starting point is the chairman's mark rather than the reform package of the Joint Committee on the Organization of Congress. Chairman MOAKLEY's mark eliminates the Byrd rule and does not include biennial appropriations. An amendment offered, and agreed to, in committee, eliminated the provision providing for biennial budget resolutions.

House members have also expressed a desire to amend Senate rules to eliminate the super-majority requirement for limiting debate. If we open the door to changing House rules on an appropriation bill by the adoption of this amendment, it is likely that the House will respond in kind.

Madam President, the pending amendment deals with matters in the jurisdiction of the Senate Budget Committee and has been offered to legislation not reported from that committee. Under 306 of the Congressional Budget Act of 1974, as amended, it is not in order to consider matters in the jurisdiction of the Budget Committee on a bill not reported from that committee.

Earlier today in debate on this amendment the senior Senator from New Mexico [Mr. DOMENICI] mentioned that his proposed amendment was subject to an "arcane" Budget Act point of order. The Budget Act point of order to which he referred is section 306 of the Congressional Budget Act, as amended. Under that section it is not in order to consider matters in the jurisdiction of the Budget Committee unless it is on a measure reported from the Budget Committee. To overcome such a point of order requires a vote of 60 members duly chosen and sworn.

That point of order is the very same one made against the conference report on the Violent Crime Control and Law Enforcement Act. I would remind my colleagues that the point of order was made by my friend from New Mexico who today expresses outrage at the possibility of the use of the rules to bring down his amendment.

I might add that in the case of the conference report, it was not subject to amendment. The Senator appears to embrace the Budget Act and its protections on one day and rail against them on another. The Senator has the right. The Budget Act is not self-executing. We all may choose to ignore or enforce it.

In this instance, I do not consider the Budget Act point of order to be arcane. This amendment deals with significant changes to the Congressional Budget Act which deserve the careful consideration of members of the Budget and Governmental Affairs Committees. They and their staffs have the necessary expertise to consider all aspects of such important changes to the budget and appropriation processes. But an amendment in disagreement on an appropriation bill is not the place to enact fundamental changes to the budget and appropriations processes. We have to have this bill enacted by tomorrow night if we are to avoid the necessity for a continuing resolution for the operation of the DC government. We do not have time to take amendments such as this to the House, have them consider such massive changes, and resolve those differences to the satisfaction of either the House or Senate in such a short time. For these reasons, I urge Senators to vote against a waiver of the section 306 Budget Act point of order.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. 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. MITCHELL. Madam President, a parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending amendment is the Boren amendment to the Domenici amendment.

Mr. MITCHELL. Madam President, I have discussed the matter with Senators BYRD, DOMENICI, and BOREN. They are in agreement that we can proceed as follows, and this is not a unanimous-consent request. I will describe it first and then present it formally:

That Senator BYRD now be recognized to make a point of order against the amendment; that Senator DOMENICI then be recognized to move to waive the point of order; that there then be 30 minutes of debate, half of which be controlled by Senator BYRD, half by Senators DOMENICI and BOREN; and then the Senate vote on the motion to waive the point of order.

I note the presence of my colleagues and believe that is agreeable to them.

Mr. DOMENICI. I wonder if we might get the yeas and nays as part of the unanimous consent, that it be in order——

Mr. BYRD. No, we do not have a problem with that. Do not include that in the unanimous-consent request.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. OK, make it in order then, to order the yeas and nays on the motion to waive.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that Senator BYRD be recognized to make a point of order against the pending amendment; that Senator DOMENICI then be recognized to make a motion to waive the Budget Act with respect to that point of order; that there then be 30 minutes for debate on the motion to waive, equally divided and under the control of Senators BYRD and DOMENICI.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I now ask unanimous consent that it be in order to request the yeas and nays on the motion to waive.

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

Mr. MITCHELL. Madam President, I now ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Madam President, Senators then should be aware that a rollcall vote will occur at approximately 5:45 p.m.—that is 30 minutes from now—on the motion to waive the Budget Act, to be made shortly by Senator DOMENICI.

I thank my colleagues for their cooperation. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD. Not at this point, Madam President.

Madam President, the pending amendment deals with matters in the jurisdiction of the Senate Budget Committee and it has been offered to legislation not reported from that committee.

Under section 306 of the Congressional Budget Act of 1974, as amended, it is not in order to consider matters in the jurisdiction of the Budget Committee on a bill not reported from that committee.

I do not intend to speak further on my point of order. Everything I think that needs to be said has already been said in that respect. And so I now make that point of order.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, pursuant to section 904 of the Budget Act, I move to waive the point of order against the Domenici and Boren amendments.

The PRESIDING OFFICER. Under the previous order, there is 30 minutes of debate equally divided: 15 minutes controlled by the Senator from West Virginia and 15 minutes controlled by the Senator from New Mexico.

Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. DOMENICI. Madam President, I have on more times than not had the privilege of being on the floor supporting positions of the distinguished chairman of the Appropriations Committee and President pro tempore of the Senate. But in this case, I am on the opposite side. I have expressed myself for maybe 20 minutes this morning on this issue, but I want to take a few minutes to speak to just two parts of the reason that I move to waive. There are two reasons for it.

One, Madam President, while the distinguished Senator from West Virginia is technically correct—that is, if you read the Budget Act, you are supposed to send matters to the Budget Committee that are within its jurisdiction—but in this case, everybody ought to know that we are not talking about a budget, we are not talking about any dollars, we are talking about reform. And in the process of reform, a special committee, bipartisan, bicameral, equal representation from both sides recommended significant changes to the way we do business in the Senate.

Frankly, I believe that more than any other reform around—we consider reform of the system of lobbyists, we look at reform for campaign financing, and we say if we can change some of these things, it will affect how the people think about the governing body, that part called the legislative body. I do not believe anything—anything—will do more to give our people more confidence in us than if we reform the way we do business, to make our actions more responsible, more accountable, and more understandable.

A committee worked for a year making recommendations. It is ironic to this Senator that after all that work—and we were charged with doing this in the name of reform, in the name of streamlining things—that we bring our recommendations to the floor and the first thing we find is that we are right back in the muddle that we have been asked to fix. We are going to get stricken on a point of order because we did not send the recommendations to the Budget Committee to look at.

Frankly, it is very simple for everyone to understand what we recommended that affects the budget. Essentially, we have said we do not need to appropriate every year, do it every 2 years; we do not need a budget resolution every year, do it every 2 years, because a Congress lasts 2 years. Those essentially, and a couple more provisions, are the reasons that the point of order lies, because those should be looked at by the Budget Committee.

Frankly, I believe when you ask this committee to consider reform, it is fair for this committee to at least understand that their work will not be killed on the floor of the Senate pursuant to a procedural matter that just says you have not gone through enough hoops.

So that is the reason that I believe my waiver, which I do not make very often on budget matters, should be granted here today.

Second, there should be no doubt that if the Boren-Domenici amendment is adopted, it is subject to amendment. So if it is not perfect, give it a chance.

The action here this afternoon is to kill it, dead as can be. There will be no reform this year. It is gone, after more than a year of work. This started before the last Presidential election, Madam President. August 1992 was when the Senate asked that we consider serious reform. It will be dead and gone, finished. There will be nothing to vote on and, as a matter of fact, nothing to amend. We will be back on the appropriations bill.

We are merely asking that the amendment not be killed in that manner; that it be permitted to live and see the light of day and be adopted subject to amendment, and then anything anybody wants to do in the next 24, 48 hours, they can try to do to it. Then they can vote no on it if they do not like it. But if you want to streamline the committees, get rid of half the subcommittees, if you want to make our processes streamlined so that you do

not have to appropriate every year and budget every year and you are mandated to authorize every year, thus cutting the work of the Senate in half so you have another half the time to look at the laws you have passed, to do oversight, that is the issue. Can we do more in less time?

I yield an additional minute.

My last comment is I hope the Senators who have listened and their staff who are advising do not really believe we are giving the House in this measure an opportunity to change our rules. I really do not believe that is a valid argument. Actually, we frequently send to the House bills—let me mention them. Gramm-Rudman had changes in our rules. They did not touch them because they do not have any authority to touch them.

We send them in our appropriations bills funding and certain things about our body. Sure, they could amend them. They do not. They leave the Senate alone. We sent them an ethics reform package in a substantive law. They could have changed it. They did not change it because it is our business.

The same thing will apply here. If we adopt the package, when the time comes to amend it, if the sections are not amended, we will not be giving the House an opportunity to amend our rules, and I hope no one will vote against it on that basis. That is not a valid reason to vote against it.

I reserve the remainder of my time.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Of course, the House would have a voice in this matter if it is sent back as an amendment to the pending appropriations bill. I hope the Senator is not trying to tell the Senate that we can change the Senate rules to provide that appropriations bills would be biennial bills and that the House will not do anything on that matter. How are we going to have biennial appropriations bills in the Senate unless the House also has that procedure?

Madam President, let us not kid ourselves. This is an appropriations bill. It is not the proper place for this amendment. I hope we would not have any amendments attached to this bill. We are within striking distance of having all of the appropriations bills passed before the new fiscal year begins. Unless we free this bill, pass it by adopting the conference report, let it go on to the President so he can sign it into law, then not only will the District government have problems but we will have spoiled an excellent chance to show the people of this country that we can pass all of the appropriations bills prior to the beginning of the new fiscal year. We have done that I think twice before in the last 20 years. The last time I believe was 1988. I would like to do it again. So I hope that we will not adopt this amendment and we avoid that by voting down the waiver.

Now, Madam President, my friend—and he is my friend—is critical of this point of order. He says that it would send—that point of order being made because this was not sent to the Budget Committee, and he bemoans the fact that this point of order will kill this amendment, and that therefore a procedural motion will have killed it.

But the same point of order was made on the crime bill conference report. It had to do with the creation of the violent crime reduction trust fund. And, of course, that point of order was not even raised when the bill passed the Senate, at which time my distinguished friend, the Senator from New Mexico [Mr. DOMENICI], and I had some discussion about the fact that a point of order would, indeed, lie against that bill. We both said, or at least I interpreted our discussion as being to the point that crime in this country had reached such proportions that it was perhaps the major issue confronting the people of this country, and we ought to pass the bill and not use a procedural point of order to kill that bill.

I agreed that such a point of order would lie. So no opportunity was taken advantage of at that point. But when the conference report came back to this body, the point of order was made on the other side of the aisle, I believe, against the conference report under 306 of the Congressional Budget Act of 1974.

So now it is said that we should not use that procedure. My friend from New Mexico used it then and defended it then. And he had a right to use it. I am not questioning his right to use it. But he has used the word "ironic." Let me use it. It seems a little ironic to me that my good friend from New Mexico today is assailing in a very mild manner this point of order when he used it when he thought it was to his advantage on a very important bill. And the waiver, I believe, carried by something like 61 votes—carried by 1 vote, I suppose. I mean it was defeated by 1 vote. I believe there were 61 votes. But, anyhow, the waiver carried by 61 votes.

Earlier today, in debate on this amendment, my friend mentioned that this proposed amendment was subject to an arcane Budget Act point of order—arcane. As I have already stated, that same point of order was made against the conference report on the crime bill.

I would remind my colleagues that in the case of the crime bill, it was not subject to an amendment. But on that occasion he embraced it, did he not? He embraced this procedure. So he appears to embrace the Budget Act and its protections on one day and to rail against them on another. That is all right. We all rail a little now and then. The Senator has that right. I do not question his right to do that. But the Budget Act is not self-executing. We may choose to ignore it or we may choose to enforce it. I do not consider the Budget Act point of order to be arcane. I did not say it on that occasion when I opposed the point of order on the crime bill. I did not say that procedure was arcane.

I should also point out that this requirement of 60 votes to waive section 306 of the Congressional Budget Act of 1974, as amended, was added to the Budget Act as a part of the Gramm-Rudman-Hollings Act. The Balanced Budget and the Emergency Deficit Control Act of 1985 was itself an amendment to House Joint Resolution 372, an act increasing the public debt limit. Section 306 would require that original act—the original act included the provision, section 904, that permitted the waiver of any of the provisions of titles 3 and 4 of the Budget Act by a majority vote, and the Gramm-Rudman-Hollings Act changed the requirement for waving section 306 to 60 votes in the Senate.

I think it is a good thing. I think it is a good thing to have that point of order and to require 60 votes to waive it. That change was made in 1985 when my distinguished friend, Mr. DOMENICI, was chairman of the Budget Committee. So perhaps it depends on whose ox is being gored as to whether or not it is a good procedure.

Madam President, I sincerely hope that we can dispose of this amendment, and that we can get on with disposing of the other amendments to amendments in disagreement, pass this bill, send it to the President, and let the American people know that we can indeed do our work on appropriations and do it in an orderly and timely fashion.

I reserve the remainder of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, how much time remains under the control of the Senator from New Mexico?

The PRESIDING OFFICER. Eight minutes and twenty-five seconds.

Mr. DOMENICI. I wonder if the Senator from Oklahoma could leave me 2 minutes and he 6.

Mr. BOREN. Madam President, I will just take 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, I had the privilege of speaking earlier on the floor on this matter outlining why I feel so strongly that we should not miss this opportunity to bring about real reform for this institution. The work of the Joint Committee on the Reorganization of Congress has had 36 hearings. We heard from 240 witnesses, and our work was completed in an expeditious fashion.

Many Members of the Senate and many Members of the House from both

parties contributed greatly to that process, including the distinguished President pro tempore who lodged this point of order. Let me say that no one understands this institution better, is more knowledgeable of its history and its rules than the distinguished President pro tempore. It is with a great amount of humility that I would rise to oppose him on this particular matter and to urge that the Budget Act be waived so that this package can be considered and adopted.

This is not the ideal way for this matter to be considered. If we had been able to follow an orderly process, if we had the ability to move these proposals through the Budget Committee it would have been far better. If we could have considered this proposed package of reforms as a freestanding matter without having to consider it in this fashion by attaching it as an amendment to amendments in disagreement on the D.C. appropriations bill, certainly that would have been preferable. As I said earlier, it is indeed ironic and perhaps symbolic of the need to reform this institution that the only way we can get a matter of this seriousness, a matter which would be of this much concern to not only Members of this institution but to the American people, the only way we could have it considered is to try to latch on to perhaps the last legislative vehicle available to us in this Congress.

So I regret that we find ourselves having to offer a proposal of this significance to this particular vehicle. This is an opportunity for us to do many things that need to be done if we are to restore that trust that should exist between the American people and Congress as an institution.

Madam President, I spoke of my feelings as I think about leaving the Senate of the United States in just a few days never to be able to return to the floor as a sitting Member as my time of service here comes to an end. I leave with, of course, the pride in having had the opportunity to serve here with reverence for the political process and constitutional process of this country. But I also leave with a great sense of foreboding.

Nothing is more important than that element of trust. When I read polling data that indicates that over 80 percent of the American people no longer feel that this institution represents people like them, cares about people like them, that the Members here do not speak for people like them, I have grave concern about what might happen to the political process in this country. The legitimacy of our whole form of Government rests upon the principle that there will not be taxation or decisions on major policy questions without representation.

And therefore when the people come to feel that this institution has so badly failed them because of flawed rules, flawed process, a flawed manner in which we finance campaigns with more and more money flowing into the process, from special interest groups largely, when they see that we have too many committees and subcommittees so that the Members of this body cannot focus attention on the important issues that should dominate our long-range thinking that prepare us and our country for future challenges which we face, when they see that we are so caught up in busy work with all of these myriad of committees that we have, with a growing burgeoning staff of bureaucracy that finally makes it impossible for us to act, and impossible for the American people to even understand the process to the degree that they can hold Members accountable for their action, Madam President, I believe that there is an urgent need for a change.

I believe that if we fail to act in a positive fashion on major structural reforms in this Congress in this session that we will let down the American people. Here we have an opportunity to do away with unnecessary subcommittees. We have added over the years since 1946 many committees and subcommittees that are not necessary. We have grown from 38 standing committees of the House and Senate now to almost 300 committees and subcommittees. Our staff has grown from 2,000 to almost 40,000, if you count support staff in such agencies as the General Accounting Office as well as counting direct staff which number somewhere between 12,000 and 14,000. Members of Congress have their attention spread very thin. They are trying to serve on the average of 14 committees and subcommittees. They therefore cannot focus time and attention on the problems that need to be solved.

Madam President, this is an opportunity to do something about that process that zaps the energy, strength and effectiveness of men and women who come here wanting to render a public service and give of themselves to make this a better country. If we do not act, who will? How long are we going to wait? We have waited until we now have only a 14 percent approval rate, with only 14 percent of the American people saying they have confidence in Congress as an institution. Will we wait until it is 10 percent, 5 percent? Will we wait until it is 1 percent? We have already waited too long to enact basic reforms. Let us not miss this opportunity.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia is recognized.

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

The PRESIDING OFFICER. The Senator has 5 minutes and 19 seconds.

Mr. BYRD. I thank the Chair.

Madam President, I hope that Members will understand that it is a serious matter to attach this amendment to this bill at this juncture.

At this juncture. First of all, it will result in a continuing resolution in the final analysis, because it would kill the bill. And if the House chose to respond with amendments, which it could very well do, then we might consider the result. While the Rules Committee in the House has not completed action on a congressional reform package, Roll Call in its Monday edition reported that the committee's starting point is the chairman's mark, rather than the reform package of the Joint Committee on the Organization of Congress. Chairman MOAKLEY's mark eliminates the Byrd rule. Both the Senator from New Mexico and I want the Byrd rule. We want that Byrd rule. But if it goes over to the House with this amendment attached to it, then the House will certainly be glad to deal with that.

Chairman MOAKLEY's mark eliminates the Byrd rule and does not include by any appropriations an amendment offered and agreed to in committee eliminating the provision for biennial budget resolutions. So the House would not provide for the budget resolution. I am in agreement for having a biennial budget resolution. House Members have expressed a desire to eliminate the rule for a supermajority requirement for limiting debate. The best protection my friends on the other side of the aisle can have is the rule in this Senate that allows unlimited debate. Sometimes it is called "filibuster," but that is one of the things that is unique about the Senate and makes it one of the most outstanding upper legislative bodies in the world.

House Members want to get rid of the Senate rule and eliminate the supermajority requirement for limiting debate. Instead of 60, they would like to see debate limited over here by a majority, 51 votes, if all Senators are present and voting. So if we open the door to changing House rules on appropriations rules by the adoption of this amendment, it is likely that the House will respond in kind. Do not kid yourself.

Madam President, I hope that the Senators will reject the motion to waive so that this amendment will fall. It is the underlying amendment, and it will carry with it the amendment in the second degree. Then we can get on with our business.

I reserve the remainder of my time.

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes 5 seconds.

Mr. DOMENICI. Madam President, first, let me say that the Senator knows that many of the things he just said I agree with. But I really hope that the Senate understands the predicament that we find ourselves in. I did not want to put this amendment to offer the reform package on an appropriations bill. When and where would I

offer it? There is no time and no place, and we are ready to go home. I do not know if we are coming back in a lame duck session. I see somebody here who may have more to say about that than any of us. Clearly, there was no intention to even let the Senate consider this. So we had no alternative. We tried it here. I would prefer to do it in a much more appropriate manner with a week's debate with a freestanding bill.

Second, if I used the word "arcane," I say to my friend from West Virginia that I meant arcane in its application, not arcane in that the rule is arcane. But, frankly, can the Senate on its own decide whether it wants 2-year budgeting and 2-year appropriations? Can we decide that on our own, or must we kill this bill and send it to the Budget Committee so that they can consider that? That is the issue. It is not something that is difficult, some budgetese, some hard outyear funding. The issue is that they are supposed to look at it in the Budget Committee because it has matters in the Budget Act. The matters essentially are: Do you want 1-year appropriations and to do it every single year? Or do you want to do it every 2 years? Do you want an annual resolution on the budget or every 2 years? You can vote on that today, instead of using a rule that would say send it back to the Budget Committee for legislation. I do not have any doubt that this bill deserves much more debate. Neither do I have any doubt that reform of the U.S. Senate by way of fewer committees, and all the other things we have been talking about, is dead if you give to this bill the death knell of a point of order. I think this is the right time to waive and is appropriate under the law. I hope the Senate will waive the Budget Act and proceed to debate the bill.

Mr. BYRD. How much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 55 seconds.

Mr. BYRD. Madam President, while I oppose this amendment for a number of reasons, I nevertheless recognize the sincerity of its authors, Senators BOREN and DOMENICI, in bringing the amendment to the Senate. I know they are sincere about that. They very ably led a delegation of 14 Senators that served on the Joint Committee on the Organization of Congress. And for the past many months, that Joint Committee spent a great deal of time and effort looking at ways to reform Congress to make it a more responsible institution.

There are many things in their product that I can support, and there are some features of it that I would suggest be changed. There are other things I would suggest be added. But this is not the time for that. I hope that Senators will vote against the motion to waive and free the appropriation bill for final action and signature by the President.

Mr. SIMPSON. Madam President, I rise to speak very briefly regarding the amendment by Senators DOMENICI and BOREN. These superb colleagues consistently demonstrate what the term statesmanship truly means. I will take a more extensive opportunity prior to the end of this Congress to pay tribute to Senator BOREN, and to my other retiring colleagues. But today, I want to thank him for what he has tried to accomplish with this legislation. Senator BOREN has a passion for bipartisanship, and I am proud to have come here with him, and to have served with him. And there is no more solid, dedicated, hard-working, conscientious Member of this body than Senator DOMENICI. The brokerage house commercial could have been about him—when he talks people listen, and if they don't—they should.

Any committee established to reform an institution which is over 200 years old has a formidable, uphill task. It is inescapable that if such a committee does its work it will change the status quo and negatively impact the jealously guarded power of some. It is also true that if the recommendations of the committee are at all comprehensive, no one will totally embrace each of its provisions.

But the debate on the issue of congressional reform must proceed, and I commend the sponsors of this amendment, which incorporates the recommendations of the Joint Committee on the Organization of Congress. Accordingly, I intend to vote with Senators DOMENICI and BOREN on any procedural motion which furthers the debate on this issue. The recommendations of the committee were thoughtfully reached over a great deal of time, and in consideration of painstakingly detailed testimony. Viewed in their totality, I agree with most of the recommendations of the Joint Committee.

I particularly applaud their efforts to cut half the subcommittees in the Senate, to cut Senate committee assignments, to cut Senate staff, to go to a 2-year budget cycle, to establish a regular review of support agencies like GAO, to require quarterly deficit reports, and to require unused committee or office personal office funds to go to deficit reduction, and not back into the "congressional pot."

I urge my colleagues to join me in waiving the point of order to this amendment.

Mr. HATFIELD. Madam President, I support congressional reform that will make the legislative process more efficient and which will make the Senate more responsive to the people that we serve. The matter before us was fully debated in the Rules Committee, on which I serve. This amendment in bill form was debated in the Rules Committee and amended by that committee. Unfortunately the changes made by the Rules Committee to that bill have not been included in this amendment. I cannot support this effort to circumvent the committee process where debate on this amendment has occurred and produced a legislative product, thus I cannot support this amendment.

Mr. BAUCUS. Mr. President, I rise today in opposition to the Domenici amendment to the amendments in disagreement to the District of Columbia Appropriations Act. This amendment would attach the so-called congressional reform package to the appropriations for the District of Columbia.

Mr. President, I would begin by saying that congressional reform—true reform—is in order. My colleagues have indicated their desire for reform. The American public has called for reform. President Clinton and Vice President GORE were elected on a platform of reform. Unfortunately, this is not reform.

Many times I have been dismayed by the pace of this body. It can frequently move too slow. However, the procedure by which a bill becomes law necessarily takes time. There are many opportunities for public input, committee review, and debate. Sadly, this effort at reform has by-passed much of that process. That is simply inappropriate.

Substantively, it is true that this amendment contains improvements. It also has numerous flaws. First it tinkers with the very rules which differentiate this body from the House. Second, it would eliminate the Joint Committee on Taxation—a step which would dramatically reduce the efficiency of our budgeting process. As a resource both the House and the Senate, Joint Tax provides invaluable and timely technical assistance and independent revenue estimates.

And finally, Mr. President, this amendment, jeopardizes the ability of this Senator to serve all his constituents through a dramatic change in committee selection.

If this amendment were enacted, I would be bumped from the Senate Committee on Agriculture, Nutrition, and Forestry. In 1989 I fought hard to get on that committee to represent Montana's largest industry more effectively. This position has been very important as I addressed the needs of Montana's agriculture and forestry industries.

As we enter 1995, it is likely that major farm legislation will be considered and I intend to see that farm policy is crafted which will meet the needs of this important Montana constituency. I cannot stand idly by as this proposal jeopardizes my ability to serve this group.

I will continue to fight for Montana as long as I serve in this body. And in this instance, that means I must vigorously oppose this amendment and I urge my colleagues to do the same.

Mr. President, I yield the floor.

Mr. BYRD. I yield back any time I may have.

The PRESIDING OFFICER. All time has been consumed.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Virginia [Mr. ROBB] is necessarily absent.

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

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—58

Bennett	Feingold	Nickles
Biden	Gorton	Nunn
Bingaman	Graham	Packwood
Boren	Gregg	Pressler
Bradley	Hatch	Pryor
Brown	Hutchison	Reid
Bryan	Jeffords	Roth
Bumpers	Kassebaum	Sasser
Burns	Kempthorne	Shelby
Chafee	Kennedy	Simon
Coats	Kerry	Simpson
Cohen	Kohl	Smith
Coverdell	Lautenberg	Specter
Craig	Levin	Thurmond
D'Amato	Lieberman	Wallop
Danforth	Lott	Warner
Dole	Lugar	Wellstone
Domenici	Mack	Wofford
Durenberger	McCain	
Faircloth	Murkowski	

NAYS—41

Akaka	Feinstein	Mathews
Baucus	Ford	McConnell
Bond	Glenn	Metzenbaum
Boxer	Gramm	Mikulski
Breaux	Grassley	Mitchell
Byrd	Harkin	Moseley-Braun
Campbell	Hatfield	Moynihan
Cochran	Heflin	Murray
Conrad	Helms	Pell
Daschle	Hollings	Riegle
DeConcini	Inouye	Rockefeller
Dodd	Johnston	Sarbanes
Dorgan	Kerrey	Stevens
Exon	Leahy	

NOT VOTING—1

Robb

The PRESIDING OFFICER. On this question, the yeas are 58, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The amendment falls.

Who seeks recognition? The Senator from Maine is recognized.

AMENDMENT NO. 2594 (TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 6), AS MODIFIED

Mr. COHEN. Madam President, I call for the regular order, please.

The PRESIDING OFFICER. The regular order? Is the Senator seeking to call up his amendment?

Mr. COHEN. I am.

Mr. BURNS. Madam President, I suggest the Senate is not in order.

The PRESIDING OFFICER. The Senator from Montana is correct. Does the Senator from Maine wish to be recognized?

AMENDMENT NO. 2594 (TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 6), AS MODIFIED FURTHER

Mr. COHEN. Madam President, I wish to further modify my first-degree amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The further modification to the amendment (No. 2594) is as follows:

At the appropriate place, insert the following new subtitle:

"Subtitle".

Mr. COHEN. If I might explain very briefly, Madam President?

The PRESIDING OFFICER. The Senator may explain, and I ask Senators who are conversing to my left, please withhold.

Mr. COHEN. Madam President, the modification I sent to the desk was simply a technical one in nature. It did not alter the substance of the amendment that I offered earlier today that was amended by the Senator from New Mexico [Mr. DOMENICI].

Basically, we are back to discussing health care fraud and, as we discussed it at length yesterday, this is an opportunity for us to go on record trying to pass legislation that will save billions of dollars that are currently being wasted through fraud and abuse in the health care system.

This is an amendment which is supported by virtually everyone.

Mr. FORD. Madam President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

The Chair asks Senators to the left of the well to also withhold their conversation.

Mr. FORD. Madam President, will the distinguished Senator from Maine allow me to ask him a question?

Mr. COHEN. I yield for a question.

Mr. FORD. The Senator has an amendment in the second degree to his amendment? So we cannot vote on the Senator's amendment; we would have to vote on the amendment to his amendment, and that amendment is the so-called Dole health care bill?

Mr. COHEN. No. Senator DOMENICI had offered an amendment in the second degree to mine, which is not the Dole health care bill.

Mr. FORD. What is the amendment, then, in the second degree?

Mr. COHEN. Simply a change in date.

Mr. FORD. A change in date? Is that all? What change in the date would that be, then? It is identical? You modified his amendment as you modified yours, except for the date?

Mr. COHEN. Except for the date; 1 day's difference.

Mr. DOMENICI. Yes.

Mr. FORD. The Senator modified the amendment of the Senator from New Mexico? I did not think you had a right to modify his amendment.

Mr. COHEN. No, I modified my amendment, the first-degree amendment, that he then amended in the second degree. I modified the underlying amendment.

Mr. FORD. We are trying to unravel this Christmas tree a little bit. I want to be sure we are not thinking we are going one route rather than another, and I want to be sure we understand—at least that this Senator understands—what you are trying to do.

Mr. COHEN. The current situation is the amendment I have currently offered dealing with health care fraud was amended in the second degree by Senator DOMENICI, that second-degree amendment, pending as well, and that deals solely with the subject of health care fraud.

Mr. FORD. And you modified yours on two separate occasions?

Mr. DOMENICI. I might say, when I offered the modification, I say to my friend, I did not change everything in his amendment. He is changing something in his amendment that remained there. I had not touched that and he found an error in that, in the underlying amendment.

Mr. FORD. So actually your amendment is not the same as the amendment in the first degree?

Mr. DOMENICI. That is correct.

Mr. FORD. So if we vote on his, it would change your amendment.

I thank the Senator.

Mr. WOFFORD. Parliamentary inquiry.

The PRESIDING OFFICER. The Chair will recognize the Senator from Pennsylvania for a parliamentary inquiry, but Senators need to address each other through the Chair, in the third person.

The Senator from Pennsylvania.

Mr. WOFFORD. Parliamentary inquiry, Madam President. This Senator needs to understand whether the present parliamentary situation is such that the amendment I put forth has now been stricken from the Cohen-Domenici amendment. Is that correct? Is that correct, Madam President?

The PRESIDING OFFICER. The Senator from Maine needs to clarify the substance of his amendment. That should answer the question of the Senator from Pennsylvania.

Mr. COHEN. Madam President, I would like to clarify it. Earlier today, I took the floor to accept the amendment of the Senator from Pennsylvania. I then sent a modification to the desk, and at that point, Senator DOMENICI then amended the proposal in the second degree. So that effectively wiped away the amendment of the Senator from Pennsylvania. That was done earlier today, and not through the modification I just offered. The modification I just offered to my first-degree amendment was in the nature of a technical amendment. It only changed simply a word dealing with subtitles.

Mr. WOFFORD. Parliamentary inquiry. Madam President, would my colleague from Maine clarify whether the

amendment that was just amended does not still include my amendment, before his technical modification just now?

Mr. COHEN. It did not. It does not. By virtue of having accepted your amendment earlier today, I believe that the parliamentary situation was that your amendment was stricken at that time.

Mr. WOFFORD. Then, Madam President, the parliamentary situation is that my amendment can be reoffered when I am recognized duly after this amendment has been dealt with?

Mr. COHEN. Not on this amendment, but an amendment in disagreement, yes.

Mr. WOFFORD. The Senator still has his right to put his amendment to the Cohen amendment before it is——

Mr. COHEN. No.

Mr. WOFFORD. Could the Parliamentarian——

The PRESIDING OFFICER. Could the Senator repeat his question to the Senator from Maine, the Chair was consulting the Parliamentarian because this is becoming a complicated situation.

Mr. WOFFORD. For this Senator, too. I would like a parliamentary clarification as to whether I would have the right to put my amendment forth to the Cohen amendment before the Cohen amendment is adopted. I look forward to voting for the Cohen amendment, but I also look forward to having a vote on my amendment.

The PRESIDING OFFICER. There is currently a second-degree amendment pending to the Cohen amendment. When that second-degree amendment is disposed of, the Cohen amendment could be further amended.

Mr. WOFFORD. Thank you, Madam President.

Mr. COHEN. But then it has to dispose of the Domenici second-degree amendment.

The PRESIDING OFFICER. The Senator is correct. The Chair might note to the Senator from Maine, that microphone is not working as well to hear the amplification of his remarks.

Mr. COHEN. I will try and hold it up as close as possible.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Does the Senator from Maine have the floor?

Mr. COHEN. I do.

Mr. BUMPERS. Will the Senator yield to me for 30 seconds to speak on an unrelated item?

Mr. COHEN. Without losing my right to the floor, certainly.

The PRESIDING OFFICER. Without objection, the Senator from Arkansas may proceed.

ELATED AT DISNEY'S DECISION

Mr. BUMPERS. Madam President, I thank the Senator very much. I simply want to say when Disney decided to build their theme park, Disney America, in this northern Virginia area just west of here, I took strong exception to that. I held a hearing in my Subcommittee on National Parks and Public Lands, and virtually every historian in the country came in to testify against that proposal.

I was strongly opposed to it, but I recognized there was very little Congress could do about it. But I rise today, Madam President, to say I am elated at Disney's decision, and I want to express my gratitude to them for having made that decision. I think it is going to be good for Disney and it is certainly good for America.

While I was strongly opposed to their decision, I now applaud them for making what I consider to be a very fine decision, and I do not think they can help but enhance their image with that decision.

I thank the Senator from Maine.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I will not take a good deal of time this evening. We have debated this issue for hours. It is strange because there is no debate. There has been no opposition to this amendment, no expressed opposition, I should say.

This is an amendment designed to deal with the problem of widespread health care fraud and abuse. The numbers are staggering. I mentioned them time and time again. GAO estimates that we are losing $100 billion a year, which works out to $275 million a day, and $11.5 million an hour. We have been standing idly by. We do not have an effective mechanism to begin to cope with the volume of fraud that is currently being perpetrated.

This amendment, in and of itself, will not and could not hope to prevent all the fraud that is and will be perpetrated against the American taxpayers, but it is something that everyone agrees is desperately needed to at least arm our prosecutors, the FBI, the Justice Department, and the Health and Human Services inspector general. They need this tool in order to more effectively combat those who are committing fraud against the American people.

We know that this provision was in the President's health care proposal. It was in Senator MITCHELL's health care proposal. It was in Senator DOLE's health care proposal. It was in the so-called bipartisan mainstream coalition proposal. So no one is in disagreement with the need and the necessity for this legislation.

Earlier in the week, I sought to attach it to the Health and Human Services appropriations bill. I yielded to the importuning of the Senator from Oregon who asked me to defer consideration of this amendment and to put it on DC appropriations. Which I did.

Portions of this same amendment were attached to the crime bill which we passed over a year ago in the Senate—the title XVIII provisions that are contained in this amendment. The House of Representatives stripped that out of the crime bill because they argued this really belongs on health care reform. I think it belongs on a crime bill because crimes are being committed against the American people. They said, "No, put it on health care reform."

It is obvious why they said that. They wanted it on health care reform because they looked at the numbers that say $100 billion. So if we could make headway in combating fraud and abuse, we would save substantial money maybe billions of dollars, and I think the President hoped that those moneys that were saved could then be used to pay for an expansion of health care coverage for those who are currently uninsured.

But we do not have a health care reform bill this year. We are not likely to have one in the waning days of this session. So we are faced with the prospect now of another year having elapsed and no statute on the books which the Justice Department can go to to prosecute individuals who are robbing us and bleeding us blind.

If we wait until next year, we will have potentially lost another $100 billion. If we come back in January, we will not begin our session until the latter part of January. We will then go out on the Lincoln Day recess, we will come back some time in late February or early March to begin substantive deliberations again. Hearings will have to be held in the various committees. Labor, Education, Finance, perhaps the Aging Committee, other committees with overlapping jurisdiction—all will have to hold their hearings all over again. Legislation will finally be brought to the floor. We will debate that at length, hopefully pass some legislation, and then await House action, which will go through the exact same process.

So we are looking at months into next year before we can hope to pass any kind of health care reform, which would include a provision dealing with health care fraud.

Madam President, I do not think we can afford to wait. Since last year when we passed the provision dealing with title XVIII to the crime bill, we

have lost roughly $85 billion in that period of time. I do not think the American people will tolerate us failing to take action. They did not apparently want us to take action on a health care reform package. That is understandable because of so much complexity associated with the bill, so much confusion about exactly what the administration or we might be up to. But this is something that is pretty clear. There is no confusion about this. There is no lack of clarity on what has to be done and what this legislation will do.

So, Madam President, it is my hope that we will approve the amendment that I have submitted, as amended by Senator DOMENICI, and at least have the opportunity to go on record to say that we think this has to stop, this is something that is not a matter of debate or dissension within the membership here.

It is something we should move on quickly and can move on quickly and at least put the question to the House of Representatives as to whether they want to wait another year before we have any kind of meaningful legislation dealing with fraud.

Madam President, I yield the floor.

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

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Pennsylvania [Mr. WOFFORD].

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the amendments in disagreement to the conference report.

AMENDMENT NO. 2595 TO AMENDMENT NO. 2594

Mr. WOFFORD. Mr. President, I just want briefly to make clear where we are and what my intentions are in regard to the amendment that I have been putting forth.

I want to stress once again that I strongly support Senator COHEN's amendment relating to fraud and abuse. It is, as he said, in all of the bills that we have been working on not idly but hard. It is also in the 7 points that I proposed as a small step to Senator MITCHELL and Senator DOLE a little while ago.

I look forward to voting for it. I do not know what its fate will be in the House. But I look forward very much to working with the Senator from Maine to see that it becomes a reality.

I also want to make sure, to the best of my ability, that we have an up-or-down vote in due course on my amendment which under the procedural amendments that we had today is no longer before this body but which will be once again before this body when I get recognition to move it in due course, which I will do, because I do believe that Members of Congress should not take from the taxpayers the kind of affordable private health insurance that they will not guarantee for the taxpayers, their employers.

I do not need to restate the case tonight. When we come to an up-or-down vote, before that we will have a chance to hear any other views, but it seems to me that it is a self-evident truth that what is so good for us, and it is a good plan, the last thing I ever intend to do when I came here is to take that plan away from Members of Congress, but I think it is a self-evident truth that if we are not willing to take action to assure the American people the kind of choice of private health insurance guaranteed with our employer, the taxpayers, contributing the majority of our health insurance, then I think we should not be requiring the taxpayers to pay for our health insurance.

I think it is a proposition that is of such basic fairness that it will be very difficult to explain to people why we will not take action, but we are going to insist upon holding to the benefits that we have established for ourselves.

So I look forward to that debate and an up-or-down vote.

I yield the floor.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. KOHL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

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

OFFICE OF INTERNAL OVERSIGHT SERVICES AT THE UNITED NATIONS

Mr. PRESSLER. Mr. President, I come to the floor today to raise my continued concerns about the United Nation's inadequate attempt to create an inspector general office. As my colleagues know, I repeatedly have fought for the establishment of an independent reform office at the United Nation. Last January, my colleagues overwhelmingly supported me during floor debate on the Foreign Relations Authorization Act by voting to make U.S. contributions to the international body contingent upon the United Nation's creation of an independent inspector general office. In April, the President signed the Foreign Relations Authorization Act into law, making binding my amendment—known as section 401.

As a result of section 401, the President is required to certify to Congress that all procedures are in place at the United Nations regarding the establishment of the independent inspector general office. In July, my colleagues again supported me by adopting my amendment to the Commerce, State, Justice appropriations bill. This amendment required the President to notify Congress 15 days prior to his certification pursuant to section 401. I offered this amendment to ensure Congress the ability to comment on the proposed Presidential certification. That, Mr. President is why I am here today.

One week ago, Ambassador David Birenbaum, U.S. Representative to the United Nations for Management and Reform, met with my staff to discuss the administration's willingness to certify that procedures are in place at the United Nations. The administration is prepared to certify, shortly, that the United Nations is prepared to clean up its act. I am not completely convinced the recently created Office of Internal Oversight Services [OIOS] will have the independence necessary to function effectively. The Department of State is willing to certify that all procedures are in place and in compliance with section 401. I fear the OIOS does not have full independence to conduct needed audits and investigations. I am disappointed the United Nations is not willing to construct a truly independent and functional office.

I am not attempting to bash the United Nations, nor am I attempting to discredit Ambassador Albright's efforts to fight U.N. waste, fraud, and abuse. I simply do not believe that the OIOS is fully independent. Without true independence, the reform office will be a sham.

Two key components of section 401 are the requirements for procedural independence and whistle blower protection. Neither mandate appears to be fully operational in the OIOS. First, the OIOS merely will inherit the budget and the staff from the current U.N. Office of Inspections and Investigations. In other words, the newly created OIOS will be staffed with the same U.N. bureaucrats—bureaucrats who

have done little to conduct investigations and audits for the Office of Inspections and Investigations. Additionally, the OIOS cannot submit its budget directly to the General Assembly for approval. Rather, it must be approved by the Secretary General before the General Assembly has the opportunity to vote on it. Is this independence? To me it sounds more like dependence on the Secretary General. Furthermore, the OIOS currently has a scant $12 million budget for the biennium. Given the monumental size of the overall U.N. budget—including both the regular budget and peacekeeping assessments—$12 million is a pittance, a mere drop in the bucket.

Second, in order for the OIOS to function, U.N. employees must feel free to comment on acts of malfeasance. While the OIOS will have some procedures in place to accommodate the confidentiality of whistle blowers, there is a potential for reprisal against those employees whose information turns out to be false. It will be left up to the U.N. bureaucrats to determine whether false information had knowingly been provided. This procedure certainly will not serve as an incentive for U.N. staff to disclose information.

Another issue of contention is the fact that UNICEF and UNDP will not be subject to OIOS audits and investigations. Certainly, these U.N. appendages should be subject to the same budget and management scrutiny as the rest of the U.N. Secretariat. The OIOS does not have the reach necessary to uncover fully the rampant cases of U.N. malfeasance.

While I applaud the efforts of the United Nations and the administration, I feel the administration has missed a monumental opportunity. Once U.S. contributions begin flowing into the United Nations after formal certification, what incentive will remain for the international bureaucracy to put their house in order? The United Nations has dressed enough windows. It is time for genuine reform. It is time for the United Nations to clean up its act.

CONFERENCE REPORT ON H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. LAUTENBERG Mr. President, I rise to congratulate the conferees on the elementary and secondary education bill for keeping the tough gun-free school language that the Senate unanimously passed earlier this year. There were rumors floating around recently that this language, which requires that all schools adopt a zero tolerance for guns, was going to be severely weakened by the conferees.

As many of my colleagues know, the Senate also unanimously passed this provision as a 1-year amendment to Goals 2000 bill earlier this year. This provision requires every school district receiving Federal funds to adopt a policy of expelling a student for 1 year if he or she carried a gun into school. This was a tough provision but it is time to be tough. Now that the conferees on the Elementary and Secondary bill have adopted it, it will become permanent law.

Mr. President, we must have zero tolerance for guns in our schools. Unfortunately, many children in our society fear walking around in their own neighborhoods. They are afraid of the gun violence that is plaguing our country. It is shame that children are afraid in their own communities and homes. We must do everything we can—put more police on the street, tighten controls on guns, get tough on criminals and give our young people positive reinforcement—to make our cities and towns safer.

But there is one place where a child should be absolutely safe—never afraid of gun violence—and that is at school. A school building must be a safe haven for all of our children. They should feel totally secure at school, so that they can devote all of their attention to learning.

However, if children attend school and fear for their lives they will not receive a high-quality education. If they do not get an excellent education, they will not get good jobs. And if they do not get good jobs they will likely live in poverty and be more likely to commit crimes.

We can break this cycle if we start by making our schools completely safe.

Mr. President, the problem of bringing guns to school is not a minor one. According to the National Education Association and the National School Boards Association, an estimated 135,000 guns are brought into our Nation's schools every day. And since 1993, there have been at least 35 deaths and 94 injuries that resulted from gun violence in our schools.

Mr. President, this is totally unacceptable. I am pleased that the conferees retained this language. Our position should be loud and clear—no guns in our schools, period.

MESSAGES FROM THE HOUSE

At 12:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

At 5:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1970. An act to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

ENROLLED BILLS SIGNED

At 7:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

H.R. 4539. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3360. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the National Technical Information Service for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC-3361. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on First-of-a-Kind Engineering Program for commercialization of Advanced Light Water Reactor Technology; to the Committee on Energy and Natural Resources.

EC-3362. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "Superfund Costs Claimed by the Department of Energy Under Interagency Agreements with the Environmental Protection Agency For Fiscal Year 1993"; to the Committee on Environment and Public Works.

EC-3363. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a certification relative to the United Nations agency or U.N. affiliated agencies; to the Committee on Foreign Relations.

EC-3364. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report relative to commercial disputes in Saudi Arabia; to the Committee on Foreign Relations.

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EC-3365. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the reports and testimony for August 1994; to the Committee on Governmental Affairs.

EC-3366. A communication from the Acting Archivist of the United States, transmitting, pursuant to law, notice relative to an improperly alienated federal record; to the Committee on Governmental Affairs.

EC-3367. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled "Family Planning and Five Year Plan" for fiscal years 1991 and 1992"; to the Committee on Labor and Human Resources.

EC-3368. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled "Center for Disease Control and Prevention Plan For Preventing Birth Defects"; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 338. A bill to amend the Petroleum Marketing Practices Act to clarify the Federal standards governing the termination and nonrenewal of franchises and franchise relationships for the sale of motor fuel, and for other purposes (Rept. No. 103-387).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 2194. A bill for the relief of Merrill Lannen.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 265. A resolution to express the sense of the Senate concerning District Council elections in Hong Kong on September 18, 1994.

S. Res. 270. A resolution to express the sense of the Senate concerning U.S. relations with Taiwan.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2475. An original bill to authorize assistance to promote the peaceful resolution of conflicts in Africa.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Robert B. Fulton, of Pennsylvania, to be an Associate Director of the United States Information Agency.

Cecil James Banks, of New Jersey, to be a Member of the Board of Directors of the African Development Foundation for a term expiring November 13, 1995.

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.

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.

William Hybl, of Colorado, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1997.

Vonya B. McCann, of Maryland, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for International Communications and Information Policy.

Walter R. Roberts, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring April 6, 1997.

Patrick J. Leahy, of Vermont, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Madeleine Korbel Albright, of the District of Columbia, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

David Elias Birenbaum, of the District of Columbia, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Frank H. Murkowski, of Alaska, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Karl Frederick Inderfurth, of North Carolina, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Edward William Gnehm, Jr., of Georgia, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Victor Marrero, of New York, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

David George Newton, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Yemen.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: David George Newton.

Post: Sanaa, Yemen.

Contributions, Amount, Date, Donee.

1. Self, David G. Newton, None.

2. Spouse, Christa M. Newton, None.

3. Children, and Mark A. Newton, Lesley C. Newton, none.

4. Parents, Charles P. Newton, deceased 1975, Gladys E. Newton, deceased 1978.

5. Grandparents, George H. Newton, deceased 1924, Martha Paul Newton, deceased December 1951. Frederick S. Moore, December 1946, (spouse) Moore December 1942.

6. Brothers and spouses, none.

7. Sisters and spouses, Martha L. Luchsinger, Juan Luchsinger, none.

Robert Edward Service, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Robert Edward Service.

Post: Asuncion, Paraguay.

Contributions, amount, date, donee.

1. Self, Robert Edward Service, none.

2. Spouse, Karol Christine Service, none.

3. Children, Jennifer L. & John T. Service, none.

4. Parents, John S. and Caroline Service, $3,037, 1/90-5/94, various (see itemized list attached).

Political contributions by John S. Service, 01-01-90 to 06-01-94.

3-4-90 Council for a Livable World	$50
3-4-90 Democratic Senate Campaign Committee (DSCC)	25
3-4-90 Calif. Demo. Victory Fund	30
4-27-90 Independent Action	40
7-9-90 Common Cause	25
7-9-90 DSCC	25
7-30-90 Common Cause	50
8-17-90 Democratic National Committee	20
9-10-90 Democratic National Committee	25
9-26-90 Harvey Grant for Senate	30
10-2-90 Nat. Com. for Effective Congress (NCEC)	50
12-10-90 Dem. Cong. Campaign Committee (DCCC)	30
1-17-91 Council for Livable World	30
1-17-91 Demo. National Committee (DNC)	20
1-17-91 Americans for Democratic Action (ADA)	50
2-28-91 Independent Action	40
2-28-91 DSCC	40
2-28-91 NCEC	50
8-30-91 Council for Livable World	35
10-3-91 DNC	35
11-11-91 ADA	30
11-11-91 Cal. Demo. Victory Fund	30
1-8-92 Independent Action	40
1-8-92 Ron V. Dellums	25
1-8-92 NCEC	50
1-8-92 DSCC	25
1-8-92 DCCC	30
4-23-92 Council for Livable World	50
7-20-92 ADA	50
7-20-92 Council for Livable World	50
7-20-92 Common Cause	50
7-20-92 DSCC	25
7-20-92 Clinton for President	50
7-20-92 Calif. Demo. Party	30
11-19-92 Independent Action	40
1-6-93 Independent Action	40
1-16-93 DNC	50
1-16-93 ADA	40
4-12-93 Independent Action	40
4-12-94 NCEC	50
4-20-93 DSCC	25
5-6-93 DCCC	30
6-30-93 Concord	
B Coalition	50
7-17-93 Common Cause	50
9-23-93 AFSA Legislative Action Fund	25
1-22-94 Independent Action	40
2-1-94 ADA	45
2-1-94 Concord Coalition	50
4-6-94 DCCC	45
4-6-94 DNC	50
4-6-94 Calif. Demo. Party	30
4-6-94 Common Cause	20
4-6-94 Concord Coalition	50
4-6-94 NCEC	50
4-6-94 Independent Action	40
Political contributions of Caroline S. Service, 01-01-90 to 07-01-94.	
1990 Congressional Agenda	120

1991 Congressional Agenda	120
1992 Congressional Agenda	120
1993 Congressional Agenda	120
1994 Congressional Agenda	60
3-7-90 DNC	30
7-5-90 DNC	25
9-12-90 NOW Pol. Action Committee	25
10-1-90 DNC	30
11-2-90 Calif. Demo. Victory Fund	20
4-4-91 DNC	15
7-11-91 Cal. Demo. Victory Fund	52
10-30-91 DNC	50
1-13-92 DNC	30
3-29-92 DNC	25
10-9-92 DNC	50
3-17-93 DNC	50

5. Grandparents, Edward and Katherine Schulz, Robert and Grace Service, (deceased).

6. Brothers and spouses, Philip M. & Kiisa Service, none.

7. Sisters and Spouses, Virginia & Garth P. McCormick, none.

Peter Jon de Vos, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Costa Rica.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Peter Jon de Vos.

Post: U.S. Ambassador to Costa Rica.

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, Paul Louis de Vos, (deceased), Elizabeth Suzanne Towers, none.

5. Grandparents, (deceased), none.

6. Brothers, none.

7. Sisters, Gretchen Banks, Lurline de Vos, none.

Gabriel Guerra-Mondragon, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is completed and accurate.

Nominee; Gabriel Guerra-Mondragon.

Post: U.S. Ambassador to Chile.

Contributions, amount, date, donee.

1. Self, see attachment.

February 12, 1991, Hispanic PAC USA Inc.	$500.00
January 22, 1992, Clinton for President	1,000.00
January 28, 1992, Committee to Re-Elect Nydia Velazquez	200.00
March 7, 1992, Becerra for Congress	100.00
June 3, 1992, Becerra for Congress	100.00
May 26, 1992, Hispanic PAC USA	500.00
August 4, 1992, Sosa for Congress	100.00
October 2, 1992, Bustamante for Congress Committee	150.00
February 2, 1993, Friends of Paul McHale Debt Retirement	200
December 2, 1992, Committee to Elect Nydia Velazquez	250.00
February 2, 1993, Friends of Paul McHale Debt Retirement	200.00
August 10, 1993, Transportation Communications International Union	60.00
March 15, 1994, Lucille Roybal-Allard for Congress	75.00
April 12, 1994, Committee to Re-Elect Esteban A. Torres	1,000.00
May 3, 1994, Chief Deputy Whip's Fund	500.00

2. Spouse, none.

3. Children and spouses, none.

4. Parents, Gabriel Guerra-Mondragon, deceased, none.

5. Grandparents, Carmen Casalduc, deceased, all four, none.

6. Brothers and spouses, none.

7. Sisters and spouses, Carmen Guerra-Mondragon, Elliott Holt, none. Maria Guerra-Mondragon, Herman Colberg, none.

Jerome Gary Cooper, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, Donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, Patrick Cooper, Joli C. Cooper, none. Julia Cooper, Gladys S. Cooper, none.

4. Parents A. J. Cooper deceased. Gladys M. Cooper, deceased.

5. Grandparents, Clarence Mouton, Agnes Mouton, deceased. Osceola Cooper, Alice Cooper, deceased.

6. Brothers and spouses, A. J. Cooper, Jr. Mario Cooper, none. William M. Cooper, deceased.

7. Sisters and spouses, Peggy Cooper Cafritz, $1,000, 1991. Conrad Cafritz, Sidney Yates. Dominic Cooper, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of September 22, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 22, 1994 at the end of the Senate proceedings.)

By Mr. INOUYE, from the Committee on Indian Affairs:

LaDonna Harris, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2000.

Barbara Blum, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1996.

Loren Kieve, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1996.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 103-23 Two Treaties With The United Kingdom Establishing Caribbean Maritime Boundaries (Exec. Rept. 103-35).

Treaty Doc. 103-27 Convention on the Conservation and Management of Pollock Resources In the Central Bering Sea (Exec. Rept. 103-36).

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. HATFIELD:

S. 2473. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. LEAHY, and Mr. BURNS):

S. 2474. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to improve the national recreational trails funding program, and for other purposes; to the Committee on Environment and Public Works..

By Mr. PELL:

S. 2475. An original bill to authorize assistance to promote the peaceful resolution of conflicts in Africa; from the Committee on Foreign Relations; placed on the calendar.

By Mr. CHAFEE:

S. 2476. A bill to amend the Internal Revenue Code of 1986 to encourage individuals to save through individual retirement accounts, and for other purposes; to the Committee on Finance.

By Mr. GREGG:

S. 2477. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. PRESSLER, Mr. NUNN, Mr. CHAFEE, Mr. INOUYE, Mr. BURNS, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. WELLSTONE, Mr. WOFFORD, and Mr. KOHL):

S. 2478. A bill to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes; to the Committee on Small Business.

By Mrs. MURRAY:

S. 2479. A bill to promote the construction and operation of United States flag cruise vessels in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMPSON:

S. 2480. A bill to amend the Immigration and Nationality Act to add provisions relating to the treatment of criminal aliens under the immigration laws of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BRYAN, Mr. D'AMATO, Mr. DORGAN, Mr. GLENN, Mr. HOLLINGS, Mr. LEVIN, Mr. PELL, Mr. RIEGLE, Mr. ROCKEFELLER, and Mr. SASSER):

S.J. Res. 225. A joint resolution to designate February 5, 1995, through February 11, 1995, and February 4, 1996, through February 10, 1996, as "National Burn Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 2473. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

THE BONNEVILLE POWER ADMINSITRATION APPROPRIATIONS REFINANCING ACT

• Mr. HATFIELD. Mr. President, on behalf of the administration, I am introducing legislation entitled the "Bonneville Power Administration Appropriations Refinancing Act." The bill was transmitted officially to the Senate on September 15, 1994, and is similar to S. 2332, legislation that Senator MURRAY and I introduced on July 28,1994.

Although insufficient time remains in this session for the Senate to consider the proposal, I am pleased that the administration has endorsed the refinancing of the BPA's appropriated debt, and believe that this support is crucial for the enactment of a refinancing bill during the next session of Congress. I look forward to working with the administration and my Senate and House colleagues on this important legislation in the 104th Congress.

Mr. President, I ask unanimous consent that the bill, a section-by-section analysis, and the letter of transmittal from the Secretary of Energy to the President of the Senate be included in the RECORD.

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

S. 2473

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Bonneville Power Administration Appropriations Refinancing Act."

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the U.S. Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838(k));

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995.

(4) "old capital investment" means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means:

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

SEC. 3. NEW PRINCIPAL AMOUNTS.

(a) Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) With the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under section 3 and the assignment of interest rates to the new principal amounts under section 4.

(c) For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the U.S. Treasury from October 1, 1995, if this Act were not enacted, assuming that—

(1) the principal were repaid—

(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

SEC. 4. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.

As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 3 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

SEC. 5. REPAYMENT DATES.

As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 3 is no earlier than the repayment date for the old capital investment assumed in section 3(c)(1).

SEC. 6. PREPAYMENT LIMITATIONS.

During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 3, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

SEC. 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.

(a) The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(2) accrued interest during construction.

(b) The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).

(c) For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

SEC. 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 9. APPROPRIATED AMOUNTS.

(a) Notwithstanding any other law and without fiscal year limitation, there are appropriated to the Administrator $15.25 million in fiscal year 1996, $15.86 million in fiscal year 1997, $16.49 million is fiscal year 1998, $17.15 million in fiscal year 1999, $17.84 million in fiscal year 2000, and $4.10 million in each succeeding fiscal year so long as the administrator makes annual payments to the Tribes under the settlement agreement.

(b) For the purposes of this section—

(1) "settlement agreement" means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

(2) "Tribes" means the Confederated Tribes of the Colville Reservation, a federally-recognized Indian Tribe.

SEC. 10. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 3 of this Act;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 4 of this Act;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and,

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 3 of this Act and to pay the interest on the principal amount under section 4 of this Act, no amount may be charged for return to the U.S. Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31 United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Act; and

(4) the contract provisions specified in the Act do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

SEC. 11. SAVINGS PROVISIONS.

(a) This Act does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(b) Except as provided in section 6 of this Act, this Act does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING ACT—SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The Bonneville Power Administration (BPA) markets electric power produced by federal hydroelectric projects in the Pacific Northwest and provides electric power transmission services over certain federally-owned transmission facilities. Among other obligations, BPA establishes rates to repay to the U.S. Treasury the federal taxpayers' investments in these hydroelectric projects and transmission facilities made primarily through annual and no-year appropriations. Since the early 1980's, subsidy criticisms have been directed at the relatively low interest rates applicable to many of these Federal Columbia River Power System (FCRPS) investments. The purpose of this legislation is to resolve permanently the subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on BPA's power and transmission rates.

The legislation accomplishes this purpose by resetting the principal of BPA's outstanding repayment obligations at an amount that is $100 million greater than the present value of the principal and interest BPA would have paid in the absence of this Act on the outstanding appropriated investments in the FCRPS. The interest rates applicable to the reset principal amounts are based on the U.S. Treasury's borrowing costs in effect at the time the principal is reset. The resetting of the repayment obligations is effective October 1, 1995, coincident with the beginning of BPA's next rate period.

While the Act increases BPA's repayment obligations, and consequently will increase the rates BPA charges its ratepayers, it also provides assurance to BPA ratepayers that the Government will not further increase these obligations in the future. By eliminating the exposure to such increases, the legislation substantially improves the ability of BPA to maintain its customer base, and to make future payments to the U.S. Treasury on time and in full. Since the Act will cause both BPA's rates and its cash transfers to the U.S. Treasury to increase, it will aid in reducing the Federal budget deficit by an estimated $45 million over the current budget window.

SECTION 1. SHORT TITLE

This section sets the short title of this Act as the "Bonneville Power Administration Appropriations Refinancing Act."

SECTION 2. DEFINITIONS

This section contains definitions that apply to this Act.

Paragraph (1) is self-explanatory.

Paragraph (2) clarifies the repayment obligations to be affected under this Act by defining "capital investment" to mean a capitalized cost funded by a Federal appropriation for a project, facility, or separable unit or feature of a project or facility, provided that the investment is one for which the Administrator of the Bonneville Power Administration (Administrator or BPA) is required by law to establish rates to repay to the U.S. Treasury. The definition excludes Federal irrigation investments required by law to be repaid by the Administrator through the sale of electric power, transmission or other services, and, investments financed either by BPA current revenues or by bonds issued and sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

Paragraph (3) defines new capital investments as those capital investments that are placed in service after September 30, 1995.

Paragraph (4) defines those capital investments whose principle amounts are reset by this Act. "Old capital investments" are capital investments whose capitalized costs were incurred but not repaid before October 1, 1995, provided that the related project, facility, or separable unit or feature was placed in service before October 1, 1995. Thus, the capital investments whose principal amounts are reset by this Act do not include capital investments placed in service after September 30, 1995. The term "capital investments" is defined in section 2(2).

Paragraph (5) defines "repayment date" as the end of the period that the Administrator is to establish rates to repay the principal amount of a capital investment.

Paragraph (6) defines the term "Treasury rate." The term Treasury rate is used to establish both the discount rates for determining the present value of the old capital investments (section 3(a)) and the interest rates that will apply to the new principal amounts of the old capital investments (section 4). The term Treasury rate is also used under section 8 in determining the interest rates that apply to new capital investments, as the term is defined.

In the case of each old capital investment, Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment. Thus, the interest rates and discount rates for old capital investments reflect the Treasury yield curve proximate to October 1, 1995. Likewise, in the case of each new capital investment, the Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields during the month preceding the beginning of the fiscal year in which the related facilities are placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year in which the related facilities are placed in service and the repayment date for the new capital investment. Thus, the interest rates for new capital investments reflect the Treasury yield curve proximate to beginning of the fiscal year in which the facilities the new capital investment concerns are placed in service.

The term Treasury rate is not to be confused with other interest rates that this Act directs the Secretary of the Treasury to determine, specifically, the short-term (one-year) interest rates to be used in calculating

interest during construction of new capital investments (section 7) and the interest rates for determining the interest that would have been paid in the absence of this Act on old capital investments that are placed in service after the date of this Act but prior to October 1, 1995 (section 3(b)(2)). These latter interest rates reflect rate methodologies very similar to those specified by the term Treasury rate, but apply to different features of this Act.

It is expected that the Secretary of the Treasury will use an interest rate formulation that the Secretary uses to determine rates for federal lending and borrowing programs generally.

SECTION 3. NEW PRINCIPAL AMOUNTS

Section 3 establishes new principal amounts of the old capital investments, which the Administrator is obligated by law to establish rates to repay. These investments were made by Federal taxpayers primarily through annual appropriations and include investments financed by appropriations to the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and to BPA prior to implementation of the Federal Columbia River Transmission System Act. In general, the new principal amount associated with each such investment is determined (regardless of whether the obligation is for the transmission or generation function of the FCRPS) by (a) calculating the present value of the stream of principal and interest payments on the investment that the Administrator would have paid to the U.S. Treasury absent this Act and (b) adding to the principal of each investment a *pro rata* portion of $100 million. The new principal amount is established on a one-time-only basis. Although the new principal amounts become effective on October 1, 1995, the actual calculation of the reset principal will not occur until after October 1, 1995, because the discount rate will not be determined, and BPA'S final audited financial statements will not become available, until later in that fiscal year.

As prescribed by the term "old capital investments," the new principal amount is not set for appropriations-financed FCRPS investments the related facilities of which are placed in service in or after fiscal year 1996, for Federal irrigation investments required by law to be recovered by the Administrator from the sale of electric power, transmission or other services, or for investments financed by BPA current revenues or by bonds issued or sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

The discount rate used to determine the present value is the Treasury rate for the old capital investment and is identical to the interest rate that applies to the new principal amounts of the old capital investments. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate assigned to each old capital investment.

The discount period for a principal amount begins on the date that the principal amount associated with an old capital investment is reset (October 1, 1995) and ends, for purposes of making the present value calculation, on the repayment dates provided in this section. The repayment dates for purposes of making the present value calculation are already assigned to almost all of the old capital investments. For old capital investments that will be placed in service after October 1, 1993, but before October 1, 1995, no such dates have been assigned. The Administrator will establish the dates for these latter investments in accordance with U.S. Department of Energy Order RA 6120.2—"Power Marketing Administration Financial Reporting," as in effect at the beginning of fiscal year 1994. These ideas are captured in the definition of the term "old payment amounts."

The interest portion of the old payment amounts is determined on the basis that the principal amount would bear interest annually until repaid at interest rates assigned by the Administrator. For almost all old capital investments, these interest rates were assigned to the capital investments prior to the effective date of this Act. (For old capital investments that are placed in service after September 30, 1993, the interest rates to be used in determining the old payment amounts will be a rate determined by the Secretary of the Treasury proximate to the beginning of the fiscal year in which the related project or facility, or the separable unit or feature of a project or facility, was placed in service. Section 3(c)(2)(B) provides the manner in which these interest rates are established.) Thus, for purposes of determining the present value of a given interest payment on a capital investment, the discount period for the payment is between October 1, 1995, and the date the interest payment would have been made.

The *pro rata* allocation of $100,000,000 is based on the ratio that the nominal principal amount of the old capital investment bears to the sum of the nominal principal amounts of all old capital investments. This added amount fulfills a key financial objective of the Act to provide the U.S. Treasury and Federal taxpayers with a $100,000,000 increase in the present value of BPA's principal and interest payments with respect to the old capital investments. Since the $100,000,000 is a nominal amount that bears interest at a rate equal to the discount rate, the present value of the stream of payments is necessarily increased by $100,000,000.

Paragraph (b) of section 3 provides that with the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under section 3 and the assignment of interest rates to the new principal amounts under section 4. The Administrator will calculate the new principal amount of each old capital investment in accord with section 3 on the basis of (i) the outstanding principal amount, the interest rate and the repayment date of the related old capital investment, (ii) the discount rate provided by the Secretary of the Treasury, and (iii) for purposes of calculating the pro rata share of $100 million in each new principal amount under section 3(a)(2), the total principal amount of all old capital investments. The Administrator will provide this data to the Secretary of the Treasury so that the Secretary can approve that the calculation of each new principal amount is consistent with this section and that the assignment of the interest rate to each new principal amount is consistent with section 4.

The approval by the Secretary of the Treasury will be completed as soon as practicable after the data on the new principal amounts and the interest rates are provided by the Administrator. It is expected that the approval by the Secretary will not require substantial time.

SECTION 4. INTEREST RATES FOR NEW PRINCIPAL AMOUNTS

Section 4 provides that the unpaid balance of the new principal amount of each old capital investment shall bear interest at the Treasury rate for the old capital investment, as determined by the Secretary of the Treasury under section 2(6)(A). The unpaid balance of each new principal amount shall bear interest at that rate until the earlier of the date the principal is repaid or the repayment date for the investment.

SECTION 5. REPAYMENT DATES

Section 5, in conjunction with the term "repayment date" as that term is defined in section 2(5), provides that the end of the repayment period for each new principal amount for an old capital investment shall be no earlier than the repayment date used in making the present value calculations in section 3. Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. Section 5 confirms that the Administrator retains this obligation notwithstanding the enactment of this Act.

SECTION 6. PREPAYMENT LIMITATIONS

Section 6 places a cap on the Administrator's authority to prepay the new principal amounts of old capital investments. During the period October 1, 1995 through September 30, 2000, the Administrator may pay the new principal amounts of old capital investments before their respective repayment dates provided that the total of the prepayments during the period does not exceed $100,000,000.

SECTION 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION

Section 7 establishes in statute a key element of the repayment practices relating to new capital investments. Section 7 provides the interest rates for determining the interest during construction of these facilities. For each fiscal year of construction, the Secretary of the Treasury determines a short-term interest rate upon which that fiscal year's interest during construction is based. The short-term interest rate for a given fiscal year applies to the sum of (a) the cumulative construction expenditures made from the start of construction through the end of the subject fiscal year, and (b) interest during construction that has accrued prior to the end of the subject fiscal year. The short-term rate for the subject fiscal year is set by the Secretary of the Treasury taking into consideration the prevailing market yields on outstanding obligations of the United States with periods to maturity of approximately one year. These ideas are included in the definition of the term "one-year rate."

This method of calculating interest during construction equates to common construction financing practice. In this practice, construction is funded by rolling, short-term debt which, upon completion of construction, is finally rolled over into long-term debt that spans the expected useful life of the facility constructed. Accordingly, section 7 provides that amounts for interest during construction shall be included in the principal amount of a new capital investment. Thus, the Administrator's obligation with respect to the payment of this interest arises when construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

SECTION 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS

Section 8 establishes in statute an important component of BPA's repayment practice, that is, the methodology for determining the interest rates for new capital investments. Heretofore, administrative policies and practice established the interest rates applicable to capital investments as a long-term Treasury interest rate in effect at the time construction commenced on the related

facilities. By contrast, section 8 provides that the interest rate assigned to capital investments made in a project, facility, or separable unit or feature of a project or facility, provided it is placed in service after September 30, 1995, is a rate that more accurately reflects the repayment period for the capital investment and interest rates at the time the related facility is placed in service. The interest rate applicable to these capital investments is the Treasury rate, as defined in section 2(6)(B). Each of these investments would bear interest at the rate so assigned until the earlier of the date it is repaid or the end of its repayment period.

SECTION 9. APPROPRIATED AMOUNTS

Pursuant to the settlement agreement with the Tribes, the Administrator will become obligated to pay amounts to the Tribes so long as Grand Coulee Dam produces electric power. Section 9 appropriates certain amounts to the Administrator. (The definitions of Tribes and Settlement Agreements are found in paragraph (b) of section 9). In effect, the appropriations partially offset the Bonneville rate impacts of the annual payments by the Administrator to the Tribes under the settlement agreement. Thus, the taxpayers, through the appropriated amounts under section 9 and amounts that are to be paid from the judgment fund to the Tribes under the settlement agreement, and Bonneville's ratepayers, through the Administrator's obligation to pay annual amounts under the settlement agreement, each bear an equitable share of the costs of the settlement.

Although the amounts appropriated to the Administrator in section 9 are made in connection with the settlement agreement, the Administrator may obligate against these amounts for any authorized purpose of the Administrator. In addition, these amounts are made available without fiscal year limitation, meaning that the amounts remain available to the Administrator until expended. In this manner the amounts appropriated under section 9 are the equivalent of other amounts available in the Bonneville fund and constitute an "appropriation by Congress for the fund" within the meaning of section 11(a)(3) of the Federal Columbia River Transmission System Act (16 U.S.C.S. 838i(a)(3).

SECTION 10. CONTRACT PROVISIONS

Section 10 is intended to capture in contract the purpose of this legislation to permanently resolve issues relating to the repayment obligations of BPA's customers associated with an old capital investment. With regard to such investments, paragraph (1) of section 10 requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any return of the capital investments other that the interest payments or principal repayments authorized by this Act. Paragraph (1) of section 10 also provides assurance to ratepayers that outstanding principal and interest associated with each old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered. This provision assures that payments of principal and interest will in fact satisfy principal and interest payable on these capital investments.

Whereas paragraph (1) of section 10 limits the return to the U.S. Treasury of the Federal investments in the designated projects and facilities, together with interest thereon, paragraph (2) of section 10 requires the Administrator to offer to include in contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any additional return on those old capital investments. Thus, the Administrator may not impose a charge, rent or other fee for such investments, either while they are being repaid or after they have been repaid. Paragraph (2) of section 10 also contractually fixes the interest obligation on the new principal obligation at the amount determined pursuant to section 4 of this Act.

Paragraph (3) of section 10 is intended to assure BPA ratepayers that the contract provisions described in paragraphs (1) and (2) of section 10 are not indirectly circumvented by requiring BPA ratepayers to bear through BPA rates the cost of a judgment or settlement for breach of the contract provisions. The subsection also confirms that the judgment fund shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a violation of the contract provisions required by section 10. Section 1304 of title 31, United States Code, is a continuing, indefinite appropriation to pay judgments rendered against the United States, provided that payment of the judgment is "not otherwise provided for." Paragraph 3 of section 10 of this Act assures both that the Bonneville fund, described in section 838 of title 16, United States Code, shall not be available to pay a judgment or settlement for breach by the United States of the contract provisions required by section 10 of this Act, and that no appropriation, other than the judgment fund, is available to pay such a judgment.

Paragraph (4)(A) of section 10 establishes that the contract protections required by section 10 of this Act do not extend to Bonneville's recovering a tax that is generally applicable to electric utilities, whether the recovery by Bonneville is made through its rates or by other means.

Paragraph (4)(B) of section 10 makes clear that the contract terms described above are in no way intended to alter the Administrator's current rate design discretion or ratemaking authority to recover other costs or allocate costs and benefits. This Act, including the contract provisions under section 10, does not preclude the Administrator from recovering any other costs such as general overhead, operations and maintenance, fish and wildlife, conservation, risk mitigation, modifications, additions, improvements, and replacements to facilities, and other costs properly allocable to a rate or resource.

SECTION 11. SAVINGS PROVISIONS

Subsection (a) of this section assures that the principal and interest payments by the Administrator as established in this Act shall be paid only from the Administrator's net proceeds.

Subsection (b) confirms that the Administrator may repay all or a portion of the principal associated with a capital investment before the end of its repayment period, except as limited by section 6 of this Act.

THE SECRETARY OF ENERGY,
Washington, DC, September 15, 1994.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation entitled the "Bonneville Power Administration Appropriations Refinancing Act."

Since the early 1980's, criticism has been directed at the relatively low interest rates outstanding on many of the Federal Columbia River Power System investments funded by Federal appropriations and the flexible method used by the Bonneville Power Administration to schedule principal payments on its Federal obligations. This legislation addresses long-standing subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on Bonneville's power and transmission rates.

Last fall, as part of the President's National Performance Review initiative, the Administration proposed legislation that called for Bonneville to buy out its outstanding, low interest repayment obligations on appropriations with debt that Bonneville would issue in the open market. Although the proposed legislation would have increased the present value of Bonneville's debt service payments to the U.S. Treasury, it was scored as adding to the Federal deficit because Bonneville would have incurred issuance costs and a higher rate of interest than if the buy-out were financed through the U.S. Treasury. That legislation also raised concerns that Bonneville open-market access could conflict with the Treasury's overall debt management plans.

Since last fall, Bonneville has collaborated with its customers and with other agencies in the Executive Branch to develop revised legislation that avoids the issues raised by Bonneville open-market access. The enclosed legislation calls for Bonneville's outstanding repayment obligations on appropriations to be reconstituted by re-setting outstanding principal at the present value of the principal and annual interest that Bonneville would pay to the U.S. Treasury, plus $100 million. Interest rates on the new principal would be reassigned at current Treasury interest rates. The bill also restricts prepayments of reconstituted obligations to $100 million in the period from October 1, 1995 through September 30, 2000. Other repayment terms and conditions would remain unaffected.

Benefits to the Government of this legislation are that it provides a minimum $100 million increase in the present value of Bonneville's debt service payments to the U.S. Treasury. This increase represents agreement between ratepayers and the Government to resolve the subsidy criticisms for outstanding appropriation repayment obligations. It would reduce the Federal deficit by an estimated $45 million because Bonneville cash transfers to Treasury and rates will increase. Bonneville's customers recognize that recurring subsidy criticisms must be addressed once and for all because of the risk they pose to Bonneville's financial stability and rate competitiveness. The legislation includes assurances to ratepayers that the Government will not maintain its customer base, improve its competitive position, and strengthen its ability to meet future payments to the U.S. Treasury on time and in full.

The legislation also proposes that certain appropriations be provided to Bonneville in connection with payments Bonneville would make under a proposed litigation settlement. The United States and the Confederated Tribes of the Colville Reservation propose to settle the Tribes' claims that they are entitled to a share of the power production revenues of Grand Coulee Dam. The settlement would have the Tribes dismiss the claims in return for a one-time cash payment of $53 million payable from the Judgment Fund (authorized in section 1304 of title 31, United States Code), and annual payments from Bonneville through the revenue-generating life of Grand Coulee Dam.

The annual payments from Bonneville would begin at approximately $15 million in FY 1996, and escalate under provisions in the settlement. Bonneville would receive appropriations equal to 100 percent of the annual payments in each of fiscal years 1996 through 2000. In fiscal years thereafter, Bonneville would receive an appropriation equal to approximately $4 million per year. These appropriations, together with the one-time Judgment Fund payment, represent an equitable allocation of the cost of the settlement between Bonneville ratepayers and Federal taxpayers.

The Administration recently submitted Colville Settlement legislation that contains repayment credit provisions rather than the appropriation that is in the legislation being forwarded here. The appropriations in section 9 of the enclosed Bonneville Power Administration Appropriations Refinancing legislation supersede those in the administration's Colville Settlement legislative proposal. The Administration is open to the concept of merging these two proposals in the legislative process. By the same token, because the same results associated with implementing the settlement agreement are achieved with respect to the Tribes, the Treasury, and the rate payers, we are comfortable with proceeding with the Colville debt repayment concept at this time and then enacting the Bonneville Power Administration Appropriations Refinancing Act subsequently.

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement through fiscal year 1998. That is, no revenue and direct spending bill should result in an increase in the deficit, and if it does, it will trigger a sequester if it is not fully offset. The provisions of this legislation taken together would decrease net Federal outlays by approximately $45 million over fiscal year 1996 through fiscal year 1998.

The Office of Management and Budget advises that the enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

HAZEL R. O'LEARY.●

By Mr. CAMPBELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. LEAHY, and Mr. BURNS):

S. 2474. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to improve the national recreational trails funding program, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM AMENDMENT ACT OF 1994

Mr. CAMPBELL. Madam President, I rise today to introduce a bill that will correct a problem in getting funding to maintain and expand our Nation's Trail System.

Trails are the historic backbone of our transportation system in this country. Trails guided settlers to the West. Trails helped bring commerce and supplies to those settlers. Today, trails still provide transportation, but also provide exercise and relaxation. Our trail system is suffering due to a lack of money. In 1991, Congress promised millions of dollars to the States for trails. Unfortunately, the States have not seen this funding due to a technical glitch.

In 1991, Congress passed the Intermodal Surface Transportation Efficiency Act. Included in ISTEA was the National Recreational Trails Trust Fund Act, which returns to each State a portion of the sales tax on gasoline purchased by all motorized trail users. The moneys were to be used to construct and maintain a State's motorized and nonmotorized trails.

Trails funding seems to be on a downward spiral. Although $30 million was authorized for trails under ISTEA, only $7.3 million was appropriated in fiscal year 1993. In fiscal year 1994, the matter became more technical. While ISTEA established a Trails Trust Fund, no administrative mechanism was established to distribute the funds; therefore, no budget States of my colleagues. I have a letter from the Governor of Colorado that was sent to Secretary Peña explaining his concern about the lack of trails funding that I ask unanimous consent to be included in the RECORD.

As mentioned, funding for the National Recreational Trails Trust Fund is generated by the Federal motor fuels tax. A recent report released by the U.S. Treasury Department showed that $63 million in Federal gas taxes were collected in fiscal year 1992 from motorcyclists. Collections in fiscal year 1993 totaled $64 million.

The philosophy of user pay/user benefit has been a tenet of tax policy. Under the act, these funds should be returned to State trails programs. However, of the $127 million collected in those 2 years, the National Recreational Trust Fund has received only $7.5 million. This $119.5 million shortfall is unjust.

The $7.5 million allocated in fiscal year 1993 was used for badly needed trail maintenance and repair. A national advisory board has been working with State advisory boards to improve trail conditions for both motorized and nonmotorized trail users. But this program has been cut short by the unexpected stoppage of Federal appropriations.

Madam President, our trails need every cent of available Highway Trust Fund money intended for this purpose. My bill would provide $6 million for the National Recreational Trails Trust Fund. This money comes from projects in the National Highway System bill that are no longer needed, or projects that will not use all of their allocation has been made for the appropriation of funds. This apparently caused the authorizing and appropriating committees to argue whether funding could be provided for this program—leading to a deletion of trails funding in fiscal year 1994. To make matters worse, trails funding was not included in the President's fiscal year 1995 budget request.

My State of Colorado received a grant for $122,022 in 1993. Motorized and nonmotorized projects each received 30 percent of the money, and 40 percent went to combined or multiple-use trail projects.

Communities have used these grants as seed money to encourage the building of trails. Municipalities, businesses, volunteers, and civic groups have donated time and money to build these trails. This is truly an endeavor in which the government and the public can work together to achieve positive results.

While many use and appreciate trails, many may not realize how they came about and realize their need for financing. According to a student research project conducted at the University of Northern Colorado, every dollar spent on a multiuse trail—hike, bike, equestrian, et cetera—returns $28 to the community. The results included such indirect returns as environmental benefits and better community health.

It is unfortunate that such a worthy program, which is authorized under ISTEA, has had so many complications in receiving its deserved funding. This has caused a severe lack of money for important trail projects in my State, and in the appropriated funds.

I hope that my colleagues will talk to trail users in their States and join me in cosponsoring this necessary legislation.

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

STATE OF COLORADO,
November 9, 1993.

FEDERICO PEÑA,
Secretary of Transportation,
Washington, DC.

DEAR FEDERICO: I am writing to express my disappointment that the National Recreational Trails Fund, administered by your department, will likely have its funding cut for fiscal year 1994. The start-up funding available during fiscal year 1993 provided Colorado with $122,000, nearly doubling the resources we had available for important new trail projects across the state. I am writing to urge your immediate help in continuing this small but productive flow of funds.

In recent years, the state has consistently received requests for more than $2 million from local governments for trail construction and maintenance. As a state, we have made a bold, long-term commitment through Great Outdoors Colorado. In addition, we applaud the commitment of the Clinton Administration in proposing funding for the trails program, using a federal gas tax paid on off-highway recreational activities.

The National Recreation Trails Fund is a program with a real Colorado connection, and one which has been championed in Congress by Colorado Senator Ben Nighthorse Campbell. It is my understanding that the decision to delete funding was made at the staff level during the recent transportation appropriation bill conference, based on a technical question raised by the House, and without consideration of the strong support for the substance of the program.

The trails program has been a positive catalyst for progress on trails in Colorado in

just one year. I would appreciate your consideration of this effective program.

Sincerely,

ROY ROMER,
Governor.

By Mr. CHAFEE:

S. 2476. A bill to amend the Internal Revenue Code of 1986 to encourage individuals to save through individual retirement accounts, and for other purposes; to the Committee on Finance.

THE IRA EQUITY AND ENHANCEMENT ACT OF 1994

Mr. CHAFEE. Mr. President, I am pleased to come to the floor this afternoon to introduce legislation to give much-needed help to working families. My bill will expand individual retirement accounts, and give them added flexibility to help alleviate some of the financial worries facing families today.

My legislation has two components to it. First, it eliminates an inequity in current law that works to the disadvantage of single-earner families. Under current law, families where both spouses work can contribute up to $4,000 to an IRA. However, families with only one working spouse is limited to $2,250—$2,000 for the wage earner and a mere $250 for the nonworking spouse. This stricter limit makes it very difficult for these families to accumulate adequate funds for their retirement. This situation is made all the more worse because the non working spouse has no other access to a retirement plan and is not earning Social Security credits. This problem was highlighted earlier this year by Senators HUTCHISON and MIKULSKI when they introduced legislation correcting this problem. Like their bill, my proposal eliminates this inequity and allows all eligible families to contribute the maximum $4,000 to an IRA.

My legislation also makes individual retirement accounts more attractive by increasing their flexibility. This bill eliminates the 10-percent penalty for early withdrawals from an IRA if the money is used to purchase a first home, to meet tuition needs, to pay medical or long-term care expenses, or to carry a family through periods of prolonged unemployment.

Today, families are reluctant to take advantage of IRA's because they fear that some unforeseen expense will arise that will require them to dip into their savings. Under current law, if a family member is faced with a medical or long term care expense, or is without a job for a substantial period of time, the Federal Government exacts a 10-percent penalty for using funds in an IRA to meet this need. This penalty is imposed above and beyond the normal income tax that is due. My bill eliminates that penalty in these situations.

In addition to meeting emergency medical needs, the bill allows IRA's to be used—without penalty—for the purchase of a first home or to further the education of a member of the family. Owning a home and educating their children are two of the most important goals of Rhode Island families. They also represent the two greatest financial challenges facing families today. By making IRA's accessible for these purposes, we can make it a little easier for families to meet these goals.

In summary, the legislation makes IRA's fairer by eliminating the bias against nonworking spouses. It also makes IRA's a more attractive savings vehicle by allowing access to these funds to meet pressing financial needs that may arise before retirement.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

QUESTIONS AND ANSWERS ON SENATOR CHAFEE'S IRA EQUITY AND ENHANCEMENT ACT

1. Won't this bill encourage families to use their retirement savings for purposes other than retirement?

The bill allows IRA funds to be used to buy a first home, to meet tuition expenses, to pay medical or long-term care expenses, or to make ends meet during a period of prolonged unemployment. Each of these situations represents a genuine financial concern facing families today. The federal government should do what it can to assist families in meeting these challenges rather than create obstacles.

2. Why increase the maximum contribution for non-working spouses?

This provision is designed to level the playing field for all families. Families that decide to have one spouse stay at home to raise their children should not be penalized by making it harder for them to save for retirement.

3. Who qualifies as a "first-time homebuyer?"

A first-time homebuyer is anyone who has not had an ownership interest in a principal residence for three years prior to acquiring the home.

4. Can a person take advantage of the penalty-free distribution to purchase a home for someone other than him or herself?

Yes. Penalty-free distributions can be made for the individual's spouse, children or grandchildren, so long as the person who will reside in the home qualifies as a first-time homebuyer.

5. What institutions qualify for the component of the bill relating to higher education expenses?

Most public and nonprofit universities and colleges and certain vocational schools will qualify.

6. What education expenses can penalty-free distributions be made for?

Distributions can be made for tuition, fees, books, supplies and equipment required as part of the enrollment or attendance at these schools.

7. Are the qualified education expenses limited to the owner of the IRA?

No. Distributions used to pay the education expenses of the IRA owner and his or her spouse, child, or grandchild are eligible for the favorable tax treatment.

8. What expenses qualify as long-term care?

These expenses include necessary diagnostic, preventive, therapeutic, rehabilitative, and maintenance services required by an individual to perform normal living activities such as eating, dressing, and bathing.

9. Who qualifies as needing long-term care under this proposal?

Someone who is certified by a licensed health care practitioner as being unable to perform at least three normal activities of daily living (eating, transferring, toileting, dressing, and bathing).

10. How long does one need to be unemployed before being able to use their IRA funds without penalty?

Anyone who has received unemployment compensation for twelve consecutive weeks under any Federal or State unemployment compensation law can get penalty-free access to their IRA money.

By Mr. GREGG:

S. 2477. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

FAMILY FOREST AND PRESERVATION ACT

• Mr. GREGG. Mr. President, I introduce the Family Forestland Preservation Act of 1994. This bill amends several key tax provisions in order to help landowners keep their lands in long-term private forest ownership and management. Without these changes, many landowners will continue to be forced to sell or change the use of their land.

This bill derives from 4 years of work by the Northern Forest Lands Council [NFLC]. The NFLC was created in 1990, to seek ways for Maine, New Hampshire, Vermont, and New York to maintain the "traditional patterns of land ownership and use" in the forest that covers this Nation's northeast. The northern forest is a 26 million acre stretch of land, home to 1 million residents, and within a 2-hour drive of 70 million people. Nearly 85 percent of the forest is privately owned. However, times have changed and social and economic forces have begun to affect the traditional patterns of land use with more and more land being marketed for development.

This bill will help maintain traditional patterns, and thus preserve the forest, by adjusting several estate tax provisions. This bill would allow heirs to make postmortem donations of conservation easements on undeveloped estate land and allow the valuation of undeveloped land at current use value for estate tax purposes if the owner or heir agrees to maintain the land in its current use for a period of 25 years. This bill would also establish a partial inflation adjustment for timber sales by allowing a tax credit not to exceed 50 percent.

This will encourage landowners to maintain their timberland for long-term stewardship that is both economically and environmentally desirable. Also, the bill would eliminate the requirement that landowners generally must work 100 hours per year in forest management on their forest properties

to be allowed to deduct normal management expenses from timber activities against nonpassive income. Currently landowners are required to capitalize these losses until timber is harvested. This legislation, though prompted by the NFLC's work, will not benefit only the four States that make-up the northern forest. It will benefit all States with forest land and all who enjoy the multiple uses of forest land. I urge my colleagues to support this bill, that will not only protect the historic current use patterns, but allow the rustic beauty of our forests to be enjoyed by all.•

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. PRESSLER, Mr. NUNN, Mr. CHAFEE, Mr. INOUYE, Mr. BURNS, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. WELLSTONE, Mr. WOFFORD, and Mr. KOHL):

S. 2478. A bill to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes; to the Committee on Small Business.

THE BUSINESS DEVELOPMENT OPPORTUNITY ACT OF 1994

• Mr. KERRY. Mr. President, today, I am joined by Senators PRESSLER, BUMPERS, NUNN, and others in introducing the Business Development Opportunity Act of 1994. This bill will reform the Small Business Administration's [SBA] Minority Small Business and Capital Ownership Development Program commonly referred to as the 8(a) program. It will transform what is now an overly bureaucratic set-aside program into a true business development program. The reformed program provides program participants improved and intensified managerial training, access to equity, reduction of bureaucratic redtape, and opportunities for program graduates. Further, it will increase safeguards against abuse.

SBA Administrator Erskine Bowles has made a strong start in addressing the persistent problems of the program through the Minority Enterprise Development program [MED]. I believe this bill we are introducing today can be an important part of the development of the MED program. I hope that together our efforts will help develop a strong and vibrant minority small business community in every part of the Nation. I look forward to working with the SBA on these matters.

Minority business development should not be viewed as only part of our social agenda but also as an essential national economic imperative. A growing minority enterprise community is needed for the well-being of our Nation. America must be able to field its complete team if we are to succeed in the fierce global competition of the 21st century.

Small business is an important vehicle for historically disadvantaged minority groups to foster economic development for themselves and their communities. However, these groups have not had the access to equity necessary to develop a strong small business foundation. They have not had the access to information on how to develop small businesses. Furthermore, minority-owned small businesses have historically been underrepresented as contractors in the Federal procurement process.

I seek to fashion a more effective minority enterprise development program. One that will contribute to the long-term viability of participating firms after graduation and one that provides a full array of business development assistance.

The new program must be capable of helping more firms at different states of development, including start-up firms. As reflected in repeated General Accounting Office [GAO] reviews since 1980, the current program has provided too little assistance for the vast majority of the firms participating. We tried to address those problems in the 1988 legislation through requirements for transition management planning and business mix targets that gradually diminished the firm's dependence on 8(a) contracts, but they have not yet been fully implemented.

Our bill addresses this issue by improving and focusing SBA's Management Assistance program. This will add core business development skills, such as marketing and proposal development to 8(a) certified businesses only.

It will improve access to capital for program graduates by allowing them to sell a noncontrolling equity share of their business without losing the right to continue performance of contracts won while affiliated with the program. The bill will implement the Surety Bond Waiver Test program, which has granted waivers of surety bond requirements to qualified companies for some Government contracts. Also, it authorizes a test program to permit 8(a) program graduates to recompete for one Government contract that it had won while in the program as long as 25 percent of the contract is subcontracted to a current 8(a) participant.

There have been charges by the SBA inspector general office that some of the 8(a) certified small businesses are actually "fronts" for nonminority businesses which would otherwise not qualify for these programs.

Our bill will deter "front" companies from the various small disadvantaged business programs by improving SBA's administration of a Governmentwide protest system in which other participants can challenge a firm's eligibility. It gives the SBA access to more information on potential program abusers. It also encourages the use of available administrative as well as criminal remedies for those individuals or firms found to be engaged in misrepresentation.

The program has developed a maze of regulations and paperwork that keep many from even applying for certification. Applications are reviewed not only at the regional SBA offices but at the central SBA offices. By not allowing businesses to deal directly with agencies but only through the SBA the program adds a needless extra level of bureaucracy. Once a contract is signed, too many cumbersome reports are needed, draining valuable time and resources away from where they are needed the most.

This legislation will streamline and simplify the 8(a) programs certification and contracting process. It develops a onestop application process to expedite the application process. It accelerates the contract award process by allowing Federal agencies to award contracts directly to 8(a) certified businesses. It will streamline and simplify the process by which a company and the SBA determine whether companies fit into the appropriate size classifications for specific contracts.

Not enough has been done to allow agencies to reach the minority set-aside goals.

Our bill will expand the tools available for agencies to meet set-aside goals in addition to the 8(a) program. It extends the Department of Defense section 1207 program which provides tools for agencies to help them meet their goals for contracting with small disadvantaged businesses to all agencies can use a more streamlined and more competitive program.

I believe that the Business Development Opportunity Act of 1994 will help minority owned small businesses grow and prosper through training, assistance, financing, a reduction in paperwork, and safeguard against fraud. I hope my colleagues will support this important legislation.

I ask unanimous consent that the text of the bill and a summary of its provisions appear in the RECORD.

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

S. 2478

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 "Business Development Opportunity Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—AMENDMENTS TO THE MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM
PART A—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS
Sec. 101. Minority Enterprise Development Program.

Sec. 102. Consolidation of eligibility review function.
Sec. 103. Clarification of various eligibility criteria.
Sec. 104. Clarification of certain additional eligibility criteria imposed by regulation.
Sec. 105. Enhancing due process in eligibility determinations.
Sec. 106. Improving geographic distribution of program participants.
PART B—BUSINESS DEVELOPMENT ASSISTANCE
Sec. 111. Developmental assistance authorized for program participants.
Sec. 112. Expanding the eligible uses for loans under existing loan programs for program participants.
Sec. 113. Test program for the use of surety bond waivers.
Sec. 114. Targeting section 7(j) business management assistance to program participants.
Sec. 115. Other enhancements to the section 7(j) management assistance program.
Sec. 116. Developmental teaming.
PART C—IMPROVING ACCESS TO EQUITY FOR PROGRAM GRADUATES
Sec. 121. Continued contract performance.
Sec. 122. Continued program participation.
PART D—CONTRACT AWARD AND ELIGIBILITY MATTERS
Sec. 131. Contract award procedures.
Sec. 132. Timely determination of eligibility for contract award.
Sec. 133. Competition requirements.
Sec. 134. Standard industrial classification codes.
Sec. 135. Use of contract support levels.
Sec. 136. Business mix requirements.
Sec. 137. Encouraging self-marketing.
Sec. 138. Bundling of contractor capabilities.
PART E—TRIBALLY OWNED CORPORATIONS
Sec. 141. Management and control of business operations.
Sec. 142. Joint ventures.
Sec. 143. Rule of construction regarding the Buy Indian Act.
PART F—CONTRACT ADMINISTRATION MATTERS
Sec. 151. Accelerated payment.
Sec. 152. Expedited resolution of contract administration matters.
Sec. 153. Availability of alternative dispute resolution.
PART G—PROGRAM ADMINISTRATION
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Sec. 202. Implementation through the Federal Acquisition Regulation.
Sec. 203. Sunset.
PART B—ELIGIBILITY DETERMINATIONS REGARDING STATUS
Sec. 211. Improved status protest system.
Sec. 212. Conforming amendment.
TITLE III—EXPANDING SUBCONTRACTING OPPORTUNITIES
Sec. 301. Evaluating subcontract participation in awarding contracts.
Sec. 302. Subcontracting goals for certain small business concerns.
Sec. 303. Small business participation goals.
Sec. 304. Improved notice of subcontracting opportunities.
TITLE IV—REPEALS AND TECHNICAL AMENDMENTS
PART A—REPEALS
Sec. 401. Loan program superseded by section 7(a) loan program.
Sec. 402. Superseded loan program relating to energy.
Sec. 403. Employee training program of limited scope.
Sec. 404. Expired provision.
Sec. 405. Expired direction to the Administration.
PART B—TECHNICAL AMENDMENTS
Sec. 411. Technical amendments.
TITLE V—DEFINITIONS
Sec. 501. Historically underutilized businesses.
Sec. 502. Emerging small business concern.
TITLE VI—REGULATORY IMPLEMENTATION AND EFFECTIVE DATES
PART A—ASSURING TIMELY REGULATORY IMPLEMENTATION
Sec. 601. Deadlines for issuance of regulations.
Sec. 602. Regulatory implementation of prior legislation.
PART B—EFFECTIVE DATES
Sec. 611. Effective dates.

TITLE I—AMENDMENTS TO THE MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

PART A—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

SEC. 101. MINORITY ENTERPRISE DEVELOPMENT PROGRAM.

(a) PROGRAM ESTABLISHED.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) by striking the subsection designation and the first 2 sentences and inserting the following:

"(10) MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—

"(A) ESTABLISHMENT.—There is established within the Administration a Minority Enterprise Development Program (hereafter in this paragraph referred to as the 'Program'), which shall be administered by an Associate Administrator in accordance with this paragraph and section 8(a).";

(2) by striking subparagraph (B);

(3) by striking "(A) The Program shall—" and inserting the following:

"(B) PROGRAM GOALS.—The Program shall—"; and

(4) in subparagraph (C)(i), by striking "participating in any program or activity conducted under the authority of this paragraph or".

(b) PROGRAM PHASES.—Section 7(j)(12) of the Small Business Act (15 U.S.C. 636(j)(12)) is amended to read as follows:

"(12) SEGMENTING OF MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—

"(A) IN GENERAL.—In addition to such other segments as the Administrator deems appropriate, the Minority Enterprise Development Program established in paragraph (10) shall consist of the following 3 phases:

"(i) The Business Creation Phase.

"(ii) The Business Development Phase.

"(iii) The Business Development (Preferential Contracting) Phase.

"(B) ELIGIBILITY FOR PREFERENTIAL CONTRACTING.—Only a firm participating in the Business Development (Preferential Contracting) Phase shall be eligible for award of Federal contracts pursuant to section 8(a) (and shall be referred to as a 'Program Participant' for the purposes of this section and section 8(a)).

"(C) PARTICIPATION BY FIRMS.—Except as provided in section 10(c), a firm may participate in the Business Development (Preferential Contracting) Phase described in subparagraph (A)(iii) for a total period of not more than 9 years, which period shall be divided into the following 2 stages:

"(i) A developmental stage (of not more than the first 5 years).

"(ii) A transitional stage.".

(c) CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 601 et seq.) is amended—

(1) by striking "Minority Small Business and Capital Ownership Development" each place it appears and inserting "Minority Enterprise Development";

(2) by striking "Capital Ownership Development" each place it appears and inserting "Minority Enterprise Development";

(3) by striking "capital ownership development" each place it appears and inserting "minority enterprise development";

(4) by striking "Business Opportunity Specialist" each place it appears and inserting "Business Development Specialist"; and

(5) by striking section 7(j)(15) and inserting the following:

"(15) [Reserved].".

SEC. 102. CONSOLIDATION OF ELIGIBILITY REVIEW FUNCTION.

Section 7(j)(11)(E) of the Small Business Act (15 U.S.C. 636(j)(11)(E)) is amended by striking the third sentence.

SEC. 103. CLARIFICATION OF VARIOUS ELIGIBILITY CRITERIA.

(a) TRIBALLY OWNED CORPORATIONS.—Sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a)) are each amended by striking "an economically disadvantaged Indian tribe" each place it appears and inserting "an Indian tribe".

(b) NATIVE HAWAIIAN ORGANIZATIONS.—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended by striking "an economically disadvantaged Native Hawaiian organization" each place it appears and inserting "a Native Hawaiian organization".

(c) PRESUMPTION OF ECONOMIC DISADVANTAGE.—Section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)) is amended by striking the last sentence.

SEC. 104. CLARIFICATION OF CERTAIN ADDITIONAL ELIGIBILITY CRITERIA IMPOSED BY REGULATION.

Section 7(j)(11)(G) of the Small Business Act (15 U.S.C. 636(j)(11)(G)) is amended to read as follows:

"(G) An applicant shall not be denied admission into the Minority Enterprise Development Program established in paragraph (10) based solely on a determination by the Division that—

"(i) specific contract opportunities are unavailable to assist in the development of such concern, unless—

"(I) the Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; and

"(II) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services;

"(ii) the prospective Program Participant firm has not been in operation for a period of time specified by the Administration prior to making application to the Program, if the prospective Program Participant firm can demonstrate that—

"(I) the individual or individuals upon whom eligibility is to be based have substantial and demonstrated business management experience;

"(II) the prospective Program Participant has demonstrated technical expertise necessary to carry out its business plan with a substantial likelihood of success;

"(III) the prospective Program Participant has, or can demonstrate its ability to timely obtain, adequate capital to carry out its business plan;

"(IV) the prospective Program Participant can demonstrate the competitive award and performance (either ongoing or completed) of contracts from governmental or nongovernmental sources in the primary industry category reflected in its business plan; and

"(V) the prospective Program Participant has, or can demonstrate its ability to timely obtain, the personnel, facilities, equipment, and any other requirements needed to perform contracts of the type likely to be awarded to the firm pursuant to section 8(a);

"(iii) the individual or individuals upon whom eligibility is to be based have not been working full time at managing the prospective Program Participant firm for a period specified by the Administration prior to making application to the Program;

"(iv) the prospective Program Participant is a tribally owned corporation whose chief executive officer (or chief operating officer) is other than a Native American, if the governing body of the Indian tribe certifies to the Administration that it was unable to hire a qualified Native American after conducting a national recruitment for such individual; or

"(v) the prospective Program Participant lacks reasonable prospects for future success despite access to one or more of the types of developmental assistance provided for in paragraph (13), unless such determination is supported by specific findings.".

SEC. 105. ENHANCING DUE PROCESS IN ELIGIBILITY DETERMINATIONS.

Section 7(j)(11)(H) of the Small Business Act (15 U.S.C. 636(j)(11)(H)) is amended—

(1) by striking "(H)" and inserting "(H)(i)"; and

(2) by adding at the end the following new clauses:

"(ii) The Associate Administrator for Minority Enterprise Development shall—

"(I) notify an applicant, in writing, of the denial of an application under clause (i), stating the specific determinations supported by specific findings in support of the denial; and

"(II) provide the applicant an opportunity to respond (or to modify the business organization of the applicant in response) to matters raised in the notice of denial and to seek a reconsideration of the application.

"(iii) If the application is denied upon reconsideration pursuant to clause (ii) and the denial is based upon determinations or findings not previously cited as a basis for the initial denial of the application, the Associate Administrator for Minority Enterprise Development shall provide the applicant an opportunity to respond to the determinations or findings not previously raised, or to modify the business organization of the applicant in response to such determinations or findings.".

SEC. 106. IMPROVING GEOGRAPHIC DISTRIBUTION OF PROGRAM PARTICIPANTS.

(a) ACTION PLAN REQUIRED.—The Administrator of the Small Business Administration shall develop an action plan for improving participation in the Minority Enterprise Development Program established by section 101 by firms across the Nation.

(b) CONTENTS OF THE ACTION PLAN.—In addition to such other matters as the Administrator deems appropriate, the action plan developed under subsection (a) shall address—

(1) an outreach program directed at small business concerns owned and controlled by socially and economically disadvantaged individuals eligible for program participation in those States with historically low rates of participation in the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program); and

(2) improved implementation of section 8(a)(16)(B) of the Small Business Act (relating to geographic distribution of contracts awarded noncompetitively pursuant to section 8(a)(1) of such Act).

(c) PUBLIC PARTICIPATION.—In carrying out this section, the Administrator shall seek public comment on the proposals to be included in the action plan.

(d) SUBMISSION.—Not later than June 30, 1995, the action plan developed under subsection (a) shall be submitted to the Committees on Small Business of the Senate and House of Representatives.

PART B—BUSINESS DEVELOPMENT ASSISTANCE

SEC. 111. DEVELOPMENTAL ASSISTANCE AUTHORIZED FOR PROGRAM PARTICIPANTS.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended—

(1) in paragraph (13), in the matter preceding subparagraph (A), by striking "the stages of program participation specified in paragraph 12" and inserting "its Program participation"; and

(2) by striking paragraph (14) and inserting the following:

"(14) [Reserved].".

SEC. 112. EXPANDING THE ELIGIBLE USES FOR LOANS UNDER EXISTING LOAN PROGRAMS FOR PROGRAM PARTICIPANTS.

Section 7(a)(20)(A)(iii) of the Small Business Act (15 U.S.C. 636(a)(20)(A)(iii)) is amended by striking "to be used" and all that follows before the semicolon.

SEC. 113. TEST PROGRAM FOR THE USE OF SURETY BOND WAIVERS.

Section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) is amended—

(1) by striking clauses (i) through (iii);

(2) by striking "A maximum" and inserting "(i) A maximum";

(3) by striking ", except that, such exemptions may be granted under this subparagraph only if—" and inserting a period; and

(4) by adding at the end the following new clauses:

"(ii) The agency with contracting authority may, upon the request of the Program Participant, grant an exemption pursuant to clause (i), if—

"(I) the Program Participant provides certification, in the form prescribed by the Administration, that the firm was unable to obtain the requisite bonding from corporate surety bonding firms even with a guarantee issued by the Administration pursuant to title IV of the Small Business Investment Act of 1958;

"(II) the Program Participant has provided for the protection of persons furnishing materials or labor under the contract by arranging for—

"(aa) the direct disbursement of funds owed to such persons by the procuring agency or through an escrow account provided by any bank the deposits of which are insured by the United States Government; or

"(bb) irrevocable letters of credit (or other alternatives to surety bonding acceptable to the procuring agency); and

"(III) the award value of the contract for which the exemption is being sought does not exceed $1,000,000.

"(iii) The authority to grant an exemption under clause (ii) shall cease to be effective on September 30, 1997.".

SEC. 114. TARGETING SECTION 7(j) BUSINESS MANAGEMENT ASSISTANCE TO PROGRAM PARTICIPANTS.

Section 7(j)(1) of the Small Business Act (15 U.S.C. 636(j)(1)) is amended by striking "individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act" and inserting "participants in the Minority Enterprise Development Program established in paragraph (10)".

SEC. 115. OTHER ENHANCEMENTS TO THE SECTION 7(j) MANAGEMENT ASSISTANCE PROGRAM.

(a) FOCUS ON BUSINESS MANAGEMENT ASSISTANCE.—Section 7(j)(2)(E) of the Small Business Act (15 U.S.C. 636(j)(2)(E)) is amended to read as follows:

"(E) the furnishing of business development services and related professional services, especially accounting and legal services, with special emphasis on marketing, bid and proposal preparation, financial management, strategic business planning, and transition management planning for participants in the Minority Enterprise Development Program, that will foster the continued business development of the Program Participants after program graduation.".

(b) TWO-YEAR AUTHORIZATION.—Section 7(j)(5) of the Small Business Act (15 U.S.C. 636(j)(5)) is amended to read as follows:

"(5)(A) Financial assistance authorized in paragraph (1) may be provided through grants, cooperative agreements, or contracts.

"(B) Funds appropriated to carry out paragraph (1) shall remain available for obligation by the Administration during the fiscal year succeeding the fiscal year for which the funds were appropriated.

"(C) Recipients of financial assistance awarded pursuant to paragraph (1) may expend such funds prior to the expiration date of the grant, cooperative agreement, or contract under which the funds were awarded.".

(c) ELIGIBILITY FOR CERTAIN EDUCATIONAL INSTITUTIONS.—Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively; and

(B) by inserting before subparagraph (B), as redesignated, the following new subparagraph:

"(A) business executive education programs conducted by institutions of graduate business education for owners or managers of small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 8(d)(3)(C));"; and

(2) by striking paragraph (4) and inserting the following:

"(4) In making awards pursuant to paragraph (1) to institutions of graduate business education eligible under paragraph (2)(A), the Administration shall give preference to institutions that have previously provided such programs, with the greatest preference being accorded to institutions that have provided such programs for a period of not less than 10 consecutive years.".

SEC. 116. DEVELOPMENTAL TEAMING.

(a) PROGRAM ESTABLISHED.—There is established a Developmental Teaming Program

(hereafter in this section referred to as the "Program") within the Minority Enterprise Development Program established under section 101.

(b) PURPOSE.—The purpose of the Program shall be to foster the business development and long-term business success of firms participating in the Minority Enterprise Development Program by encouraging the formation of teaming arrangements and long-term strategic business alliances between such firms and firms that have graduated from the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program).

(c) PROGRAM PARTICIPANTS.—

(1) ASSISTANCE RECIPIENTS.—Small business concerns owned and controlled by socially and economically disadvantaged individuals that are participants in the Business Development (Preferential Contracting) Phase of the Minority Enterprise Development Program shall be eligible to participate in the Program (and shall be referred to as "Program Participants" for purposes of this section).

(2) ASSISTANCE PROVIDERS.—A small business concern owned and controlled by socially and economically disadvantaged individuals that is a graduate (or a current Program Participant in the Transitional Stage) of the Business Development (Preferential Contracting Phase) of the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program) shall be eligible to participate in the Program and to furnish developmental assistance to Program Participants through a developmental teaming agreement, approved pursuant to subsection (d). (For purposes of this section, firms having, or seeking to establish, a developmental teaming agreement shall be referred to as "Developmental Teaming Partners").

(d) TEAMING AGREEMENTS.—

(1) ASSISTANCE AUTHORIZED.—A Developmental Teaming Partner may provide to a Program Participant one or more of the following forms of developmental assistance and training:

(A) General business management (including financial management, organizational management and personnel management).

(B) Business development, marketing, and proposal preparation.

(C) Process engineering (including production, inventory control, and quality assurance).

(D) Award of subcontracts on a noncompetitive basis.

(E) Technology transfer.

(F) Financial assistance (including loans, loan guarantees, surety bonding, advance payments, and accelerated progress payments).

(G) Such other forms of assistance designed to foster the development of the Program Participant, contained in a developmental teaming agreement approved pursuant to paragraph (3).

(2) CONTENT OF AGREEMENTS.—In addition to such other matters as the parties may deem appropriate, each developmental teaming agreement shall include the matters described in subsection (e).

(3) APPROVAL REQUIRED.—Each developmental teaming agreement shall be approved by the Administration before—

(A) the furnishing of any type of developmental assistance to a Program Participant pursuant to such agreement; or

(B) the Developmental Teaming Partner becomes eligible for any of the incentives authorized by subsection (f).

(4) ACTION BY THE ADMINISTRATION.—Each proposed developmental teaming agreement shall be reviewed and approved (or denied approval) not later than 45 days after the receipt of such agreement by the Administration. A denial of approval shall state specific reasons for the denial and shall afford the applicant an opportunity for reconsideration. Every reasonable effort shall be made by the Administration to act upon matters relating to the administration of an approved developmental teaming agreement not later than 30 days after the receipt of such agreement by the Administration.

(e) CONTENT OF THE AGREEMENT.—

(1) FORMS OF ASSISTANCE.—Each developmental teaming agreement shall specify forms of business development assistance to be furnished by the Developmental Teaming Partner and indicate how these forms of assistance are designed to advance the approved business plan of the Program Participant.

(2) MEASURES OF SUCCESS.—Each developmental teaming agreement shall include specific milestones or benchmarks which will permit objective measurement of whether the agreement has advanced the business development of the Program Participant.

(3) DURATION OF AGREEMENT.—Each developmental teaming agreement between a Program Participant and a Developmental Assistance Provider may be for a term not to exceed 3 years, with the option of the parties to renew the agreement upon its expiration for an additional term of not to exceed 2 years.

(4) TERMINATION OF AGREEMENT.—The developmental teaming agreement shall include provisions regarding the termination of the agreement that meet the standards of subsection (h).

(f) PARTICIPATION AS SUBCONTRACTOR.—A Developmental Teaming Partner may be awarded a subcontract under a contract awarded pursuant to section 8(a)(1) of the Small Business Act, without regard to the subcontracting limitations of section 8(a)(14) of such Act, if—

(1) the contract was awarded to a Program Participant with which such firm has an approved developmental teaming agreement; and

(2) the subcontract award was approved as part of the developmental teaming agreement (or subsequently approved by the Administration).

(g) AFFILIATION OR CONTROL.—For the purposes of the Small Business Act, no determination of affiliation or control (either direct or indirect) shall be found on the basis that a Program Participant is being furnished (or has entered into agreement to be furnished) developmental assistance pursuant to a developmental teaming agreement, approved pursuant to subsection (d).

(h) TERMINATION OF AGREEMENTS.—

(1) BY A PROGRAM PARTICIPANT.—A Program Participant may voluntarily terminate a developmental teaming agreement after giving not less than 30 days advance notice to its Developmental Teaming Partner.

(2) BY A DEVELOPMENTAL ASSISTANCE PROVIDER.—

(A) WITHDRAWAL FROM PROGRAM.—A Developmental Teaming Partner may terminate its developmental teaming agreement with a Program Participant by withdrawing from the Program after giving not less than 30 days advance notice to the Administration and to each of the Program Participants for which the firm was a Developmental Teaming Partner.

(B) TERMINATING AN AGREEMENT FOR CAUSE.—

(i) IN GENERAL.—A Developmental Teaming Partner may terminate its developmental teaming agreement with a Program Participant for cause in accordance with the procedures in clause (ii).

(ii) NOTICE.—In terminating an agreement under clause (i), the following procedures shall apply:

(I) IN GENERAL.—The Program Participant shall be furnished a written notice of the proposed termination under clause (i), not less than 30 days prior to the effective date of such proposed termination, that states the specific reasons for the proposed termination.

(II) RESPONSE.—The Program Participant shall have not more than 30 days to respond to such notice of proposed termination, rebutting any findings believed to be erroneous and offering a remedial program.

(III) FINAL ACTION.—After giving the Program Participant's response prompt consideration, the Developmental Teaming Partner shall either withdraw the notice of proposed termination or issue a notice of termination.

(iii) NONREVIEWABILITY.—The decision of the Developmental Teaming Partner regarding a termination for cause, conforming to the procedures of clause (ii), shall be final and shall not be subject to review by the Administration.

(3) BY THE SMALL BUSINESS ADMINISTRATION.—

(A) IN GENERAL.—The Administration may terminate the participation of a Developmental Teaming Partner or a Program Participant for cause in accordance with subparagraph (B).

(B) PROCEDURES.—In terminating an agreement under subparagraph (A), the following procedures shall apply:

(i) NOTICE.—The firm proposed for termination from the Program shall be furnished a written notice of the proposed termination, not less than 30 days prior to the effective date of such proposed termination, that states the specific reasons for the proposed termination.

(ii) RESPONSE.—The notice of proposed termination shall provide 30 days for the firm proposed for termination to respond to such notice.

(iii) FINAL ACTION.—After giving prompt consideration to the response of the firm proposed for termination, the Administration shall either withdraw the notice of proposed termination or issue a notice of termination.

(C) REVIEWABILITY.—A decision by the Administration to terminate for cause the participation of a firm in the Program shall be final, but may be appealed pursuant to section 8(a)(9) of the Small Business Act.

(i) DURATION OF THE PROGRAM.—

(1) IN GENERAL.—Business concerns eligible to participate in the Program may enter into developmental teaming agreements during the period commencing on the effective date of the regulations required by subsection (j) and ending on September 30, 1997.

(2) TERMINATION.—The Program shall terminate on September 30, 2002.

(j) REGULATIONS.—The Administrator of the Small Business Administration shall prescribe regulations to carry out the Developmental Teaming Program. Proposed regulations shall be published not later than 90 days after the date of enactment of this Act. Final regulations shall be promulgated not later than 180 days after the date of enactment of this Act.

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) SMALL BUSINESS CONCERNS.—The term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act and the regulations promulgated pursuant to such section.

(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the same meaning as in section 8(d)(3)(C) of the Small Business Act.

(3) MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—The term "Minority Enterprise Development Program" means the program authorized by section 7(j)(10)(A) of the Small Business Act (as amended by section 101).

(4) GRADUATED.—The term "graduated" has the same meaning as in section 7(j)(10)(H) of the Small Business Act.

PART C—IMPROVING ACCESS TO EQUITY FOR PROGRAM GRADUATES

SEC. 121. CONTINUED CONTRACT PERFORMANCE.

Section 8(a)(21) of the Small Business Act (15 U.S.C. 637(a)(21) is amended—

(1) in subparagraph (B), by striking "The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if 1 of the following conditions exist:" and inserting "The requirements of subparagraph (A) may be waived, under any of the following circumstances:"; and

(2) by striking subparagraph (C) and inserting the following:

"(C)(i) Except as provided in clause (ii), a request for a waiver pursuant to subparagraph (B) shall be submitted prior to the actual relinquishment of ownership or control.

"(ii) Under the circumstances described in subparagraph (B)(iii), the waiver request shall be made as soon as practicable after the incapacity or death occurs.".

SEC. 122. CONTINUED PROGRAM PARTICIPATION.

Section 7(j)(11)(D) of the Small Business Act (15 U.S.C. 636(j)(11)(D)) is amended to read as follows:

"(D)(i) A Program Participant shall remain eligible for participation in the Program after a transfer of an ownership interest in the firm if ownership and control (as required by section 8(a)(4)) is—

"(I) retained by the socially and economically disadvantaged individuals upon whom Program eligibility is based; or

"(II) acquired by a small business concern owned and controlled by socially and economically disadvantaged individuals who have graduated from the Program or otherwise exited the Program through a means other than a termination proceeding.

"(ii) A Program Participant shall remain eligible for participation in the Program after transfer of ownership and control (as required by section 8(a)(4)) to individuals who are determined to be socially and economically disadvantaged pursuant to section 8(a). Unless graduated or terminated, the Program Participant shall be eligible for a period of continued Program Participation not to exceed the period described in paragraph (15).

"(iii) A Program Participant that is a tribally owned corporation may remain eligible for participation in the Program with other than a Native American as the firm's chief executive officer (or chief operating officer), if the governing body of the Indian tribe certifies to the Administration that it was unable to hire a qualified Native American after conducting a national recruitment for such an individual.".

PART D—CONTRACT AWARD AND ELIGIBILITY MATTERS

SEC. 131. CONTRACT AWARD PROCEDURES.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended—

(1) by striking subparagraphs (A), (B), and (C); and

(2) by striking "(a)(1)" and inserting the following:

"(a)(1)(A) The Administration shall ensure that contracts sufficient to satisfy the contract support levels identified by participants in the Minority Enterprise Development Program established in section 7(j)(10) are designated by the various Federal agencies for award pursuant to this subsection.

"(B) Except as provided in subparagraph (D), the award of contracts under this section shall be made on a noncompetitive basis by the agency offering the contracting opportunity to the Program Participant selected for the award, and determined to be responsible by such agency. The award shall be made at a fair market price.

"(C)(i) The Administration shall determine the eligibility of the Program Participant to receive the award in accordance with the eligibility criteria listed in paragraph (16).

"(ii) With respect to an individual contracting opportunity, the Administration may provide, upon a request by the Program Participant, assistance with respect to—

"(I) the negotiation of the terms and conditions of the award; and

"(II) the resolution of controversies arising from the performance of the contract prior to such contract performance controversies becoming formal contract disputes within the meaning of the Contract Disputes Act of 1978;

"(iii) In the event of an adverse decision by an agency regarding a contracting opportunity, the Administrator may—

"(I) not later than 5 days after receiving notice of such adverse decision, file a notice of intent to appeal with the head of the agency; and

"(II) not later than 15 days after receiving such notice, file an appeal with the head of the agency, requesting reconsideration of the adverse decision.

"(iv) Upon receipt of the notice of intent to file an appeal under clause (iii)(I), further action regarding award of the contract shall be suspended, unless the head of the agency makes a written determination, supported by specific findings, that urgent and compelling circumstances that significantly affect the interests of the United States will not permit reconsideration of the adverse decision.

"(v) If the head of the agency sustains the adverse decision upon reconsideration, the decision by the head of the agency shall be in writing and shall be supported by specific findings.

"(vi) An adverse decision regarding the responsibility of a Program Participant shall be decided pursuant to subsection (b)(7).

"(vii) For the purposes of this subparagraph, an adverse decision includes a decision by the contracting officer responsible for the contracting opportunity—

"(I) failing to respond to a request from the Administration to make a specific contracting opportunity available for award pursuant to this subsection;

"(II) declining to make available for award under this subsection a contracting opportunity (or class of contracting opportunities) or failing to support such a determination with specific findings;

"(III) finding a Program Participant to be ineligible for award of a contracting opportunity on the basis of a determination of nonresponsibility; or

"(IV) failing to reach agreement with the Program Participant with respect to the terms and conditions of a contract selected for award under this subsection.".

SEC. 132. TIMELY DETERMINATION OF ELIGIBILITY FOR CONTRACT AWARD.

(a) IN GENERAL.—Section 8(a)(16) of the Small Business Act (15 U.S.C. 637(a)(16)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (E);

(2) by striking subparagraph (A) and inserting the following:

"(A) Upon receiving notification that a Federal agency intends to consider a Program Participant for award of a contract pursuant to this subsection (on a competitive or noncompetitive basis), the Administration shall promptly notify the agency regarding the eligibility of the Program Participant for award of the contract, and shall identify all matters that could reasonably be expected to render the Program Participant ineligible at the time of the contract award."; and

(3) by inserting after subparagraph (A) (as added by paragraph (2)) the following new subparagraphs:

"(B) A Program Participant may be found to be ineligible for award of the contract pursuant to this subsection, if—

"(i) the award of the contract would result in the Program Participant failing to attain its business activity targets established pursuant to section 7(j)(10)(I); or

"(ii) the Program Participant has failed to make the submissions required under paragraph (6)(B).

"(C) A small business concern owned and controlled by socially and economically disadvantaged individuals that has completed its Program Participation term pursuant to section 7(j)(15) shall be eligible for award if—

"(i) in the case of a contract to be competitively awarded, the prospective contract recipient was a Program Participant eligible for award of the contract on the date specified for receipt of offers, and such firm had timely submitted an offer (including price); or

"(ii) in the case of a contract to be noncompetitively awarded, the prospective contract recipient was a Program Participant eligible for award of the contract on the date specified by the agency contracting officer for the submission of an offer (including price).

"(D) If the Administration determines that a Program Participant is ineligible for consideration for award of a contract under subparagraph (B) or (C), the determination shall be supported by specific findings. The determination (and supporting findings) shall be furnished to the Program Participant and to the contracting officer for the agency providing the contracting opportunity.".

(b) CONFORMING AMENDMENTS.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (A) and inserting the following:

"(A) [Reserved].": and

(B) by striking subparagraph (D) and inserting the following:

"(D) Subsequent to the award of a contract under this subsection, if requested by the recipient of the contract, the Administration shall not publicly disclose the agency's estimate of the fair market price.";

(2) in paragraph (7), by striking subparagraph (A) and inserting the following:

"(A) [Reserved].";

(3) in paragraph (12)(A), by striking "eligible to receive subcontracts" and inserting "eligible for contract awards"; and

(4) in paragraph (9)(B)—

(A) in clause (iii), by striking "and";

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) a determination of ineligibility for award of contract pursuant to paragraph (16)(B); and".

SEC. 133. COMPETITION REQUIREMENTS.

(a) INDEFINITE QUANTITY AND DELIVERY CONTRACTS.—Section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)) is amended—

(1) by redesignating clause (ii) as clause (iv); and

(2) by inserting after clause (i) the following new clause:

"(ii) Whenever a requirements-type contract (including a task order contract, indefinite quantity contract, or indefinite delivery contract) is to be awarded, the thresholds for competition required under clause (i)(II) shall be calculated on the basis of the estimated total value of the contract.".

(b) AUTHORIZATION FOR ADDITIONAL NONCOMPETITIVE CONTRACT AWARDS.—Section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)) is amended by inserting after clause (ii) (as added by subsection (a)) the following new clause:

"(iii) The Associate Administrator for Minority Enterprise Development, on a nondelegable basis, may authorize the noncompetitive award of contracts in excess of the amounts specified in clause (i)(II) to a Program Participant, if—

"(I) such Program Participant is an emerging small business concern;

"(II) the award of such contracts would contribute substantially to the development of the Program Participant in accordance with its business plan, including attainment of the business activity targets established pursuant to section 7(j)(10)(I), by the time such firm enters the transitional stage;

"(III) the award value of the contract does not exceed twice the amounts specified in clause (i)(II); and

"(IV) the aggregate dollar value of awards pursuant to this clause does not exceed $20,000,000.".

SEC. 134. STANDARD INDUSTRIAL CLASSIFICATION CODES.

(a) APPROVAL OF CODES.—As part of the process of developing and maintaining a business plan pursuant to section 7(j)(10)(D) of the Small Business Act, a Program Participant may designate its capabilities to perform contracting opportunities under one or more standard industrial classification codes.

(b) DETERMINATIONS BY PROCURING AGENCY REGARDING APPLICABLE STANDARD INDUSTRIAL CLASSIFICATION CODE.—The standard industrial classification code assigned to a contracting opportunity by the responsible contracting officer shall apply, unless modified by the contracting officer after considering additional information furnished by the Administration or from other sources.

(c) EFFECT OF RESPONSIBILITY DETERMINATIONS.—The Administration shall be bound by a determination of responsibility by the agency contracting officer with respect to a Program Participant being considered for award of a contract pursuant to section 8(a) of the Small Business Act.

(d) CONFORMING AMENDMENT.—Section 8(a)(7) of the Small Business Act (15 U.S.C. 637(a)(7)) (as amended by section 132(b)(2)) is amended to read as follows:

"(7) [Reserved].".

SEC. 135. USE OF CONTRACT SUPPORT LEVELS.

Section 7(j)(10)(D) of the Small Business Act (15 U.S.C. 636(j)(10)(D)) is amended by adding at the end the following new clause:

"(v) The forecasts of overall business activity contained in the business plan of a Program Participant or the estimate contained in the section 8(a) contract support level of such firm shall not be used by the Administration to make a determination that such firm is ineligible for the award of a contract to be awarded pursuant to section 8(a).".

SEC. 136. BUSINESS MIX REQUIREMENTS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) in subparagraph (D)—

(A) in clause (iii), by striking "contracts awarded" and inserting "contracts awarded noncompetitively"; and

(B) in clause (iv)(I), by striking "contracts awarded" and inserting "contracts awarded noncompetitively"; and

(2) in subparagraph (I)—

(A) in clause (i)—

(i) by striking "for contracts awarded other than pursuant to section 8(a)" and inserting "through contracts other than contracts awarded noncompetitively pursuant to section 8(a)"; and

(ii) by striking "will engage a" and inserting "will engage in a";

(B) in clause (iii)—

(i) by redesignating subclauses (II) through (V) as subclauses (III) through (VI), respectively;

(ii) by striking subclause (I) and inserting the following:

"(I) establish business activity targets applicable to Program Participants during each year of Program participation, which reflect a consistent increase in new contracts awarded other than pursuant to section 8(a), so that not more than 20 percent of the dollar value of the Program Participant's business base (as a percentage of total sales) at the beginning of the ninth year of Program participation is derived from contracts awarded pursuant to section 8(a);

"(II) provide that the business activity targets established pursuant to subclause (I) reflect that not more than 50 percent of the dollar value of the new contracts awarded during the fifth and succeeding years of Program Participation be awarded pursuant to section 8(a) on a noncompetitive basis;";

(iii) by striking subclause (IV), as redesignated, and inserting the following:

"(IV) require that a Program Participant in the transitional stage of Program participation certify compliance with its business activity targets (or with any program of remedial measures that may have been imposed pursuant to subclause (VI) for failing to attain such targets) to eligible for award of a contract pursuant to section 8(a);";

(iv) in subclause (V), as redesignated, by striking "and" at the end;

(v) by striking subclause (VI), as redesignated, and inserting the following:

"(VI) authorize the Administration to require a Program Participant that has failed to attain a business activity target to undertake a program of remedial measures designed to assist the firm to reduce its dependence on contracts awarded pursuant to section 8(a); and"; and

(vi) by adding at the end the following new subclause:

"(VII) authorize the Administration to limit the dollar volume of contracts awarded to the Program Participant pursuant to section 8(a), especially those awarded noncompetitively, if the firm has not made substantial progress toward attaining its business activity targets."; and

(C) by adding at the end the following new clause:

"(iv) Actions by the Administration relating to enforcing compliance with business activity targets shall not be reviewable pursuant to section 8(a)(19), unless such action is a termination from further Program participation.".

SEC. 137. ENCOURAGING SELF-MARKETING.

(a) ELIMINATION OF REGULATORY LIMITATIONS.—In accordance with the schedule for the issuance of revised regulations contained in section 601(a), the Administration shall promulgate such regulations as may be necessary to eliminate regulatory limitations on self-marketing by Program Participants, including limitations relating to so-called "National Buys" and "Local Buys".

(b) CONFORMING AMENDMENT.—Section 8(a)(11) of the Small Business Act (15 U.S.C. 637(a)(11)) is amended to read as follows:

"(11) [Reserved].".

SEC. 138. BUNDLING OF CONTRACTOR CAPABILITIES.

(a) IN GENERAL.—Section 8(a)(14) of the Small Business Act (15 U.S.C. 637(a)(14)) is amended to read as follows:

"(14)(A) Except as provided in subparagraph (B), a contract shall not be awarded pursuant to this subsection unless the small business concern complies with the requirements of section 15(o).

"(B)(i) Whenever the Administration determines that a proposed contract opportunity represents a bundling of contract requirements as defined by section 3(n), a Program Participant may propose a team of subcontractors meeting the requirements of clause (ii) without regard to the requirements of section 15(o) or regulations of the Administration regarding findings of affiliation or control, either direct or indirect.

"(ii) The subcontracting team proposed by a Program Participant may include—

"(I) other Program Participants;

"(II) other small business concerns;

"(III) business concerns other than small business concerns, whose aggregate participation may not represent more than 25 percent of the anticipated total value of the contract; and

"(IV) historically black colleges and universities and other minority institutions.".

(b) DEFINITION.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) CONTRACT BUNDLING.—For purposes of contracting opportunities subject to sections 8(a) and 15, the terms 'contract bundling' and 'bundling of contract requirements' mean the practice of consolidating two or more procurement requirements of the type that were previously solicited and awarded as separate smaller contracts into a single large contract solicitation likely to be unsuitable for award to a small business concern due to—

"(1) the diversity and size of the elements of performance specified;

"(2) the aggregate dollar value of the anticipated award;

"(3) the geographical dispersion of the contract performance sites; or

"(4) any combination of the factors described in paragraphs (1), (2), and (3).".

(c) CONFORMING AMENDMENT.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by striking "If a proposed procurement" and all that follows through "prime

contract participation unlikely," and inserting the following: "If a proposed procurement represents a bundling of contract requirements, as defined in section 3(n),".

PART E—TRIBALLY OWNED CORPORATIONS

SEC. 141. MANAGEMENT AND CONTROL OF BUSINESS OPERATIONS.

Section 8(a)(4)(B)(ii) of the Small Business Act (15 U.S.C. 637(a)(4)(B)(ii)) is amended to read as follows:

"(ii) in the case of a tribally owned corporation, an individual designated by the Indian tribe (or the board of directors of a wholly owned entity of such tribe), who shall be a Native American if such individual is available; or".

SEC. 142. JOINT VENTURES.

(a) IN GENERAL.—Section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)) is amended to read as follows:

"(15)(A) Except as provided in subparagraph (B), a contract may be awarded pursuant to this subsection to a joint venture owned and controlled by a Program Participant, notwithstanding the size status of such joint venture, if the Program Participant—

"(i) is owned and controlled by an Indian tribe;

"(ii) owns at least 51 percent of the joint venture;

"(iii) is located and performs most of its activities on the reservation of such Indian tribe; and

"(iv) employs members of such tribe for at least 50 percent of the work force of such joint venture.

"(B) A contract may not be awarded to a joint venture pursuant to subparagraph (A) if an Indian tribe owns and controls one or more Program Participants who are currently joint venturers on more than 5 contracts awarded pursuant to subparagraph (A).".

(b) DEFINITIONS.—

(1) INDIAN TRIBE.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by section 139(b)) is amended by adding at the end the following new subsection:

"(o) INDIAN TRIBE.—For purposes of this Act, the term 'Indian tribe' means an Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in section 3 of the Alaska Native Claims Settlement Act that—

"(1) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(2) is recognized as such by the State in which such tribe, band, nation, group, or community resides.".

(2) NATIVE HAWAIIAN ORGANIZATION.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by paragraph (1)) is amended by adding at the end the following new subsection:

"(p) NATIVE HAWAIIAN ORGANIZATION.—For purposes of this Act, the term 'Native Hawaiian organization' means a community service organization serving Native Hawaiians in the State of Hawaii that is—

"(1) a not-for-profit organization chartered by the State of Hawaii;

"(2) controlled by Native Hawaiians; and

"(3) engaged in business activities that will principally benefit such Native Hawaiians.".

(3) CONFORMING AMENDMENT.—Section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13)) is amended to read as follows:

"(13) [Reserved].".

SEC. 143. RULE OF CONSTRUCTION REGARDING THE BUY INDIAN ACT.

A contract awarded pursuant to section 8(a) of the Small Business Act to a small business concern owned and controlled by members of an Indian tribe (or a wholly owned business entity of such tribe) shall be considered to be in compliance with section 23 of the Act of June 25, 1910 (25 U.S.C. 47).

PART F—CONTRACT ADMINISTRATION MATTERS

SEC. 151. ACCELERATED PAYMENT.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended by adding at the end the following new subparagraph:

"(E)(i) Any contract awarded pursuant to subparagraph (B) to a Program Participant in the developmental stage of the Program shall include a payment term requiring payment of any invoice, progress payment request, or other authorized request for payment, not later than 20 days after receipt of a proper invoice or other form of payment request.".

SEC. 152. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION MATTERS.

Section 8(a)(1)(E) of the Small Business Act (15 U.S.C. 637(a)(1)(E)) (as added by section 151) is amended by adding at the end the following new clause:

"(ii)(I) A Federal agency awarding a contract under this subsection shall make every reasonable effort to respond in writing to any written request made to a contracting officer with respect to a matter relating to the administration of such contract, not later than 15 days such request.

"(II) If the contracting officer is unable to reply before the expiration of the 15-day period described in subclause (I), the contracting officer shall transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

"(III) The provisions of this subparagraph do not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 nor create any new rights pursuant to such Act.".

SEC. 153. AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION.

Section 8(a)(1)(E) of the Small Business Act (15 U.S.C. 637(a)(1)(E)) (as amended by sections 151 and 152) is amended by adding at the end the following new clause:

"(iii)(I) Except as provided in subclause (II), an agency awarding a contract pursuant to subparagraph (B) shall make available, upon the request of a Program Participant, an alternative means of dispute resolution pursuant to subchapter IV of chapter 5, of title 5, United States Code.

"(II) In carrying out this clause, the agency need not provide an alternative dispute resolution procedure if the agency makes a written determination, supported by specific findings, citing one or more of the conditions in section 572(b) of title 5, United States Code, or such other specific reasons, that alternative dispute resolution procedures are inappropriate for the resolution of the dispute for which such procedures were sought under the contract.".

PART G—PROGRAM ADMINISTRATION

SEC. 161. SIMPLIFICATION OF ANNUAL REPORT TO CONGRESS.

Section 7(j)(16)(B)(v) of the Small Business Act (15 U.S.C. 636(j)(16)(B)(v)) is amended to read as follows:

"(v) The total dollar value of receipts received during the most recently completed program year from contracts awarded pursuant to section 8(a), and such amount expressed as a percentage of the total sales of—

"(I) all firms participating in the Program during the preceding fiscal year; and

"(II) firms in each of the 9 years of Program participation.".

SEC. 162. REDUCTION IN REPORTING BY PROGRAM PARTICIPANTS.

Section 8(a)(20)(A) of the Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended by striking "semiannually report" and inserting "report, not less often than annually,".

TITLE II—CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS

PART A—CIVILIAN AGENCIES PROGRAM

SEC. 201. PROCUREMENT PROCEDURES.

Section 8(c) of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c) PROCUREMENT PROCEDURES.—

"(1) IN GENERAL.—For the purpose of attaining an agency's goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals pursuant to section 15(g)(1), the head of a participating executive agency may enter into contracts using—

"(A) less than full and open competition, by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in subsection (d)(3)(C); and

"(B) a price evaluation preference, of not to exceed 10 percent, when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

"(2) DEFINITION.—For the purposes of this subsection, the term 'participating executive agency' means a Federal agency, as defined in section 3(b), in the executive branch of the Federal Government, other than the Department of Defense.".

SEC. 202. IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.

(a) IN GENERAL.—The Federal Acquisition Regulation shall be amended to provide uniform implementation by each executive agency choosing to participate in the program authorized in section 8(c) of the Small Business Act (as amended by section 201).

(b) MATTERS TO BE ADDRESSED.—The provisions of the Federal Acquisition Regulation prescribed pursuant to subsection (a) shall include—

(1) conditions for the use of advance payments;

(2) provisions for contract payment terms that provide for—

(A) accelerated payment for work performed during the period for contract performance; and

(B) full payment for work performed;

(3) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to section 8(c)(1)(B) of the Small Business Act (as amended by section 201) to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(4)(A) procedures for a person to request the head of a Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(B) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

SEC. 203. SUNSET.

The amendments made by section 201 shall cease to be effective on October 1, 2000.

PART B—ELIGIBILITY DETERMINATIONS REGARDING STATUS

SEC. 211. IMPROVED STATUS PROTEST SYSTEM.

Section 7(j)(10)(J) of the Small Business Act (15 U.S.C. 636(j)(10)(J)) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) A protest may be brought regarding a self-certification by a business concern regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals by—

"(I) another person with a direct economic interest in the award of the contract or subcontract under which such business has allegedly made the false certification regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals;

"(II) a prime contractor receiving specific and credible information that an actual or prospective subcontractor or supplier has falsely certified its status as a small business concern owned and controlled by socially and economically disadvantaged individuals;

"(III) a contracting officer receiving a self-certification regarding an actual or prospective contractor's status, which such officer reasonably believes to be false; or

"(IV) the Associate Deputy Administrator for Minority Enterprise Development and Government Contracting of the Small Business Administration (or any successor position).

"(iii) The Office of Hearings and Appeals shall hear appeals regarding the status of a concern as a small business concern owned and controlled by socially and economically disadvantaged individuals for purposes of any program or activity conducted under section 8(d) or any other Federal law that refers to such section for a definition of program eligibility.

"(iv) A decision issued pursuant to clause (iii) shall—

"(I) be made available to all parties to the proceeding;

"(II) be published in full text; and

"(III) include findings of fact and conclusions of law, with specific reasons supporting such findings and conclusions, on each material issue of fact and law of decisional significance regarding the disposition of the protest.

"(v) A decision issued pursuant to clause (iii) shall be considered a final agency action, and shall be subject to judicial review under section 553 of title 5, United States Code.

"(vi) If a firm engages in a pattern of misrepresentations regarding the status of the firm in violation of section 16(d)(1), the Administration or the aggrieved executive agency shall initiate an action to impose an appropriate penalty under section 16(d)(2).".

SEC. 212. CONFORMING AMENDMENT.

Section 7(j)(11)(F) of the Small Business Act (15 U.S.C. 636(j)(11)(F)) is amended by—

(1) striking clause (vii); and

(2) redesignating clause (viii) as clause (vii).

TITLE III—EXPANDING SUBCONTRACTING OPPORTUNITIES

SEC. 301. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (4), by striking subparagraphs (A) through (D) and inserting the following:

"(4)(A) Each solicitation for the award of a contract (or subcontract) with an anticipated value of $1,000,000, in the case of a contract for construction (including repair, alteration, or demolition of existing construction) or $500,000, in the case of a contract for all other types of services or supplies, that can reasonably be expected to offer opportunities for subcontracting, shall—

"(i) in the case of a Federal contract to be competitively awarded, include solicitation provisions described in subparagraph (B);

"(ii) in the case of a Federal contract to be noncompetitively awarded, require submission and acceptance of a subcontracting plan pursuant to subparagraph (C); and

"(iii) in the case of a subcontract award, require submission and acceptance of a subcontracting plan pursuant to subparagraph (D).

"(B) With respect to subcontract participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, the solicitation shall—

"(i) specify minimum percentages for subcontract participation for an offer to be considered responsive whenever practicable;

"(ii) assign a weight of not less than the numerical equivalent of 5 percent of the total of all evaluation factors to a contract award evaluation factor that recognizes incrementally higher subcontract participation rates in excess of the minimum percentages;

"(iii) require the successful offeror to submit a subcontracting plan that incorporates the information described in paragraph (6); and

"(iv) assign a significant weight in any evaluation of past performance by the offerors in attaining subcontract participation goals.

"(C)(i) Each small business concern apparent successful offeror shall negotiate—

"(I) a goal for the participation of small business concerns and for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals; and

"(II) a plan for the attainment of the goals that incorporates the information prescribed in paragraph (6).

"(ii) The goals and plan shall reflect the maximum practicable opportunity for participation of small business concerns in the performance of the contract, considering the matters described in subparagraph (F)(iii). If, within the time limits prescribed in the Federal acquisition regulations, the apparent successful offeror fails to negotiate such a subcontracting plan, such offeror shall be ineligible for contract award.

"(D) An apparent subcontract awardee shall negotiate with the prime contractor (or higher-tier subcontractor) a goal for the participation of small business concerns and for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, and a plan for the attainment of those goals which incorporates the information prescribed in paragraph (6). Such goals and plan shall reflect the maximum practicable opportunity for participation of such small business concerns in the performance of the contract, considering the matters described in subparagraph (F)(iii).";

(2) by striking paragraph (5) and inserting the following:

"(5) [Reserved].''; and

(3) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (F) as subparagraphs (C) through (G), respectively; and

(B) by inserting the following new subparagraph (B):

"(B)(i) a listing of the small business subcontractors (including suppliers) who have actual or contingent awards for participation in the performance of the contract, identifying the work to be performed and the anticipated award value of the subcontracts; and

"(ii) assurances that the list of small business subcontractors described in clause (i) will be regularly revised to identify firms that have been removed from or substituted for previously listed firms, and annotated to reflect the reasons for any removal or substitution;".

SEC. 302. SUBCONTRACTING GOALS FOR CERTAIN SMALL BUSINESS CONCERNS.

Section 8(d)(7) of the Small Business Act (15 U.S.C. 637(d)(7)) is amended to read as follows:

"(7)(A) Except as provided in subparagraph (B), paragraphs (4), (5), and (6) shall not apply to offerors who are small business concerns.

"(B) A small business concern owned and controlled by socially and economically disadvantaged individuals shall be required to negotiate a subcontracting plan for the use of emerging small business concerns owned and controlled by socially and economically disadvantaged individuals, if—

"(i) the prime contract was awarded pursuant to—

"(I) subsection (a) or (c) of section 8;

"(II) section 2323 of title 10, United States Code; or

"(III) any law that authorizes the award of a Federal contract as the result of a competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in section 8(d)(3)(C);

"(ii) the anticipated total value of the contract exceeds $20,000,000; and

"(iii) subcontracting opportunities are expected.".

SEC. 303. SMALL BUSINESS PARTICIPATION GOALS.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "20 percent" and inserting "25 percent".

SEC. 304. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following new subsection:

"(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

"(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

"(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

"(B) a business concern which is a subcontractor or supplier (at any tier) to a contractor required to have a subcontracting plan pursuant to subsection (d) having a subcontracting opportunity in excess of $100,000.

"(2) CONTENTS OF NOTICE.—The notice of a subcontracting opportunity shall include—

"(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

"(B) the due date for the receipt of offers.".

(b) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) CONFORMING AMENDMENT.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking "$25,000" each place it appears and inserting "$100,000".

TITLE IV—REPEALS AND TECHNICAL AMENDMENTS

PART A—REPEALS

SEC. 401. LOAN PROGRAM SUPERSEDED BY SECTION 7(a) LOAN PROGRAM.

(a) IN GENERAL.—Section 7(i) of the Small Business Act (15 U.S.C. 636(i)) is amended to read as follows:

"(i) [Reserved].".

(b) CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 601 et seq.) is amended—

(1) in section 2(d)(1), by striking "sections 7(i) and 7(j)" and inserting "section 7(j)";

(2) in section 4(c)(2), by striking "7(i),";

(3) in section 5(e)(3), by striking "sections 7(a)(4)(C) and 7(i)(1)" and inserting "section 7(a)(4)(C)";

(4) in section 7(j), by striking "sections 7(i), 7(j)(10), and 8(a)" each place it appears and inserting "paragraph (10) and section 8(a)"; and

(5) in section 7(k), by striking "sections 7(i), 7(j)(10), and 8(a)" and inserting "subsection (j)(10) and section 8(a)".

SEC. 402. SUPERSEDED LOAN PROGRAM RELATING TO ENERGY.

(a) IN GENERAL.—Section 7(*l*) of the Small Business Act (15 U.S.C. 636(*l*)) is amended to read as follows:

"(*l*) [Reserved].".

(b) CONFORMING AMENDMENTS.—Section 4(c)(2) of the Small Business Act (15 U.S.C. 601 et seq.) is amended by striking "7(l),".

SEC. 403. EMPLOYEE TRAINING PROGRAM OF LIMITED SCOPE.

Section 15(j)(13)(E) of the Small Business Act (15 U.S.C. 644(j)(13)(E)) is amended to read as follows:

"(E) [Reserved].".

SEC. 404. EXPIRED PROVISION.

Section 8(a)(2) of the Small Business Act (15 U.S.C. 637(a)(2)) is amended to read as follows:

"(2) [Reserved].".

SEC. 405. EXPIRED DIRECTION TO THE ADMINISTRATION.

Section 303(f) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is repealed.

PART B—TECHNICAL AMENDMENTS

SEC. 411. TECHNICAL AMENDMENTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 8(d)(10)(C) (15 U.S.C. 637(d)(10)(C)), by striking "in the case contractors" and inserting "in the case of contractors";

(2) in section 10—

(A) in subsection (a), by striking "the Senate Select Committee on Small Business"; and

(B) in subsection (b), by striking "to the Senate Select Committee on Small Business, and to the Committee on Small Business of the House of Representatives" and inserting "to the Committees on Small Business of the Senate and House of Representatives"; and

(3) in section 15(g)(1)—

(A) in the first sentence, by striking "The President" and inserting "(A) The President";

(B) by striking the second and third sentences and inserting the following:

"(B) The Governmentwide goals established pursuant to subparagraph (A) shall be—

"(i) for small business concerns, 20 percent of the total prime contracts for the fiscal year; and

"(ii) for small business concerns owned and controlled by socially and economically disadvantaged individuals, 8 percent of the total value of all prime contracts and subcontracts for the fiscal year.";

(C) in the fourth sentence, by striking "Notwithstanding the Government-wide goal" and inserting the following:

"(C) Notwithstanding the Governmentwide goal"; and

(D) in the fifth sentence, by striking "The Administration" and inserting the following:

"(D) The Administration".

TITLE V—DEFINITIONS

SEC. 501. HISTORICALLY UNDERUTILIZED BUSINESSES.

(a) DEFINITION.—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended by striking "socially and economically disadvantaged small business concern" and inserting "historically underutilized business".

(b) TECHNICAL AMENDMENT.—Section 9(j)(2)(F) of the Small Business Act (15 U.S.C. 638(j)(2)(F)) is amended by striking "socially and economically disadvantaged small business concerns, as defined in section 8(a)(A)" and inserting "small business concerns owned and controlled by socially and economically disadvantaged individuals".

SEC. 502. EMERGING SMALL BUSINESS CONCERN.

(a) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(q) EMERGING SMALL BUSINESS CONCERN.—For purposes of sections 8 and 15, the term 'emerging small business concern' means a small business concern the size of which is less than or equal to 25 percent of the numerical size standard for—

"(1) in the case of a contracting opportunity being awarded by the Government, the standard industrial classification code assigned by a contracting officer; or

"(2) in all other cases, the standard industrial classification that encompasses the principal line of business of the business concern.".

(b) DELAYED APPLICABILITY TO THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.—For the purposes of the Small Business Competitiveness Demonstration Program, the amendment made by subsection (a) shall not supersede the definition of "emerging small business concern" provided in section 718(b) of the Small Business Competitiveness Demonstration Program Act of 1988.

TITLE VI—REGULATORY IMPLEMENTATION AND EFFECTIVE DATES

PART A—ASSURING TIMELY REGULATORY IMPLEMENTATION

SEC. 601. DEADLINES FOR ISSUANCE OF REGULATIONS.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to either section 22 of the Office of Federal Procurement Policy Act or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations shall be published and become effective not later than 270 days after the date of enactment of this Act.

SEC. 602. REGULATORY IMPLEMENTATION OF PRIOR LEGISLATION.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or the Small Business Administration regulations pertaining to the statutory provisions listed in subsection (c) shall be published not later than 30 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to either section 22 of the Office of Federal Procurement Policy Act or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations implementing the amendments made by this Act shall be published and shall take effect not later than 120 days after the date of enactment of this Act.

(c) DELAYED REGULATIONS.—

(1) Section 203 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 637 note; 104 Stat. 2818).

(2) Section 221 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 636 note; 106 Stat. 999).

(3) Section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 632 note; 106 Stat. 999).

PART B—EFFECTIVE DATES

SEC. 611. EFFECTIVE DATES.

(a) EFFECTIVE DATE OF ACT.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) AMENDMENTS REQUIRING IMPLEMENTING REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act which require the issuance of regulations shall take effect on the date on which final implementing regulations are prescribed in accordance with section 601.

(2) EXCEPTIONS.—The amendments made by sections 101, 102, 111, 112, 114, 115, 122, 133, 134, 135, 136, 138, 141, 142, 143, 161, 162, and 211 shall take effect on the date of enactment of this Act.

SUMMARY OF THE BUSINESS DEVELOPMENT OPPORTUNITY ACT OF 1994

The "Business Development Opportunity Act of 1994", being sponsored by Senator John Kerry of Massachusetts, is aimed at fostering the growth of small businesses owned and controlled by socially and economically disadvantaged individuals, commonly referred to as small disadvantaged businesses (SDBs).

The bill would—

establish a Minority Enterprise Development (MED) Program, a new three-phase program to replace the Small Business Administration's (SBA's) existing Minority Small Business and Capital Ownership Development Program (commonly referred to as the 8(a) Program from that section of the Small Business Act which provides special contracting authority), implementing SBA's MED Program proposal of June 1994—

providing tailored business development assistance, for the complete range of firms

from new "start-ups" to on-going businesses, to improve substantially their prospects for long-term success after graduation;

providing coordinated business development assistance by applying the resources of all available SBA programs as well as those other Federal agencies and SBA's private sector resource partners;

reducing the costly paperwork burdens on Program Participants by eliminating "non-value added" oversight and monitoring;

eliminating the second-guessing of business decisions made by Program Participants and by contracting officers at Federal agencies offering contracting opportunities to Program Participants;

correcting provisions of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988", which have led to implementation contrary to Congressional intent; and

implementing recommendations of the September 1992 Final Report of the Commission on Minority Business Development;

advance the attainment of the existing Government-wide goal for the participation of SDBs in Federal contracting opportunities as prime contractors as well as subcontractors and suppliers, by—

extending to the civilian agencies of the Federal Government the procurement tools available to DOD since 1988 (under the Section 1207 Program, which was reauthorized in 1992 through September 30, 2000);

harnessing the intense competition for the award of major contracts to foster increased SDB subcontract participation by making the use of SDBs as subcontractors and suppliers a very important consideration in the solicitation and award process for prime contracts; and

improving access to information about subcontracting opportunities.

Some specific changes that the "Business Development Opportunity Act of 1994" would make to the SBA's MED Program, include:

PROGRAM ADMISSION

eliminating the duplicative regional review of applications to help expedite the chronically slow Program application process;

forcing full implementation of the statutory waiver enacted in 1990 to SBA's rule that a Program applicant must be in business for two years prior to making application (Two-Year Rule);

requiring that an applicant denied admission into the Program be furnished specific reasons and be given an opportunity to respond;

requiring SBA to develop an action plan to improve the geographic distribution of firms participating in the Program and the award of 8(a) contracts;

IMPROVED BUSINESS DEVELOPMENT ASSISTANCE

establishing a pilot Developmental Teaming Program to encourage Program graduates to enter into SBA-approved mentoring relationships with current Program Participants to furnish them practical business development training and to team with them as subcontractors on 8(a) contracts;

focusing the 7(j) Management Assistance Program on core business development skills, such as marketing and proposal development, and making it available exclusively to Program Participants;

IMPROVING ACCESS TO EQUITY FOR PROGRAM GRADUATES

encouraging SBA to use the waiver authority enacted in 1988 allowing a Program graduate to sell a non-controlling equity share of the firm without losing the right to continue performance of contracts won while in the Program;

providing a Program Participant a right to sell an equity interest in the firm so long as 51% ownership and control are maintained;

CONTRACT AWARD AND ELIGIBILITY MATTERS

accelerating the 8(a) contract award process by allowing the Federal agency offering a 8(a) contract opportunity to make award directly to the Program Participant (but requires SBA to assist a Program Participant requesting help during contract negotiations or contract performance);

eliminating the requirement to obtain advance approval from SBA regarding SIC codes used by a Program Participant;

prohibiting a Program Participant's forecast of its anticipated 8(a) contract awards (contract support level) from being used as a bar to the award of an 8(a) contract won competitively or through self-marketing;

strengthening business-mix provisions of P.L. 100-656 to encourage Program Participants to steadily diminish their dependence on 8(a) contracts as the firms approach Program graduation;

correcting a provision of P.L. 100-656 which did not permit a Program Participant to count competitively won 8(a) contracts towards attaining its competitive business-mix requirements;

authorizing a Program Participant to "bundle" the capabilities of a team of subcontractors so as to more effectively compete for the large, complex, and diverse "bundled" contract opportunities that are becoming more common, by allowing SBA to waive certain limitations, including level of subcontracting;

CONTRACT ADMINISTRATION IMPROVEMENTS

requiring expedited Government payment of invoices and progress payment requests under 8(a) contracts;

requiring expedited Government responses to questions arising during the performance of 8(a) contracts;

making available Alternative Disputes Resolution (ADR) techniques for disputes and claims arising under 8(a) contracts; and

REDUCING REPORTING AND PAPERWORK BURDENS

reducing reporting burdens on Program Participants.

Other provisions of the "Business Development Opportunity Act of 1994" are aimed at—

MAINTAINING PROGRAM INTEGRITY

deterring "front" companies from self-certifying as SDBs by improving SBA's administration of the Government-wide "status" protest system and encouraging the use of available administrative as well as criminal remedies for those individuals or firms found to be engaged in a pattern of misrepresentation;

INCREASING THE FEDERAL CONTRACT PARTICIPATION OF SMALL BUSINESSES GENERALLY

making the evaluation of subcontract participation in the awarding of major prime contracts, apply to subcontracting with all small business concerns; and

increasing the Government-wide goal for participation of small business concerns generally in Federal contracting, from 20% to 25%.

SECTION-BY-SECTION ANALYSIS OF THE BUSINESS DEVELOPMENT OPPORTUNITY ACT OF 1994

Sec. 1. Short Title.

This section establishes the bill's citation as the "Business Development Opportunity Act of 1994".

Sec. 2. Table of Contents.

This section sets forth the headings of the bill's various sections in the form of a Table of Contents.

TITLE I—AMENDMENTS TO THE MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Part A—Program Organization and Participation Standards

Sec. 101. Modification of Program Title.

This section would change the name of the program from the Minority Small Business and Capital Ownership Development (MSB/COD) Program to the new title of the "Minority Enterprise Development" (MED) Program, as recommended by the Small Business Administration. In adopting a new program title that more aptly and succinctly describes the Program's actual objectives, it is expected to facilitate the renewed effort to successfully implement a coordinated business development program and to encourage the common use of a term other than the "8(a) Program", which suffers from almost universally negative perceptions within the general public emphasizing the unregulated use of non-competitive or "sole-source" contracting and other abuses. Adoption of the new program name, the MED Program, is designed to send a clear message that this legislation, as well as SBA's "reinvention" initiatives, are determined to reshape the program into one that will provide effective business development assistance to Program Participants, which will provide a firm foundation for long-term business success after Program graduation, enhancing their prospects for success at least to the level of small business concerns that are owned and controlled by individuals who are other than socially and economically disadvantaged individuals.

Sec. 102. Consolidation of Eligibility Review Function.

This section would eliminate the review of Program applications at the regional level, one of the three levels of review through which a Program application must presently pass. GAO has found that the eligibility review conducted at the Regional Office level is essentially repeated when the application reaches the SBA Central Office. Under the provisions of the amendment, the substantive evaluation of Program applications would be made only once at a single centralization location either located at (or reporting to) the SBA Central Office by personnel focused on Program applications. The amendment would leave unchanged: (a) convenient access to advice concerning the Program, including the application process at the local SBA District Office; and (b) the District Office's responsibility to initially review a Program application for completeness and suitability for eligibility review within 15 days of submission.

Sec. 103. Clarification of Various Eligibility Criteria.

Subsection (a) eliminates the paperwork burdens associated with an Indian Tribe having to furnish data to prove its status as "economically disadvantaged" so that a tribally-owned business may be admitted to the Program. No business concern of a tribal Government has been declined admission to the Program for failure to be economically disadvantaged. This recommendation was included among the legislative recommendations contained in SBA's FY 1992 report to the Congress on MSB/COD Program.

Subsection (b) makes a series of necessary conforming amendments.

Sec. 104. Clarification of Certain Additional Eligibility Criteria Imposed by Regulation.

This section makes a series of amendments to the Small Business Act to address several limitations on Program eligibility imposed by SBA exclusively through regulations.

First, SBA regulations currently require that a prospective Program Participant must be in business for two years in order to be eligible to make a Program application. Section 203 of Public Law 101-574, the "Small Business Administration Reauthorization and Amendments Act of 1990", specified criteria for the waiver of the so-called "Two-Year Rule". This rule essentially excluded the participation of "start-up" firms, despite the ability of the new firm to demonstrate substantial likelihood of future success based upon the firm having (or being able to obtain) necessary financial and other resources as well as the management and technical capabilities of its owners and key employees derived from substantial experience working for others. Although over three years have passed since the effective date of the statute, no action has been taken to incorporate the statutorily required waiver into the Program's published regulations. Without modifications to published regulations, prospective Program Participants continue to believe a rigid Two-Year Rule still applies. This section incorporates the waiver standards into the Small Business Act.

Second, SBA regulations require that the socially and economically disadvantaged individual upon whom eligibility is based must be working full-time at managing the firm seeking Program admission. This requirement is another obstacle to the admission of a "start-up" firm. Some prospective Program Participants retain employment with another concern to maintain a steady family income while awaiting access to the Program's various forms of developmental assistance.

Third, SBA regulations require a tribally-owned corporation to employ a Native American as chief executive officer (CEO) to manage the firm's day-to-day operations in order to obtain (and maintain) Program eligibility. Many tribal governments have experienced difficulty in identifying Native American CEOs. Under current regulations, a tribally-owned corporation's continued eligibility is jeopardized if the tribal government is unable to maintain a Native American CEO. This provision would permit the tribal government to use someone other than a Native American CEO, if it certifies to SBA that it is unable to hire a qualified Native American CEO after conducting a national recruitment.

Fourth, under current regulations, SBA may deny admission to the Program on the basis of a general finding that the prospective Program Participant lacks "a likelihood of future success". This section would require SBA to provide specific findings if an applicant firm is denied admission on this basis. A subsequent conforming amendment of the bill would repeal the statutory provision that SBA identifies as the statutory basis for this wholly subjective criteria for Program admission.

Finally, the provision maintains the current limitation on SBA's ability to deny admission to a prospective Program Participant if the type of goods or services being offered by the firm are not purchased in sufficient quantities by the Federal Government. The existing statutory limitation was based on an amendment offered by Senator John Kerry to the legislation which became Public Law 100-656, the "Business Opportunity Development Reform Act of 1988".

Sec. 105. Enhancing Due Process in Eligibility Determinations.

This section would require SBA to support a denial of an application for Program admission with specific determinations supported by specific findings and to provide an opportunity for a Program applicant to respond (or to make appropriate modifications to its application or business organization to address valid concerns). It would also require that if SBA declined the application on reconsideration, it would have to give the applicant an opportunity to respond to any grounds not previously raised by SBA. Currently under SBA's Program regulations, an applicant is entitled to only one reconsideration. After being declined on reconsideration, the regulations require the prospective Program Participant to wait a year before again being eligible to submit a Program application. SBA's internal SOPs (Standard Operating Procedures), however, do not preclude basing an adverse decision on reconsideration on matters not previously raised, effectively denying the applicant any opportunity to respond (or take corrective action).

Sec. 106. Improving Geographic Distribution of Program Participants.

This section would require SBA to develop an action plan for improving participation in the MED Program by firms across the Nation. The section specifies that the required action plan would have to address two persistent concerns about the existing MSB/COD Program the concentration of Program Participants and contracts awarded under the authority of section 8(a) in certain geographic areas. First, the action plan would have to specify an outreach program focused on reaching eligible small business concerns in States with historically low rates of Program participation. Second, the action plan would have to make recommendations for improved implementation of section 8(a)(16)(B) of the Small Business Act, added in 1988 by P.L. 100-656. This current provision of the Small Business Act express the Congressional objective of improving the equitable distribution of 8(a) contracts awarded on a noncompetitive basis.

It is recognized that effecting such equitable distribution of contracts is made more complicated by three factors. First, the geographic concentration of Program Participants in certain States or regions. Second, the natural tendency of more developed and aggressive Program Participants to locate within cities or regions in which their Federal customers' principal buying activities are centralized. And third, the emphasis on self-marketing by Program Participants as a skill development objective, which was an objective of the 1988 legislation, is re-emphasized buy other provisions of this bill, and is increasingly becoming the almost exclusive method by which new Federal contracting opportunities are identified for award pursuant to section 8(a). Nevertheless, more aggressive implementation of section 8(a)(12 of the small business and better use of agency procurement forecasts required by provision of existing law may be fruitful areas for consideration by SBA in formulating its action plan. Similarly, the implementation of electronic contracting and mandate use of commercial products mandated by the "Federal Acquisition Streamlining Act of 1994" should also be considered in formulating the action plan.

Part B—Business Development Assistance

Sec. 111. Developmental Assistance Authorized for Program Participants.

This section would make all Program Participants eligible for the full range of developmental assistance authorized under the Program. Under amendments made by Public Law 100-656, some forms of developmental assistance are not available to firms in the so-called Transitional Stage of Program participation, i.e., the last five years of the nine-year Program participation term. More than four years of experience under the 1988 reform legislation has demonstrated that such a limitation only denied Program Participants to beneficial business development assistance without substantially advancing the Congressional objective of encouraging the Program Participant's preparation for graduation.

Sec. 112. Expanding the Eligible Uses for Loans Under Existing Loan Program for Program Participants.

This section would expand the eligible uses for the proceeds of loans currently authorized for Program participants. Under the proposed amendment loan proceeds could be used for working capital by Program Participants providing services. Currently, the loan program is targeted to Program Participants in manufacturing with the focus on the capitalization of facilities or production equipment. This recommendation was included among the legislative recommendations contained in SBA's FY 1992 report to the Congress on MSB/COD Program.

The statutory authority for loans to Program Participants adopted as Section 302 of P.L. 100-656 (which added a new Section 7(a)(20) to the Small Business Act (15 U.S.C. 636(a)(20)) is sufficiently flexible to permit the SBA to implement two elements of its proposed MED Program aimed at expanding access to capital for Program Participants. First, the statute would permit loans to be made at the higher guarantee rates being contemplated for Program participants, since the only statutory limitation is that guarantee rate cannot be less than 85%. Second, the authorizing statute would impose no obstacle regarding the SBA's proposal regarding the pre-authorization of a Program Participant for a loan. Such a pre-authorization process holds great promise as a means to substantially expedite the current process by which a Program Participant seeks to obtain a loan from a participating bank.

Sec. 113. Test Program for the Use of Surety Bond Waivers.

This section would extend until September 30, 1997, the test program for the use of surety bond waivers authorized by Section 7(j)(13)(D) of the Small Business Act, which was authorized in Public Law 100-656, the "Business Opportunity Development Reform Act of 1988" and subsequently extended through October 1, 1994 by Section 206 of Public Law 101-574, the "Small Business Administration Reauthorization and Amendments Act of 1990". It would also amend Section 7(j)(13)(D) to facilitate future implementation of the surety bond waiver authority by the various procuring agencies and by SBA.

Sec. 114. Targeting Section 7(j) Management Assistance to Program Participants.

This section would target the management assistance program authorized by Section 7(j)(1) of the Small Business Act to Program Participants. Such targeting is likely to substantially increase the impact of the limited resources allocated to the 7(j) Management Assistance Program, slightly more than $8 million for FY 1994.

The management assistance needs of other small business concerns owned and controlled by socially and economically disadvantaged individuals, who are currently eligible for 7(j) management assistance, would be met through increased emphasis on

the needs of such firms by the national network of Small Business Development Centers (SBDCs) supported by SBA and by improved coordination with the national network of Minority Business Development Centers operated by the Minority Business Development Administration (MBDA) at the Department of Commerce.

Sec. 115. Other Enhancements to Section 7(j) Management Assistance Program.

This section would further amend the Section 7(j) Management Assistance Program to authorize funds appropriated to the program to remain available for obligation during the year in which they are appropriated and during the succeeding fiscal year. This amendment fulfills a suggestion previously made by the SBA in October, 1993.

This subsection would also accord a preference in the award of financial assistance pursuant to the Section 7(j) Management Assistance Program to certain university-sponsored programs for the training of minority entrepreneurs, such as the resident course at the Amos Tuck School of Business at Dartmouth University. SBA's proposed MED Program contains a similar element regarding executive development among its proposals for enhanced Managerial Training and Assistance for Program Participants.

Sec. 116. Developmental Teaming.

This section would establish a pilot Developmental Teaming Program with the SBA's Minority Enterprise Development (MED) Program. The purpose of the Developmental Teaming Program is to encourage the formation of mentoring relationships, contract teaming arrangements and strategic business alliances between current MED Program Participants and more developed minority business enterprises, principally graduates of the MED Program (and its predecessor program, the Minority Small Business and Capital Ownership Development (MSB/COD) Program).

Subsection (c) established the basic qualifications for a firm to be an assistance recipient or an assistance provider under the Developmental Teaming Program. Assistance providers, to be called "Developmental Teaming Partners" may either be graduates of the MED Program (or the MSB/COD Program) or current Program Participants nearing graduation who are found by SBA to be unusually well-developed and fully capable of providing business development assistance.

Subsection (d) recites the array of developmental assistance that may be furnished under the Developmental Teaming Program. The provision provides ample flexibility for the parties to a proposed Developmental Teaming Agreement to tailor a program to their unique and mutual needs, since it specifically authorizes "such other forms of assistance * * * contained in a developmental teaming agreement".

Subsection (d) also makes explicit that each Developmental Teaming Agreement must receive prior approval by SBA, before being implemented by the parties. It is intended that SBA shall require specification of the developmental assistance to be furnished in sufficient detail to permit monitoring, while being mindful of the flexibility that must be available in a bilateral business development mentoring relationship. Similarly, it is intended that SBA exercise approval regarding the percentage of a contract performance undertaken by each of the parties under a specific contract awarded to the Program Participant pursuant any program that accords a preferential status to the Program Participant as a small business concern owned and controlled by socially and economically disadvantaged individuals.

Subsection (e) specifies the minimum elements of a Developmental Teaming Agreement, including its duration. An agreement may have an initial term of three years, with an option for an additional two years. Such a potential for a five-year Developmental Teaming relationship mirrors the five-year duration (one base year and four one-year option years) that has become prevalent in Federal contracting (and was given explicit statutory recognition in the "Federal Acquisition Streamlining Act of 1994").

Subsection (f) provides an incentive to the Developmental Teaming Partner to enter into a developmental mentoring relationship and furnish assistance by permitting the award of subcontracts under 8(a) contracts by the Program Participant to its Developmental Teaming Partner in amounts that would otherwise be prohibited by section 8(a)(14) of the Small Business Act (which requires performance of 50% of the work by the prime contractor).

Subsection (g) provides protection for the participants of an approved Developmental Teaming Agreement from a finding by the SBA that the parties to the agreement are affiliates or that one party is controlling (either directly or indirectly) the business activities of the other. Activities outside the scope of the approved agreement are not shielded by this provision.

Subsection (h) specifies procedures for termination of Program participation by firms receiving assistance under the Program and those providing assistance. The provisions are designed to assure "due process" protections to recipients of Developmental Teaming assistance. The provision also specifies the procedures relating to SBA powers to terminate Development Teaming Agreements (as well as the appeal rights accorded to the private sector parties).

Subsection (i) specifies the duration of the pilot program. Developmental Teaming Agreements approved by SBA from the effective date of the Program's implementing regulations through September 30, 1997. Performance of approved Developmental Teaming Agreements may continue through the Program's termination date, September 30, 2002.

Subsection (j) specifies a timetable for the issuance of proposed and final regulations for the implementation of the Program.

Subsection (k) contains definitions of terms by cross-references to existing definitions in the Small Business Act.

Part C—Improving Access to Equity for Program Graduates

Sec. 121. Continued Contract Performance.

This section seeks to encourage the SBA to make use of the statutory waiver authority related to the performance of a contract awarded pursuant to section 8(a) when the socially and economically disadvantaged owners of the firm awarded the contract relinquish ownership or control of the firm. Under current law, an 8(a) contract would have to be terminated, if the socially and economically disadvantaged individuals upon whom Program eligibility were established relinquished (or entered into an agreement to relinquish) ownership or concern that was awarded the 8(a) contract, unless a waiver was granted by the SBA Administrator. While the statute specifies a broad array of circumstances under which such a waiver can be granted, the waiver authority was restricted to the SBA Administrator, "on a nondelegable basis". Experience has indicated that this nondelegability has unexpectedly resulted in making the waiver authority unavailable in practical terms. The proposed amendment would permit the delegation of the waiver authority. It is expected that this legislative change, when coupled with the less control-oriented management style under SBA's new MED Program, should strike the balance sought by the 1988 legislation. "Selling" of 8(a) contracts will be deterred, while not placing unreasonable burdens on the transfer of ownership or control under legitimate circumstances.

Sec. 122. Continued Program Participation.

This section amends Section 7(j)(11)(D) of the Small Business Act to clarify the right of a Program Participant to transfer a noncontrolling ownership interest in the firm to another small business concern owned and controlled by socially and economically disadvantaged individuals. The proposed amendment would revoke an existing regulatory prohibition on the transfer of more than a 10 percent ownership interest to a small business concern owned and controlled by socially and economically disadvantaged individuals if that firm is a graduate of the MSB/COD Program. We should be encouraging rather than discouraging capital investment in less developed Program Participants by Program graduates.

Part D—Contract Award and Eligibility Matters

Sec. 131. Contract Award Procedures.

This section would permit the direct award of contracts under the authority of Section 8(a) by the agency having the contracting opportunity. Currently, Section 8(a) contains the legal fiction that the contracting agency awards a prime contract to SBA, which then subcontracts to a Program Participant. This provision adopts a recommendation contained in the Final Report of the Commission on Minority Business Development, established by Section 505 of the "Business Opportunity Development Reform Act of 1988", P.L. 100-656. A similar recommendation was included in the September 1993 Report of the Vice President's National Performance Review, and has been endorsed by the Administration as part of its comments on S. 1587, the "Federal Acquisition Streamling Act of 1994".

The amendment would permit a Program Participant to request the SBA's assistance with respect to the contract negotiations with the agency making the contract award and with respect to the resolution of contract administration matters arising during performance of the 8(a) contract. The amendment also retains SBA's current authority to appeal a broad array of "adverse decisions" relating to making a contracting opportunity available for award pursuant to Section 8(a) and the award of a contract to a Program Participant.

Sec. 132. Timely Determination of Award Eligibility for Contract Award.

This section would require the SBA to promptly inform a contracting activity regarding the eligibility of a Program Participant for award of a contract under section 8(a). Similarly, it would require SBA to establish the eligibility for award of competing Program Participants at the closing date for receipt of offers. Currently, the conduct 8(a) competitions are being impeded by ineligibility determinations being made at the close of the competitive process with regard to the Program Participant selected for award by the contracting agency.

Section 131 makes explicit that the procuring agency is responsible for determining whether the Program Participant is capable of performing the contract (a "responsibility determination" in the jargon of Federal procurement). A determination of "non-responsibility" by the agency's contracting officer

is subject to an independent review of the firms capabilities to perform the contract by the SBA under the Certificate of Competency Program, in the same manner as a "non-responsibility" determination regarding finding regarding any small business concern. In addition to a responsibility determination made by the agency contracting officer, this section recites the existing statutory criteria under which a Program Participant can be found to be ineligible for award by SBA.

Sec. 133. Competition Requirements.

Subsection (a) establishes the standard for determining whether various forms of requirements-type contractors (often referred to as ID/IQ (indefinite delivery/indefinite quantity) contracts to be awarded pursuant to section 8(a) should be awarded as a result of a competition among eligible Program Participants or on a sole-source basis. Current law requires a competition among Program Participants if the anticipated value of the contract (including options) is expected to exceed $5 million in the case of a contract requiring manufacturing and $3 million in the case of a contract to furnish any other product or service (including construction).

Under existing SBA MSB/COD Program regulations, the decision on whether the contracting opportunity should be subject to competition is to be based upon the dollar value of task orders or delivery orders guaranteed under the contract. Such "guaranteed minimums" commonly reflect but a very small percentage of the aggregate value of all task order or delivery orders actually placed under an ID/IQ contract. This regulatory exception to competition has apparently resulted in a large number of 8(a) contracting opportunities to be offered as ID/IQ contracts, with guaranteed minimums below the threshold for competition, irrespective of the estimated total value of the contract (in terms of both requested and approved levels of authorization and appropriation).

Audits of ID/IQ contracting in support of the MSB/COD Program have reached the conclusion that the SBA Program regulations and the widespread use of ID/IQ contracts with low guaranteed minimums have largely frustrated the Congressional objective of having larger dollar value contracts awarded after competitions among Program Participants. In a particularly critical audit report (DOD IG Audit Report No. 93024) issued in November, 1992, the DOD Inspector General recommended to SBA that its Program regulations be modified to make explicit that the threshold for competition on ID/IQ contracts be determined on the basis of the estimated total value of the contract. The DOD IG notes that this is the standard used in the Government-wide Federal Acquisition Regulation (FAR) to find a broad array of regulatory requirements applicable to ID/IQ contracts. Although agreeing to change its Program regulations, SBA has yet to propose a modification after nearly 18-months.

The same DOD IG audit report also found that Program Participants under non-competitively awarded ID/IQ contracts relating to computer services and equipment were essentially acting as brokers, merely furnishing computer equipment to the DOD buying activity on a sole-source basis through an 8(a) contract award. By having the equipment purchases made under an 8(a) contract, the DOD buying activities were able to use the 8(a) contract to avoid the justifications and approvals that would otherwise be statutorily required for such a sole source purchase.

Subsection (b) would permit the Associate Administrator for the MSB/COD Program, on a nondelegable basis, to authorize non-competitive 8(a) contract awards in excess of the thresholds for competition under limited circumstances. Essentially, up to $15 million in non-competitive awards could be authorized for a Program Participant in the Developmental Stage (first five years) of its nine-year Program Participation Term and if the firm has not exceeded 25 percent of the size standard for its principal line of business as reflected in its most recent business plan.

Sec. 134. Policies Regarding SIC Codes.

This section would modify the processes by which Standard Industrial Classification (SIC) Codes are utilized by a Program Participant in describing the firm's business activities and by an agency contracting officer in describing the item or service being procured under a specific contract solicitation.

The system of SIC Codes, maintained by the Office of Management and Budget, provides broad descriptions of classes of business activity in manufacturing and services, which are intended to permit various agencies of Government to capture consistent data for economic and other purposes. The SBA assigns a numerical size standard (number of employees or average gross receipts over a three year period) to each of these SIC Codes, which is the principal method for determining whether a business concern is to be recognized as a "small business". Program Participants use these SIC codes to describe the types of business activity in which the firm is engaged (and in which it intends to become engaged if its business plan is successfully implemented). With respect to Government contracting, an agency contracting officer assigns an SIC code to describe the principal product or service being sought by the Government through a contract solicitation. Because of the linkage to the SBA size standards, the contracting officer's designation of the appropriate SIC Code to describe the contracting opportunity can be determinative of whether a particular firm will be recognized as a "small business concern" and be permitted to participate, if the competition is to be restricted to small businesses, or to be awarded pursuant to section 8(a) (as well as other statutorily authorized preferential procurement techniques for small business concerns owned and controlled by socially and economically disadvantaged individuals).

Subsection (a) would make explicit the right of a Program Participant to designate the SIC codes applicable to the firm's current and planned business activities as reflected in its business plan (or any modifications to such plan), without obtaining specific prior-approval from the SBA, which is currently required by Program regulations. Program Participants complain that delays attendant to such prior-approval requirements have impeded the ability of some firms to be considered eligible for award of an 8(a) contract, even though the contracting officer was prepared to determine that the firm was capable of performing the contract. At the same time, given the preferential nature of the 8(a) contracting process, it is not wholly uncommon for a Program Participant to declare its capability to furnish particular types of products or services after a specific contracting opportunity has been made available. The provision contemplates the issuance of revised Program regulations that would accord substantially more freedom for a Program Participant to chart its own business destiny, but still require an orderly process of adopting SIC codes that is linked to the firm's announced vision of its intended patterns of growth and development as reflected in its business plan.

Subsection (b) would make explicit the right of a contracting officer to assign an SIC Code to a contracting opportunity to be awarded pursuant to section 8(a) in the same manner such officer assigns an SIC code to other contracting opportunities. Current Program regulations reserve to SBA final approval of the SIC code of a contracting opportunity to be awarded under section 8(a), apparently as an additional check upon the potential for abuse. The proposed change is in keeping with the overall theme of the bill in placing principal responsibility for the award of contracts pursuant to section 8(a) in the hands of the contracting agencies.

It should be noted, however, that subsection (a) is not intended to impair SBA's existing authority to protest, under existing regulations, the appropriateness of the SIC code assigned by a contracting officer to a specific contracting opportunity. This authority, if vigorously used by the SBA when circumstances appear to warrant, should provide adequate opportunity to check the real potential for abuse in the assignment of SIC codes.

Subsection (c) would make explicit the right of a contracting officer to make the determination that a prospective contractor is capable of performing the proposed contract (a determination of "responsibility" in the jargon of Government contracting) to be awarded pursuant to section 8(a) in the same manner such officer assigns an SIC code to other contracting opportunities. Current Program regulations reserve to SBA the right to make the final determination of responsibility regarding the award of a contract pursuant to section 8(a), apparently as an additional protection for Program Participants. The proposed change is in keeping with the bill's theme of placing principal responsibility for the award of contract pursuant to section 8(a) in the hands of the contracting agencies.

It should be noted, however, that subsection (c) does not impair the protections accorded through the SBA Certificate of Competency (COC) Program under the authority of Section 8(b)(7) of the Small Business Act. If a contracting officer makes a "nonresponsibility" determination regarding a Program Participant with respect to a potential 8(a) contract award, the Program Participant is entitled to an independent review by SBA of the contracting officer's nonresponsibility determination under the COC Program in the same manner as any small business.

Sec. 135. Use of Contract Support Levels.

This section would prohibit SBA from determining a Program Participant to be ineligible for the award of pursuant to section 8(a) because the award would cause the firm to exceed its so-called 8(a) contract support level.

Under the 1988 amendments to the MSB/COD Program, a Program Participant is required to forecast the volume of business activity the firm will be seeking through 8(a) contract awards (competitive as well as non-competitive) as part of the firm's annual business planning process. It was intended that such forecasts would provide the SBA with an additional tool with which to urge the various procuring agencies to make available additional contracting opportunities for award pursuant to section 8(a). In implementing this statutory provision, SBA made the 8(a) contract support level forecasted by each Program Participant into a ceiling on the dollar volume of 8(a) contract awards the firm would be permitted to receive.

This restrictive interpretation of the statutory provision has led to several adverse consequences. First, some Program Participants have been denied award of 8(a) contracts, even if the contract was to be awarded as the result of the firm's having won an 8(a) contract competition. Second, recognizing the 8(a) contract support level forecast was being implemented as a "ceiling" rather than a "floor", Program Participants began to offer unrealistically inflated forecasts to avoid even the possibility of losing a future 8(a) contract award. This has diminished the utility of the forecasts to be an effective marketing tool for the SBA in its dealings with the various procuring agencies.

Sec. 136. Business Mix Requirements.

This section would amend section 7(j)(10) of the Small Business Act to permit contracts awarded as a result of competitions among Program Participants to be counted as competitive for the purpose of attaining the firm's "business mix" goals.

The "Business Opportunity Development Reform Act of 1988" established "business mix" targets aimed at gradually reducing the dependence of Program Participants on the award of contracting opportunities awarded pursuant to Section 8(a), especially those awarded on a non-competitive basis. Gradually reducing the firm's dependence on 8(a) contract awards during the nine years of its Program participation term would substantially increase the prospect for success after graduation.

Experience with the Act since 1988 strongly suggested that 8(a) contract awards won as the result of an 8(a) contract competition should have been creditable as "competitive" in attaining the firm's business mix targets. With competitive 8(a) awards unavailable for meeting a Program Participants "business mix" targets, firms in the later stages of their Program Participant term were being deterred from competing for 8(a) awards, since they lacked sufficient dollar volume of other competitive awards which were creditable to the attainment of the "business mix" targets.

The amendment would again make consistent the Congressional intent to distinguish between competitive and non-competitive awards, and to encourage Program Participants to participate in increasingly less restrictive forms of contract competition, so as to prepare them most effectively for "full and open competition" for government contracts and the unrestricted competitions of the commercial marketplace.

Sec. 137. Encouraging Self-Marketing.

Subsection (a) of this section would direct the SBA to modify its regulations for the MSB/COD Program to eliminate the restrictions on "self-marketing" to the various agency buying activities by Program Participants through its restrictions on so-called "National Buys" and "Local Buys".

Under Program regulations a "Local Buy" is a product or service purchased to meet the specific needs of one user on one location. A "National Buy" is a product or service purchased by a centralized procuring activity to support the needs of one or more users at two of more locations.

Subsection (b) repeals the requirement that construction contracts be awarded to firms in the county or state in which the work is to be performed.

Inadvertently left unaddressed in 1988, this provision conflicts with both the intent of the Public Law 100-656 and the practical business realities of the modern construction market. First, Public Law 100-656 sought to ease the myth that Program Participants could expect to be "given" contracts by SBA. It sought to erase that myth by making explicit the responsibility of Program Participants to engage in self-marketing. The provision to be repealed places an entirely artificial impediment on self-marketing that is also contrary to the business realities of modern construction contracting. Prospectively successful small construction firms must be able to develop the capabilities to undertake projects outside of their immediate geographic location.

Further, the implementation of this provision often prevents Program Participants from self-marketing in their natural markets simply because those markets happened to be located across a state line. For example, a firm in southern New Jersey being able to self-market work in the Philadelphia area. Or conversely, a Program Participant in southeastern Pennsylvania can currently be prohibited from self-market business opportunities in southern New Jersey, simply because of a state boundary that does not constitute an unsurmountable obstacle to business activities outside the Program. Further, reports from Program Participants strongly suggested that the statutory provision was not being uniformly applied by various SBA regional and district offices, or in some instances within the same district or regional office.

Sec. 138. Building of Contractor Capabilities.

Subsection (a) of this section would permit a Program Participant to assemble a subcontract team capable of competing for a so-called "bundled" contract opportunity by authorizing the waiver of existing requirements relating to permissible amounts of subcontracting and the inclusion of other than small business concerns. Such authority is seen as a more flexible alternative to the formation of joint ventures.

Currently, a Program Participant may propose for SBA approval a joint venture, provided that the Program Participant holds a 51% interest in the joint venture and exercises control of the joint venture's day-to-day business operations. Since a joint venture is a separate legal entity, both the Program Participant and its joint venture partners must incur legal costs relating to defining the proposed joint venture, so that they may be reviewed and approved by SBA. And subsequently, incur additional costs relating to the actual formation of the approved joint venture for the purpose of competing for one or more contracting opportunities. Success in winning such contracts, while enhanced by the combined capabilities of the joint venture partners, is not guaranteed.

By facilitating the formation of more tailored and targeted prime contractor-subcontractor teams, the proposed new authority will provide the same opportunity to pool resources, while the unnecessary cost of creating a new legal entity. As with the information of a joint venture, the proposed prime contractor-subcontractor team would be subject to approval by SBA, if the Program Participant prime contractor was anticipated to be performing less than 50% of the work (as is currently required by statute if the completing is restricted) or the proposed subcontracting with a large firm would otherwise result in a finding of affiliation with, or control by, the large firm subcontractor. Under the proposed provision a large firm (technically, a firm that is "other than a small business concern") would be permitted to be a major subcontractor (up to 25% of the total value of the contract).

Subsection (b) provides a definition of "contract bundling".

Subsection (c) makes a necessary conforming amendment to the Small Business Act which inserts a cross-reference to the new definition.

Part D—Tribally-Owned Corporations

Sec. 141. Management and Control of Business Operations.

This section would permit the day-to-day business operations of a tribally-owned corporation to be managed by other than a Native American with the necessary skills and experience to serve as the tribal corporation's chief executive officer (CEO). The use of such a non-Native American CEO would be subject to approval by SBA.

Under current law, the CEO of a tribal corporation must be a Native American if the tribal corporation is to be eligible for Program admission or to maintain Program eligibility. Some tribal corporations have had their continued Program eligibility jeopardized when their current Native American CEO chose to depart and they were unable to identify a qualified replacement, even after a national recruitment. While steadily increasing in number, due to opportunities offered by the growing number of tribal corporations, the cadre of Native Americans CEOs remains relatively small. This provision would avoid penalizing legitimate tribal corporations, with their potential to bring desperately needed employment to reservations, from participating in the Program simply because they were unable to identify a qualified Native American CEO.

Since this provision would permit the day-to-day business management of the tribal corporation to be exercised by other than a socially disadvantaged individual, it is expected that SBA's implementing regulations would require the tribal government to demonstrate that it had conducted a national recruitment to locate a qualified Native American CEO before approving the use of a non-Native American CEO. Similarly, it is expected that the tribal government would conduct such a national recruitment to identify a Native American CEO each time a vacancy arises.

Sec. 142. Joint Venture Authority.

Subsection (a) of this Section codifies and makes permanent the current authority for tribal corporation Program Participants to enter into joint ventures under certain specified circumstances. This joint venture authority was initially granted on a three-year pilot basis by Section 602(b) of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988". The joint venture authority was extended for an additional three years (through September 30, 1994) and expanded to apply concurrently to five contracts rather than two by Section 205 of Public Law 101-574, the "Small Business Administration Reauthorization and Amendments Act of 1990".

Experience during the pilot phase suggests that the authority has worked as intended. These joint venture relationships have permitted the tribal corporations to undertake larger contracts, bring more employment opportunities to the reservations, and have provided informal opportunities for developmental mentoring between the tribal corporation and its large joint venture partner.

Subsection (b) would move to Section 3 of the Small Business Act definitions of "Indian tribe" and "Native Hawaiian organization", which are currently found in Section 8 of the Act. The definitions are being transferred without substantive change.

Sec. 143. Rule of Construction Regarding the "Buy Indian Act"

This section establishes a statutory rule of construction that seeks to avoid any conflict

between the eligibility requirements for award of a contract pursuant to Section 8(a) of the Small Business Act and for award of a contract pursuant to the so-called "Buy Indian Act".

Part F—Contract Administration Matters

Sec. 151. Accelerated Payment.

This section would require that any contract awarded pursuant to Section 8(a) to a Program Participant in the Development Stage (first four years of its nine-year Program Participation Term) must provide for payment within 20 days for any proper payment request for work performed. Since cash flow is the life blood of any business concern, accelerating cash flow for such smaller, new entrants to the Program represents an exceedingly valuable form of developmental assistance.

Essentially, the provision is directing the inclusion in 8(a) contracts of a specific payment term in the same manner that the Prompt Payment Act (Chapter 39 of title 31, United States Code) specifies accelerated payment terms for enumerated classes of products or services. Other than specifying a payment term to be inserted in certain contracts awarded pursuant to section 8(a), the provision does not alter the requirements imposed on contractors or the protections accorded to the Government (and contractors) by the Prompt Payment Act.

Sec. 152. Expedited Resolution of Contract Administration Matters.

Subsection (a) of this section would amend the Small Business Act to require a contracting officer to provide a substantive response in writing to an inquiry from a Program Participant awarded a contract pursuant to Section 8(a) within 15 days of receiving a written inquiry concerning a matter relating to the administration of the contract. If the contracting officer is unable to respond within the 15-day period, such officer shall provide a written response within such 15-day period specifying a date certain by which the Program Participant may expect a substantive response to its inquiry.

Subsection (b) of the Section set forth a rule of construction making explicit that the amendment to Section 8(a) of the Small Business Act shall not be considered to have created any new rights under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

Sec. 153. Availability of Alternative Disputes Resolution.

This section would amend Section 8(a) of the Small Business Act to require the contracting officer responsible for the administration of an 8(a) contract to make available alternative disputes resolution (ADR) processes authorized by Section 6(e) of the Contract Disputes Act of 1978 (41 U.S.C. 603(e)) upon the request of the Program Participant, unless certain conditions were met.

The contracting officer would not have to provide ADR procedures if the contracting officer determined that the use of ADR techniques was inappropriate to the contract dispute at issue. The contracting officer's determination would have to cite one or more of the statutorily enumerated conditions (5 U.S.C. 572(b)) making ADR inappropriate or some other specific reason directly related to the contract dispute at issue. The contracting officer would be required to support such a determination with specific findings.

ADR techniques have been demonstrated to expedite resolution of contract disputes and to be substantially less costly than disputes pursued before the boards of contract appeals or through the courts. Making available such accelerated and less costly disputes resolution techniques is another obvious means by which the Government can assist Program Participants.

Part G—Program Administration

Sec. 161. Simplification of Annual Report to Congress.

This section would amend Section 7(j)(16) of the Small Business Act relating to the content of the report pertaining to the MSB/COD Program which SBA is required to submit annually to the Congress. It would modify the reporting requirement regarding the dependency of Program Participants on contracts awarded pursuant to the authority of Section 8(a).

Sec. 162. Reduction in Reporting by Program Participants.

This section reduces from a semiannual basis to an annual basis the report which a Program Participant must submit to SBA relating to the firm's use of agents to obtain Federal contracts.

TITLE II—CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS

Part A—Civilian Agencies Program

Sec. 201. Procurement Procedures Authorized.

This section adds a new Section 8(c) to the Small Business Act extending to the civilian agencies the special procurement procedures currently available to the Department of Defense under its so-called Section 1207 Program (Section 1207 of Public Law 99-661, the "National Defense Authorization Act for Fiscal Year 1987"), which established a five percent goal for the participation of SDBs in Defense contracting opportunities. Subsequently, Section 502 of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988" established a Government-wide five percent goal for SDB participation in Federal contracting opportunities (as well as a 20 percent goal for the participation of all types of small businesses), but did not afford the civilian agencies the special procurement procedures to attain their SDB goals.

Section 801 of Public Law 102-484, the "National Defense Authorization Act for Fiscal Year 1994" extended the Section 1207 Program through September 30, 2000 and codified it as Section 2323 of Title 10, United States Code.

Sec. 202. Implementation Through the Federal Acquisition Regulation.

Subsection (a) of this section requires uniform implementation of the new statutory authority through the Government-wide Federal Acquisition Regulation (FAR). While the provision is not intended to impair the existing regulations for the DOD Section 1207 Program found in the DFARS (Defense Federal Acquisition Regulations Supplement) or any DFARS supplement issued by a Military Service or a Defense agency, DOD would not be precluded from using the FAR coverage and reducing its DFARS coverage only to matters not addressed in the FAR. Since the special procurement authorities relating to the contract participation of SDBs in contracting (and subcontracting) opportunities are intended to mirror DOD practices, it is likely that any need for special DFARS coverage would be relatively minimal.

Subsection (b) of this section describes specific matters that are to be included in the regulations.

Sec. 203. Sunset.

This section establishes a sunset for the civilian agency equivalent of DOD's Section 1207 Program. The termination date is the same as that established for the DOD Program in October 1992 by the FY 1993 DOD Authorization Act, September 30, 2000.

Part B—Eligibility Determinations Regarding Status

Sec. 211. Improved Status Protest System.

This section amends Section 7(j)(10)(J) of the Small Business Act for the purpose of revitalizing the SBA's system for hearing and deciding protests regarding whether a firm has improperly self-certified its status as a small business concern owned and controlled by socially and economically disadvantaged individuals.

Currently, the authority to receive and decide status protests is vested in the Division of Program Certification and Eligibility within SBA's Office of Minority Small Business and Capital Ownership Development, pursuant to Section 7(J)(11)(F)(vii) of the Small Business Act. Under the provisions implementing regulations, a finding that a business concern is not a small business concern meeting the standards of section 8(d) of the Small Business Act, that is, a small business concern owned and controlled by socially and economically disadvantaged individuals, only applies to the procurement under which the status protest has been lodged. Except for an obligation to inform the contracting officer that such an adverse status protest decision has been issued, the firm is permitted to self-certify its status as a disadvantaged small business concern on a subsequent contracting opportunity. Further, many questions were raised about the substantial delays in the issuance of status protest decisions by SBA. Finally, critics of the current status protest system urge that it is further weakened by SBA's unwillingness to initiate action (or to permit a procuring agency to initiate action) to impose any of the statutorily authorized administrative or judicial remedies for multiple false certifications of status by the same firm. Taken together, these weaknesses have tended to virtually eliminate confidence regarding the utility of the status protest system (or SBA's willingness to police the self-certification system) within both the contracting officer community as well as the contractor community.

Under the proposed amendments, protests regarding status are transferred to SBA's Office of Hearings and Appeals. Some additional personnel resources may be required by the Office of Hearings and Appeals to assure that decisions on status protests are promptly rendered. Such an effective protest forum is essential if the integrity of the self-certification process regarding SDB status under various preferential contracting programs across Government is to be restored.

Finally, the proposed amendments would make explicit that a Federal agency (as well as the SBA) is authorized (and even encouraged) to initiate appropriate proceedings to impose statutorily authorized administrative or judicial remedies with regard to a firm that has been found to have engaged in a pattern of misrepresentations regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals.

Sec. 212. Conforming Amendment.

This section would repeal the existing provision of Section 7(j)(11)(F) of the Small Business Act which currently authorizes the Division of Program Certification and Eligibility within SBA's Office of Minority Small Business and Capital Ownership Development to hear and decide status protests.

TITLE III—EXPANDING SUBCONTRACTING OPPORTUNITIES

Sec. 301. Evaluating Subcontract Participation in Awarding Contracts.

This section amends Section 8(d) of the Small Business Act to provide for the consideration of goals for the proposed participation of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals as subcontractors and suppliers as part of the process of selecting among competing offerors for the award of a prime contract in excess of $500,000 ($1 million in the case of construction).

Under current law, an offeror having been selected for the award of a prime contract in excess of the applicable threshold is required to negotiate goals and submit a plan for the use of such small businesses as subcontractors and suppliers. Although actual award of the contract is theoretically contingent upon the negotiation of goals and a plan acceptable to the agency's contracting officer, practical experience strongly suggests that the Government's leverage to negotiate the most ambitious goals is substantially diminished by the fact that the prospective prime contractor has already been selected for contract award. By making small business subcontract participation an important factor in the award of the prime contract, it is possible to harness the contract competition, which is frequently quite intense, to substantially increase the amount of small business subcontract participation.

The amendment also includes other safeguards to assure that a prime contract actually makes use of those subcontractors which the firm has identified as subcontractors or suppliers under the prime contract.

Sec. 302. Subcontracting Goals for Certain Small Business Concerns.

This section amends Section 8(d)(7) of the Small Business Act to require that a small business concern owned and controlled by socially and economically disadvantaged individuals having been awarded a contract with an anticipated total value of $20 million or more through a competition that was restricted to such small disadvantaged businesses, shall be required to negotiate a goal and furnish a plan for the participation of so-called emerging disadvantaged small business concerns as subcontractors and suppliers. Section 502 of the bill defines an emerging small business concern as one which does not exceed 25 percent of the SBA's numerical size standard for a small business concern.

Sec. 303. Small Business Participation Goals.

This section amends Section 15(g) of the Small Business Act increasing the goal for the participation of small business concerns from 20 percent to 25 percent and from 5 percent to 8 percent for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals.

Under present law, an eight percent goals applies to the contracting activities of several civilian agencies, including NASA and EPA. Further the existing 5 percent goal for SDB participation by the Department of Defense was exceeded during FY 93, attaining [5.x percent], which the Government-wide SDB participation rate was [x.x percent], which substantially diminishes the efficacy of the current Government-wide 5 percent participation goal, which was adopted in 1988.

TITLE IV—REPEALERS AND TECHNICAL AMENDMENTS

Part A—Repealers

Sec. 401. Loan Program Superseded by Section 7(a) Loan Program.

This section repeals Section 7(i) of the Small Business Act which authorizes a guaranteed loan program that has been superseded by the Section 7(a) Guaranteed Loan Program.

Sec. 402. Superseded Loan Program Relating to Energy.

This section repeals Section 7(l) of the Small Business Act which authorizes a dormant loan program relating to stimulating business activities in the improved utilization of fossil fuels and advancing the use of non-fossil fuel energy sources. The objectives of this specialized loan program are now being met through the less restrictive, and funded, Section 7(a) Guaranteed Loan Program.

Sec. 403. Employee Training Program of Limited Scope.

This section repeals Section 15(j)(13)(E) of the Small Business Act which authorizes a program under which SBA may provide financial assistance for the training of employees (or perspective employees) of firms participating in the SBA Minority Small Business and Capital Ownership Program. This program has remained unfunded since it was authorized as part of P.L. 100-656. the "Business Opportunity Development Reform Act of 1988". Repeal of this provision is in keeping with the Administration's effort to rationalize and to a greater extent consolidate the worker training programs scattered through various Departments and agencies of the Federal Government

Sec. 404. Expired Provision.

This section would repeal Section 8(a)(2) of the Small Business Act, which expired on September 30, 1988. The subject matter of this provision was included in Section 7(j)(13)(D) by a provision of P.L. 100-656, the "Business Opportunity Development Reform Act of 1988".

Part B—Technical Amendments

Sec. 411. Technical Amendments.

This section makes a series of technical corrections throughout various provisions of the Small Business Act, correcting grammatical errors and modernizing citations.

TITLE V—DEFINITIONS

Sec. 501. Historically Underutilized Business.

This section would substitute the term "historically underutilized business" for the term "socially and economically disadvantaged small business concern". It would not alter the existing statutory requirements regarding who is presumed to be socially disadvantaged or may demonstrate their status as being economically disadvantaged. Similarly unchanged are the current requirements that the firm must be owned and its day-to-day business operations controlled by individuals who are both socially and economically disadvantaged.

The adoption of the term "historically underutilized business" to replace the term "small disadvantaged business" (to describe a small business concern owned and controlled by socially disadvantaged individuals) was one of the recommendations of the Commission Minority Business Development (established by Section 505 of Public Law 100-656 for the purpose of reviewing and assessing all Federal programs intended to foster the development of minority-owned businesses). The Commission's Final Report noted that the currently prevalent term "small disadvantaged business" (SDB) tends to have the effect of demeaning from the outset the capabilities of the firm, which may be substantial, even if the firm is owned and controlled by socially and economically disadvantaged individuals.

Sec. 502. Emerging Small Business Concern.

Subsection (a) of this section establishes a new definition of "emerging small business concern". An emerging small business concern is one which has not yet achieved 25 percent of the applicable SBA numerical size standard as a small business concern.

Subsection (b) of this section makes explicit that the existing definition of "emerging small business concern" established by Section 718(b) of the Small Business Competitiveness Demonstration Act of 1988, Title VII of Public Law 100-656, remains unaffected. For the purpose of the Small Business Competitiveness Demonstration Program, an emerging small business concern shall continue to be a small business concern that has not exceeded 50 percent of the applicable SBA numerical size standard for determining whether a business concern may claim to be a small business concern.

TITLE VI—REGULATORY IMPLEMENTATION AND EFFECTIVE DATES

Part A—Assuring Regulatory Implementation

Sec. 601. Deadlines for Issuance of Proposed and Final Regulations.

Subsection (a) of this section requires that proposed regulations implementing the Business Development Opportunity Act of 1994 be published within 120 days of enactment. It further requires that the public be afforded at least 60 days to provide comments on the proposed regulations.

Subsection (b) establishes a statutory deadline for the issuance of the final regulations implementing the Act. Final regulations must be issued within 270 days from the date of enactment.

Sec. 602. Regulatory Implementation of Prior Legislation.

This section establishes a statutory schedule for the issuance of proposed and final regulations implementing provisions previously enacted which have yet to be implemented through published regulations. Subsection (c) lists the provisions of law covered by this section. Some have remained without implementing regulations for more than three years.

Part B—Effective Dates

Sec. 611. Effective Dates.

This section establishes the effective dates for the various provisions of the "Business Opportunity Development Act of 1994".•

• Ms. MOSELEY-BRAUN. Mr. President, at the outset, I want to thank Senator JOHN KERRY for his leadership on behalf of small businesses that are owned and controlled by socially and economically disadvantaged individuals.

I am proud to be an original cosponsor of this legislation and I am particularly pleased that some suggestions I made to Senator KERRY are included in this bill: Particularly developmental teaming agreements, and the improved notice of subcontracting opportunities.

The purpose of the Developmental Teaming Program is to foster the business development and long-term business success of firms participating in the Minority Enterprise Development Program. Encouraging the formation of teaming arrangements and long-term strategic business alliances between such firms and firms that have graduated from the Minority Enterprise Development Program will help enhance these firm's overall business performance.

Historically, firms owned by socially and economically disadvantaged individuals have had difficulty in the initial stages of business development, and these developmental teaming agreements will provide these start-up firms with the kind of assistance that will help them succeed. Specifically, developmental teaming agreements will provide critical assistance targeted to developmental 8(a) firms in those areas that are most important for sustained business growth. The graduating firm will provide business management, financial management, organizational management, and personnel management assistance along with marketing and proposal preparation skills, production inventory control, and quality assurance. The graduate firm can award subcontracts to their teaming firm and give financial assistance in the form of loans, loan guarantees, surety bonding, advance payments, and accelerated progress payments.

The developmental teaming agreements must first be approved by the Small Business Administration, and would last 3 years with an option to renew the agreement for an additional 2 years.

The provisions within this bill will also allow for the improved notice of subcontracting opportunities by requesting that all subcontracting opportunities and awards above $100,000 be published in the Commerce Business Daily. This will provide the information subcontractors need to submit proposals on contract opportunities that have not previously been made public.

The objective of this amendment is to gain equal access to subcontracting opportunities. Firms need to be aware of subcontracting opportunities in order to pursue competitive contracts.

In 1992, 50 firms or fewer than 2 percent of all 8(a) companies, received about $1.5 billion, or 40 percent of the nearly $4 billion in 8(a) contracts awarded during that year. This legislation would assist 8(a) firms in the self-marketing process by allowing them access to information.

These provisions will assist 8(a) firms in becoming successful. The Small Business Administration's 8(a) Program needs real reform and I believe that the Business Development Opportunity Act will help the SBA assist 8(a) firms in becoming more successful.

Although we will not move this legislation through Congress this year, I will work closely with Senator KERRY and the Small Business Committee to pass this bill in the next Congress.

I would like to again thank Senator KERRY for including my provisions in this bill. Senator KERRY should be commended for his leadership on behalf of small businesses across the United States.●

● Mr. PRESSLER. Mr. President, I rise today as an original cosponsor of the Business Development Opportunity Act of 1994. This legislation, introduced today by the Senator from Massachusetts, Senator KERRY, takes an important step forward in improving business and enterprise opportunities for socially and economically disadvantaged individuals.

The bill marks the first significant legislative action on the Small Business Administration's [SBA] Minority Business Development/Capital Ownership Development [MBD/COD] Program since 1988. As my colleagues well know, to say the MBD/COD Program—also known as the 8(a) program—has not received rave reviews over its lifetime is an extreme understatement. Though this program has proven beneficial for many disadvantaged firms, these successes have been overshadowed by stories of failure, waste, fraud, and abuse. In fact, SBA Administrator Erskine Bowles once referred to the 8(a) program as "a mess." The Small Business Committee, of which I am the ranking member, recently held two hearings on the 8(a) program, both of which explored many of its problems.

The first hearing, held on July 27, 1994, included the General Accounting Office [GAO], the SBA inspector general, and the Department of Defense inspector general. Witnesses presented the administration's views on the program. The second hearing, held on August 9, 1994, provided a forum to discuss the SBA's proposed Minority Enterprise Development [MED] Program and Senator KERRY's Business Opportunity Act. Both of these hearings were instrumental in developing the legislation we are introducing today. Through the testimony of witnesses, I was able to see more clearly the flaws within the current program. More importantly, committee members were able to identify solutions to those problems.

I commend Senator KERRY for his able leadership in this area. I also want to thank my colleague for his cooperation in addressing several concerns I had with the bill. However, I should note my concern over the fact that many questions I submitted in writing to panelists at the oversight hearings remain unanswered. I believe these responses could play an important role in further developing this reform legislation. Upon receipt of those responses, I may consider further amendments to fine tune the bill. Failure to address comprehensively the 8(a) program flaws that allow waste, fraud, and abuse to continue would be a failure to legislate responsibly.

A significant portion of changes I considered necessary already have been made. First, the initial version of the legislation did not address the widely acknowledged problem of disparity in award distribution. Of the inequitable distribution of awards among firms and areas of the country, GAO stated that despite past congressional action to correct this problem, "the concentration of 8(a) contracts * * * is a longstanding condition that is continuing." GAO continued by noting that approximately 1 percent—50 of the 5,382 firms in the program as of 1994—received 33 percent of all 8(a) contract dollars. I believe the revised version of this bill takes an active approach toward correcting this inequity. Section 106 requires the SBA to develop an outreach plan aimed at increasing participation among different firms located across the Nation. With this provision, it is my hope the new Minority Enterprise Development [MED] Program will extend its helpful reach beyond beltway firms to those in States like South Dakota.

Another area in which I expressed concern involves competition requirements for 8(a) participants. Again, this was an issue GAO identified in the July 27 hearing as a problem within the current program. According to GAO, the purpose of maintaining competitiveness thresholds and targets is "to help develop [8(a)] firms and better prepare them to compete in the commercial marketplace." Exposing 8(a) participants to competition plays an extremely important role in preparing disadvantaged firms for success once they graduate and enter the free market. Unfortunately, the SBA has failed to implement an adequate competitive and sole-source mix requirement. In addition, it has failed to sufficiently monitor this important developmental tool.

This bill highlights the importance of the competitive experience for 8(a) firms. Through discussions with Senator KERRY, he and I developed a provision that would create more effective business mix targets within the program. Under the revised version of this bill, participants eventually would have to conduct no less than 80 percent of their total sales outside the 8(a) program. Another provision I worked to revise would limit the number of competitive awards that derive from 8(a) competitions to 50 percent. In its original form, this bill would have allowed 8(a) firms to graduate from the program without ever having competed for a contract with non 8(a) firms.

Another concern I had was the proposed increase in the sole-source set-aside from 5 percent to 8 percent. Not only would such a change have increased dependence on sole-source contracts and eliminated the need for competitive bidding, it also would have placed more emphasis on the contracting portion of the MED Program, overshadowing its extremely important business development mission. This proposed increase also raised concerns over the ability of non 8(a) small business to have a fair opportunity to contract with the Federal Government. Thus, I am extremely pleased the current form of this bill retains the five percent goal.

The final issue regarding competition requirements of concern to me would have allowed the SBA to make exceptions to the $3 million and $5 million competitiveness thresholds. Though the history of fraud within this program leaves me somewhat reluctant to allow any exception, section 133 now allows the SBA to waive the competitiveness thresholds only under certain circumstances. This provision also would limit any such award to a value twice the threshold. By holding the Associate Administrator for Minority Enterprise Development accountable, this new provision should prevent abuse of such a waiver.

The last issue I wish to discuss is section 116, establishing "Developmental Teaming" agreements between MED participants and graduates. This would allow experienced businesses to pass their knowledge on to fledgling firms and developing firms to subcontract a portion of 8(a) awards to graduated firms. My hope is that developing firms will be able to capitalize on the experience of graduated firms and that such relationships will enhance SBA's business development assistance. I do have concerns, however. Though existing provisions limit participation, I hope this measure will not encourage graduated firms to remain dependent on 8(a) awards or developing firms to become "front companies."

Though this bill is not perfect, I believe it takes a responsible approach to making the SBA 8(a) Program more effective. It makes changes necessary to aid participants, agencies, and the administration alike. I remain committed to making this program more efficient and more effective through increased competition and stricter oversight. The language contained in this legislation represents months of hard work and consideration by members and staff alike.

I again would like to thank my good friend, Senator KERRY, for his hard work and leadership on this issue. As I mentioned, I intend to consider additional improvements to this bill as necessary. In order to ensure quality policy, it is absolutely necessary to keep this legislation open to suggestions and ideas. I look forward to working with my colleague as this bill continues through the legislative process.●

By Mrs. MURRAY:

S. 2479. A bill to promote the construction and operation of U.S. flag cruise vessels in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

UNITED STATES CRUISE VESSEL DEVELOPMENT ACT

● Mrs. MURRAY. Mr. President, today I introduce S. 2479, a bill to promote the construction and operation of U.S. flag cruise vessels in the United States. This bill is almost identical to a provision that Representative UNSOELD successfully incorporated into the Coast Guard authorization bill which recently passed in the House. The bill would encourage the domestic construction of U.S. cruise ships and create more cruise ship activity in our ports. It would allow certain foreign-built ships into the domestic trade provided that another cruise ship is built by the operator in a U.S. shipyard. In addition, the bill guarantees that the majority interest in these vessels will be in U.S. hands. The bill also gives these ships preference for permits to enter National Park Service marine sites.

This bill is needed immediately to allow the U.S. ports in the Pacific Northwest to share in the lucrative and expanding cruise ship trade to Alaska. Although the vast majority of the passengers are U.S. citizens, Vancouver, Canada, has become the primary port of departure. Vancouver is the major economic beneficiary of this cruise ship trade. Vancouver saw 263 cruise ship sailings in 1993, which was estimated to add $120 million to the local economy in that year alone. All industry observers expect this trade to continue to expand for at least another decade.

The bill would change the Passenger Service Act to promote American maritime jobs, American shipbuilding jobs and economic opportunities in American ports. As the facts stand now, aside from two ocean-going cruise ships deployed solely in the Hawaii inter-island trade, every major cruise ship is foreign-built and operated. This bill makes it clear that none of the vessels allowed under this provision could compete with the Hawaiian vessels.

This bill is a modest attempt to create a domestic cruise ship industry and encourage ship building. Over time, I will seek additional ways to encourage this industry. Nevertheless, if only a few ships take advantage of this bill, its significance will be substantial. It has been estimated that 20 homeport calls can pump $7 million into a local economy, create 100 jobs, and generate $300,000 in local taxes.

I urge my colleagues to support me in passing this bill.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2479

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 "United States Cruise Vessel Development Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to promote construction and operation of United States flag cruise vessels in the United States.

SEC. 3. COASTWISE TRANSPORTATION OF PASSENGERS.

Section 8 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), is amended to read as follows:

"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.

"(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel is owned by a person that is—

"(A) an individual who is a citizen of the United States; or

"(B) a corporation, partnership, or association that is a citizen of the United States under section 2(a) of the Shipping Act, 1916 (46 App. U.S.C. 802(a));

"(2) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883); and

"(3) for a vessel that is at least 5 net tons, the vessel is issued a certificate of documentation under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION FOR VESSEL UNDER DEMISE CHARTER.—

"(1) IN GENERAL.—Subsection (a)(1) does not apply to a cruise vessel operating under a demise charter that—

"(A) has a term of at least 18 months; and

"(B) is to a person described in subsection (a)(1).

"(2) EXTENSION OF PERIOD FOR OPERATION.—A cruise vessel authorized to operate in coastwise trade under paragraph (1) based on a demise charter described in paragraph (1) may operate in that coastwise trade during a period following the termination of the charter of not more than 6 months, if the operation—

"(A) is approved by the Secretary; and

"(B) is in accordance with such terms as may be prescribed by the Secretary for that approval.

"(c) EXCEPTION FOR VESSEL TO BE REFLAGGED.—

"(1) EXCEPTION.—Subsection (a)(2) and section 12106(a)(2)(A) of title 46, United States Code, do not apply to a cruise vessel if—

"(A) the vessel—

"(i) is not documented under chapter 121 of title 46, United States Code, on the date of enactment of the United States Cruise Vessel Development Act of 1994; and

"(ii) is not less than 5 years old and not more than 15 years old on the first date that the vessel is documented under that chapter after that date of enactment; and

"(B) the owner or charterer of the vessel has entered into a contract for the construction in the United States of another cruise vessel that has a total berth or stateroom capacity that is at least 80 percent of the capacity of the cruise vessel.

"(2) TERMINATION OF AUTHORITY TO OPERATE.—Paragraph (1) does not apply to a vessel after the date that is 18 months after the date on which a certificate of documentation with a coastwise endorsement is first issued for the vessel after the date of enactment of the United States Cruise Vessel Development Act of 1994 if, before the end of that 18-month period, the keel of another vessel has not been laid, or another vessel is not at a similar stage of construction, under a contract required for the vessel under paragraph (1)(B).

"(3) EXTENSION OF PERIOD BEFORE TERMINATION.—The Secretary of Transportation may extend the 18-month period under paragraph (2) for an additional period of not to exceed 6 months for good cause shown.

"(d) LIMITATION ON OPERATIONS.—A person (including a related person with respect to that person) who owns or charters a cruise vessel operating in coastwise trade under subsection (b) or (c) under a coastwise endorsement may not operate any vessel between—

"(1) any 2 ports served by another cruise vessel that transports passengers in coastwise trade under subsection (a) on the date the Secretary issues the coastwise endorsement; or

"(2) any of the islands of Hawaii.

"(e) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of $1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(3) DISQUALIFICATION FROM COASTWISE TRADE.—A person that is required to enter into a construction contract under subsection (c)(1)(B) with respect to a cruise vessel (including any related person with respect to that person) may not own or operate any vessel in coastwise trade after the period applicable under subsection (c)(2) with respect to the cruise vessel, if before the end of that period a keel is not laid and a similar stage of construction is not reached under such a contract.

"(f) DEFINITIONS.—In this section—

"(1) the term 'coastwise trade' includes transportation of a passenger between points in the United States, either directly or by way of a foreign port;

"(2) the term 'cruise vessel' means a vessel that—

"(A) is at least 10,000 gross tons (as measured under chapter 143 of title 46, United States Code);

"(B) has berth or stateroom accommodations for at least 200 passengers; and

"(C) is not a ferry; and

"(3) the term 'related person' means, with respect to a person—

"(A) a holding company, subsidiary, affiliate, or association of the person; and

"(B) an officer, director, or agent of the person or of an entity referred to in subparagraph (A).".

SEC. 4. CONSTRUCTION STANDARDS.

Section 3309 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A vessel described in paragraph (3) is deemed to comply with parts B and C of this subtitle.

"(2) The Secretary shall issue a certificate of inspection under subsection (a) to a vessel described in paragraph (3).

"(3) A vessel is described in this paragraph if—

"(A) the vessel meets the standards and conditions for the issuance of a control verification certificate to a foreign vessel embarking passengers in the United States;

"(B) a coastwise endorsement is issued for the vessel under section 12106 of this title after the date of enactment of the United States Cruise Vessel Development Act of 1994; and

"(C) the vessel is authorized to engage in coastwise trade by reason of subsection (c) of section 8 of the Act entitled 'An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes', approved June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289).".

SEC. 5. CITIZENSHIP FOR PURPOSES OF DOCUMENTATION.

Section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), is amended—

(1) in subsection (a) by inserting "other than primarily in the transport of passengers," after "the coastwise trade"; and

(2) by adding at the end the following new subsection:

"(e) For purposes of determining citizenship under subsection (a) with respect to operation of a vessel primarily in the transport of passengers in coastwise trade, the controlling interest in a partnership or association that owns the vessel shall not be deemed to be owned by citizens of the United States unless a majority interest in the partnership or association is owned by citizens of the United States free from any trust or fiduciary obligation in favor of any person that is not a citizen of the United States.".

SEC. 6. AMENDMENT TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.

Section 1101(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(b)) is amended by striking "passenger cargo" and inserting "passenger, cargo,".

SEC. 7. PERMITS FOR VESSELS ENTERING UNITS OF NATIONAL PARK SYSTEM.

(a) PRIORITY.—Notwithstanding any other provision of law, the Secretary of the Interior may not permit a person to operate a vessel in any unit of the National Park System except in accordance with the following priority:

(1) First, any person that—

(A) will operate a vessel that is documented under the laws of, and the home port of which is located in, the United States; or

(B) holds rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(2) Second, any person that will operate a vessel that—

(A) is documented under the laws of a foreign country, and

(B) on the date of the enactment of this Act is permitted to be operated by the person in the unit.

(3) Third, any person that will operate a vessel other than a vessel described in paragraph (1) or (2).

(b) REVOCATION OF PERMITS FOR FOREIGN-DOCUMENTED VESSELS.—The Secretary of the Interior shall revoke or refuse to renew permission granted by the Secretary for the operation of a vessel documented under the laws of a foreign country in a unit of the National Park System, if—

(1) a person requests permission to operate a vessel documented under the laws of the United States in that unit; and

(2) the permission may not be granted because of a limit on the number of permits that may be issued for that operation.

(c) RESTRICTIONS ON REVOCATION OF PERMITS.—The Secretary of the Interior may not revoke or refuse to renew permission under subsection (b) for any person holding rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(d) RETURN OF PERMITS.—Any person whose permission to provide visitors services in a unit of the National Park System has been revoked or not renewed under subsection (b) shall have the right of first refusal to a permit to provide visitors services in that unit of the National Park System that becomes available when the conditions described in subsection (b) no longer apply. Such right shall be limited to the number of permits which are revoked or not renewed.●

By Mr. SIMPSON:

S. 2480. A bill to amend the Immigration and Nationality Act to add provisions relating to the treatment of criminal aliens under the immigration laws of the United States, and for other purposes.

CRIMINAL ALIENS AND VISA WAIVER EXTENSION ACT

Mr. SIMPSON. Mr. President, I rise today to introduce a bill which addresses three issues: the expeditious deportation of criminal aliens, a 7-day extension of the visa waiver program, and provisions, which for the duration of this extension of the visa waiver program, would allow certain countries to participate.

The expeditious deportation of criminal aliens provisions were unanimously passed by the Senate in the crime bill, but were stripped in conference. This bill would also expand the definition of "aggravated felony" so that aliens convicted of serious crimes can be swiftly deported. It would allow the Attorney General to enter a deportation order against an alien convicted of a serious crime and thereby eliminate the current complex administrative deportation process. However, the convicted felon would still be entitled to due process through a more limited judicial review of the deportation order. It would allow a Federal judge to enter an order of deportation against an alien convicted of a serious crime at the time of the criminal sentencing. It would restrict certain defenses against deportation available to criminal aliens who have been sentenced to 5 or more years. Current law only restricts these defenses after the alien has served 5 or more years. It would expand the use of the criminal aliens tracking center funded in this year's crime bill. The criminal alien tracking center assists Federal, State, and local law enforcement agencies in identifying criminal aliens.

The bill also extends the current visa waiver program for 7 days. The visa waiver program allows tourists from countries whose nationals have a proven record of returning home when their visas expire to enter the United States without a visa. This vital program frees up the resources of U.S. consular offices abroad and facilitates travel to the United States for many law-abiding foreign tourists.

The visa waiver program expires this Saturday. By extending this program for 7 days, Congress will be afforded the time necessary to pass the 2 year extension contained in another bill, H.R. 783, the Immigration and Nationality Technical Corrections Act of 1994.

Finally, for the duration of this extension, the bill provides a probationary status for certain countries to participate in the visa waiver program. To qualify for the probationary status, a country must: First, have a good record of its nationals returning home when their visas expire—even though its record does not quite meet the present standards required in the current program; and second, show an improvement in its record during its probationary status.

At present, Ireland is the only country which qualifies for this status, however, more may qualify in the future.

It is not my intention to derail the important visa waiver program. And, I do not oppose the opportunity for countries to qualify for this new probationary status. Nevertheless, my top legislative priority, one which I have worked so very closely with—and have had the cooperation of the Attorney General—is the enactment of the criminal alien deportation provisions. I intend to diligently continue this effort.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2480

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

SECTION 1. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) 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 burglary 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.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 2. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) 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 his 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.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) 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.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) 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";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by redesignating subsection (f), as added by subsection (a) of this section, as subsection (c);

(7) 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

(8) by amending the section heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 3. JUDICIAL DEPORTATION.

(a) 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).".

(b) 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".

(c) RULE OF CONSTRUCTION.—Nothing in this section 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.

(d) 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.

SEC. 4. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) 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.".

(b) 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—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) 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.".

(b) 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.

SEC. 6. CRIMINAL ALIEN TRACKING CENTER.

(a) 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.

(b) 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.

SEC. 7. EXTENSION OF VISA WAIVER PILOT PROGRAM.

Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended by striking "ending" and all that follows through the period and inserting "ending on October 7, 1994".

SEC. 8. CREATION OF PROBATIONARY STATUS FOR PARTICIPANT COUNTRIES IN THE VISA WAIVER PROGRAM.

Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2)(B) by inserting before the period "or is designated as a pilot program country with probationary status under subsection (g)";

(2) by adding at the end the following new subsection:

"(g) PILOT PROGRAM COUNTRY WITH PROBATIONARY STATUS.—

"(1) IN GENERAL.—The Attorney General and the Secretary of State acting jointly may designate any country as a pilot program country with probationary status if it meets the requirements of paragraph (2).

"(2) QUALIFICATIONS.—A country may not be designated as a pilot program country with probationary status unless the following requirements are met:

"(A) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of the country during the two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS YEAR.—The number of refusals of

nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) LOW EXCLUSIONS AND VIOLATIONS RATE FOR PREVIOUS YEAR.—The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 1.5 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(D) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS FOR PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS.—The designation of a country as a pilot program country with probationary status shall terminate if either of the following occurs:

"(A) The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as visitors during the preceding fiscal year and who violated the terms of such admission,

is more than 2.0 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(B) The country is not designated as a pilot program country under subsection (c) within 3 fiscal years of its designation as a pilot program country with probationary status under this subsection.".

"(4) DESIGNATION OF PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS AS PILOT PROGRAM COUNTRIES.—In the case of a country which was a pilot program country with probationary status in the preceding fiscal year, a country may be designated by the Attorney General and the Secretary of State, acting jointly, as a pilot program country under subsection (c) if—

"(A) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(B) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such preceding fiscal year."; and

(3) in subsection (c)(2) by striking "A country" and inserting "Except as provided in subsection (g)(4), a country".

By Mr. REID (for himself, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BRYAN, Mr. D'AMATO, Mr. DORGAN, Mr. GLENN, Mr. HOLLINGS, Mr. LEVIN, Mr. PELL, Mr. RIEGLE, Mr. ROCKEFELLER, and Mr. SASSER):

S.J. Res. 225. A joint resolution to designate February 5, 1995, through February 11, 1995, and February 4, 1996, through February 10, 1996, as "National Burn Awareness Week"; to the Committee on the Judiciary.

NATIONAL BURN AWARENESS WEEK

• Mr. REID. Mr. President, I rise today to introduce a joint resolution designating the first week in February of both 1995 and 1996 as National Burn Awareness Week.

1995 will host the 10th Annual National Burn Awareness Week. The purpose is to bring national attention to the serious problem of injuries and deaths due to burns. It has been proven that over 75 percent of all burn injuries and deaths could be prevented if the general public were made aware that they can make a difference.

Ten years ago, a few dedicated individuals dreamed that there would be national awareness and recognition of the seriousness of the burn problem in the United States. They formed the Burn Awareness Coalition and developed a national task force and advisory board composed of members of the medical, fire fighting, and general burn prevention community. Over the years, they have produced materials used to educate the general public about the burn problem, expanded media connections, and reached millions of individuals. This has all been done with donations from concerned sponsors, with no Government funding.

The Coalition has come a long way since the first National Burn Awareness Week. The response to date has been tremendous. Most of the burn centers, emergency rooms, fire fighters, and educators across the country are using National Burn Awareness Week materials throughout the year to educate the public and save lives.

There have been many success stories. Senior citizen groups have used National Burn Awareness Week materials to force landlords to reduce the water temperature in hot water heaters. Children have learned how to escape burning homes through what they have learned from fire fighters and school teachers. Parents have been told by children to put batteries in smoke detectors. Burn centers and fire departments have given smoke detectors for birthday presents which have saved lives.

This important program saves lives and reduces pain and suffering. I urge my colleagues to support this resolution which will recognize the great benefits of National Burn Awareness Week.•

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 257

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self- initiation of mining claims, and for other purposes.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1889

At the request of Mr. CHAFEE, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 1976

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2101

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2101, a bill to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect all underground facilities from being damaged by any excavations, and for other purposes.

S. 2264

At the request of Mr. DORGAN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 2264, a bill to provide for certain protections in the sale of a short line railroad, and for other purposes.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the

expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2375

At the request of Mr. LEAHY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2375, a bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes,

S. 2411

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KENNEDY] 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.

S. 2460

At the request of Mr. CHAFEE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 2460, a bill to extend for an additional 2 years the period during which medicare select policies may be issued.

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 219, a joint resolution to commend the United States rice industry, and for other purposes.

SENATE RESOLUTION 264

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 264, a resolution expressing the sense of the Senate that the President should issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education and foster the advancement of the National Education Goals for Indians.

SENATE RESOLUTION 270

At the request of Mr. MURKOWSKI, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of Senate Resolution 270, a resolution to express the sense of the Senate concerning United States relations with Taiwan.

AMENDMENTS SUBMITTED

DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 1995

DOLE (AND DOMENICI) AMENDMENT NO. 2599

Mr. DOMENICI (for Mr. DOLE, for himself and Mr. DOMENICI) proposed an amendment to amendment No. 2594 proposed by Mr. COHEN to the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes; as follows:

In the pending amendment after the word "subtitle" insert the following

Subtitle ___—Enhanced Penalties for Health Care Fraud

PART 1—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. ___01. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section ___03.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under subtitle B of title V of this Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term "health plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the "Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections ___41(b) and ___42(b), and title XI of the Social Security Act except for those penalties attributable to laws in existence prior to the enactment of this Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law except for those penalties attributable to laws in existence prior to the enactment of this Act).

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution except for those penalties attributable to laws in existence prior to the enactment of this Act).

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

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SEC. ___02. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health plan,", and

(ii) by striking "State plan," and inserting "State plan or the health plan,".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a public or private programs for the delivery of or payment for health care items or services.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. ___03. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1995, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act the (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (hereafter in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (hereafter in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. ___04. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. ___11. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a–7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. ___12. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. ___13. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. ___14. ACTIONS SUBJECT TO CRIMINAL PENALTIES.

(a) RESTRICTION ON APPLICATION OF EXCEPTION FOR AMOUNTS PAID TO EMPLOYEES.—Section 1128B(b)(3)(B) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by striking "services;" and inserting the following: "services, but only if the amount of remuneration under the arrangement is (i) consistent with fair market value; (ii) not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals of patients directly contacted by the employee to the employer for the furnishing (or arranging for the furnishing) of such items or services; and (iii) provided pursuant to an arrangement that would be commercially reasonable even if no such referrals were made;".

(b) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972;

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service;

"(H) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; and

"(I) remuneration given to individuals to promote the delivery of preventive care in compliance with regulations promulgated by the Secretary.".

SEC. ___15. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. ___16. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1995, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. ___17. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1995.

PART 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. ___21. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1995, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1) The term "final adverse action" includes:

(A) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(iii) any other negative action or finding by such Federal or State agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" has the meaning given to such term by section 1128(i) of the Social Security Act.

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act is amended by inserting "and section ___21 of subtitle ___ of the _____ Appropriations Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

PART 4—CIVIL MONETARY PENALTIES

SEC. ___31. CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health plan (as defined in section 1128(i)),'' after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by subtitle ___ of the _____ Appropriations Act of 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section ___01(b) of such Act.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health plan" after "or XX".

(b) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations.".

(c) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is further amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(d) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsections (b) and (c), is amended in the matter following paragraph (6)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each such offer or transfer; in cases under paragraph (5), $10,000 for each day the prohibited relationship occurs; in cases under paragraph (6) or (7), $10,000 per violation" after "false or misleading information was given";

(3) by striking "twice the amount" and inserting "3 times the amount"; and

(4) by inserting "(or, in cases under paragraph (4), 3 times the amount of the illegal remuneration)" after "for each such item or service".

(e) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or".

(f) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(g) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to $10,000 for each instance".

(h) PROCEDURAL PROVISIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

PART 5—AMENDMENTS TO CRIMINAL LAW

SEC. ___41. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128(i) of the Social Security Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. ___42. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that—

"(i) is used in the commission of the offense if the offense results in a financial loss or gain of $50,000 or more; or

"(ii) constitutes or is derived from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

(b) PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. ___43. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

PART 6—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. ___51. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this part.

(b) DEFINITION.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this part.

SEC. ___52. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) IN GENERAL.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) SPECIFIC REQUIREMENTS DESCRIBED.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) STAFFING REQUIREMENTS.—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) REPORTS.—The State Fraud Unit shall submit to the Secretary an application and

an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—In addition to those sums expended by a State under section ___54(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section ___01.

SEC. ___53. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. ___54. PAYMENTS TO STATES.

(a) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section ___52(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this part has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) of the Social Security Act. This section is effective one day after the date of enactment.

OLD FAITHFUL PROTECTION ACT OF 1994

BAUCUS (AND BURNS) AMENDMENT NO. 2600

(Ordered to lie on the table.)

Mr. BAUCUS (for himself and Mr. BURNS) submitted an amendment intended to be proposed by them to the bill (H.R. 1137) to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1027), and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—OLD FAITHFUL PROTECTION ACT

SECTION 101. SHORT TITLE.

This Title may be cited as the "Old Faithful Protection Act of 1993".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Yellowstone National Park is a unique and irreplaceable national and international treasure and part of one of the few remaining undisturbed hydrothermal systems in the world;

(2) there is a risk that unrestricted hydrothermal or geothermal resource development adjacent to Yellowstone National Park in the States of Montana, Wyoming, and Idaho will interfere with or adversely affect the hydrothermal and geothermal features of such Park or the management of relevant mineral resources;

(3) further research is needed to understand the characteristics of the thermal systems and features and the effects of development on such systems and features on lands outside of Yellowstone National Park but within the Yellowstone Protection Area, as such area is defined in this Title;

(4) preservation and protection of the thermal system associated with and the features within Yellowstone National Park is a benefit to the people of the United States and the world;

(5) cooperation between the United States and the States of Montana, Idaho, and Wyoming to protect and preserve Yellowstone National Park is desirable; and

(6) as a settlement of litigation concerning water rights, including the reserved water rights of the United States associated with units of the National Park System in Montana, the Department of the Interior and the Department of Justice, on behalf of the United States, and a Compact Commission, on behalf of the State of Montana, have developed a Compact that constitutes such a settlement of litigation concerning matters within its scope and which, in Article IV, establishes a program for regulation of development and use of groundwater in areas adjacent to Yellowstone National Park.

(b) PURPOSES.—The purposes of this Title are—

(1) to require the Secretary to take the necessary actions to preserve and protect the thermal systems and features of Yellowstone National Park;

(2) to provide a framework for management by the States of Montana, Wyoming, and Idaho of regulated resources within the Yellowstone Protection Area outside of but directly related to Yellowstone National Park to preserve and protect the thermal systems and features of Yellowstone National Park;

(3) to authorize, as provided in section 8, approval of Article IV of the Compact as an appropriate State program;

(4) to require relevant research; and

(5) to authorize to be appropriated, as provided in section 112, necessary sums.

SEC. 103. DEFINITIONS.

For purposes of this Title:

(1) The term "Secretary" means the Secretary of the Interior except as otherwise provided.

(2) The term "Yellowstone Protection Area" means the area in Montana, Idaho, and Wyoming identified on the map entitled "Yellowstone Protection Area", numbered 20036A, and dated July 1994, and any modifications thereof as may be made under section 7.

(3) The term "thermal systems and features" means the hydrothermal and geothermal systems and features of Yellowstone National Park associated with the regulated resources within the Yellowstone Protection Area.

(4) The term "regulated resources" means—

(A) geothermal steam and associated geothermal resources, as defined in section 2(c) of the Geothermal Steam Act of 1970 (30 U.S.C. 1001(c)); or

(B) groundwater with a temperature in excess of 59 degrees Fahrenheit.

(5) The term "well" means a well or facility producing or intended to produce regulated resources but excludes facilities that would do no more than utilize the natural unenhanced surface flow of a natural spring.

(6) The term "approved State program" means a program of Montana, Idaho, or Wyoming that has been submitted to the Secretary and has been approved pursuant to this Title.

(7) The term "Compact" means the water rights compact entered into by the United States and the State of Montana on January 31, 1994.

(8) Except as otherwise provided in this title, terms used in this title shall have the same meaning as in the Geothermal Steam Act of 1970.

SEC. 104. RESTRICTION ON FEDERAL LANDS.

(a) The Congress hereby declares that—

(1) Yellowstone National Park possesses numerous thermal features, including Old Faithful geyser and approximately 10,000 other geysers and hot springs, and is hereby designated as a significant thermal feature unto itself; and

(2) Federal legislation is desirable to preserve and protect these features.

(b) The Congress hereby declares that any use of, or production from, any existing well, or any exploration for, or development of, any new well within the boundary of the Yellowstone Protection Area, as defined in section 103(2) of the Old Faithful Protection Act of 1994, risks adverse effects on the thermal features of Yellowstone National Park.

(c) Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act (30 U.S.C. 1001 and following) for lands within the boundary of the Yellowstone Protection Area. Nothing in this section shall be construed to apply to any lands not owned by the United States.

SEC. 105 MORATORIUM OF LANDS WITHIN THE YELLOWSTONE PROTECTION AREA.

(a) PROHIBITION.—Except as provided by sections 107 and 108 of this title, there shall be no use (except for monitoring by the Secretary or monitoring under an approved State program) of, or production from, any existing well and no exploration for, or development of, any new well within the Yellowstone Protection Area.

(b) MANAGEMENT.—The Secretary shall review National Park Service management of

Yellowstone National Park and shall take such steps as may be necessary to protect and preserve the thermal systems and features of such National Park.

SEC. 106. RESEARCH.

(a) IN GENERAL.—The National Park Service, in consultation with the Forest Service, the United States Geological Survey, and each State agency implementing an approved State program, shall research the characteristics of the thermal systems and features within the Yellowstone Protection Area, inventory and research the existing and potential effects (including cumulative effects) of hydrothermal or geothermal development on such systems and features, and periodically, but not less than once every five years, inform Congress concerning the results of such inventory and research.

(b) UNDER STATE PROGRAM.—If an approved State program provides for research described in subsection (a), both the Secretary and the relevant State may conduct such research within the Yellowstone Protection Area.

(c) NONINTRUSIVE METHODOLOGIES.—Except for research within a National Park System unit within the Yellowstone Protection Area approved by the Secretary or elsewhere under a permit issued by a State agency implementing an approved State program, research pursuant to this section shall exclusively use nonintrusive methodologies.

LIMITATION.—Nothing in this Title shall be construed as authorizing any activities within any unit of the National Park System in the Yellowstone Protection Area inconsistent with laws or policies applicable to the relevant unit.

SEC. 107. STATE MANAGEMENT PROGRAMS.

(a) DEVELOPMENT.—The States of Montana, Wyoming, and Idaho are encouraged to develop and maintain State programs for the management of regulated resources outside of Yellowstone National Park to preserve and protect the thermal systems and features of Yellowstone National Park.

(b) PERMIT.—Except as provided for in section 6, as of the date of enactment of this Title, no person shall engage in any use (including research), production, exploration, or development of any regulated resources on non-Federal lands within the Yellowstone Protection Area except to the extent authorized by a permit issued by a State agency implementing an approved State program.

(c) STATE AUTHORITY.—(1) In the implementation of an approved State program, a State may exercise the authority to grant permits under subsection (b) for the use (including research), production, exploration, or development of any regulated resources within the Yellowstone Protection Area.

(2) Notwithstanding any other provision of law, no permit within the Yellowstone Protection Area for regulated resources issued prior to the date of enactment of this Title shall be deemed to have been issued in the implementation of approved State program: *Provided, however*, that permits issued by the State of Montana after January 31, 1994, shall be deemed to have been issued in the implementation of an approved State program.

(3)(A) The Secretary shall monitor the implementation of an approved State program (including the State's enforcement thereof) to assure consistency with the requirements of this Title.

(B) The Secretary may suspend implementation of an approved State program if such implementation (including the State's enforcement thereof) is not being exercised in a manner consistent with this Title. During any such suspension, no permit granted under such program shall be effective except to the extent the Secretary determines that the permitted activities would be consistent with the purposes of this Title.

(C) If an approved State program includes procedures for the exercise of the Secretary's authority to suspend such a program's implementation, the Secretary shall follow such procedures. If no such procedures are included in a State program, the Secretary shall provide notice and a reasonable time to comply with this Title.

(d) APPROVAL BY THE SECRETARY.—(1) The Secretary shall approve a program submitted by a State if the Secretary determines that such program, when implemented, will fulfill the purposes of this Title regarding the protection of the thermal systems and features of Yellowstone National Park.

(2) The Secretary shall not approve any State program submitted under this section until the Secretary—

(A) solicited, publicly disclosed, and considered the views of the heads of other State and Federal agencies the Secretary determines are concerned with the proposed State program;

(B) solicited, publicly disclosed, and considered the views of the public; and

(C) found that the State has the necessary legal authority and personnel for the regulation and management of regulated resources outside Yellowstone National Park consistent with the requirements of this Title.

(3)(A) The Secretary may approve or disapprove a program in whole or in part.

(B) If the Secretary disapproves any proposed State program, in whole or in part, the Secretary shall notify the State in writing of the decision and set forth in detail the reasons therefor. The State may submit a revised State program or portion thereof.

(4) The Secretary shall not approve any State program that does not, at a minimum—

(A) include ongoing scientific review of restrictions, boundaries, and permits applicable to the development of a regulated resource;

(B) requires that, in conducting the scientific review referred to in subparagraph (A) and in implementing the State program, any doubt shall be resolved in favor of protection of the thermal systems and features of Yellowstone National Park; and

(C) allow the State agency authorized to administer the program to reject recommendations based on the scientific review referred to in subparagraph (A), to the extent such rejection is necessary to protect and preserve the thermal systems and features of Yellowstone National Park.

(e) SCOPE.—Except to the extent an approved State program is being implemented by a State, section 105(a) of this Title shall apply to the Yellowstone Protection Area.

(f) MODIFICATION OF YELLOWSTONE PROTECTION AREA.—(1) The boundaries of the Yellowstone Protection Area in a State may be modified pursuant to an approved State program if such modification is approved by the Secretary.

(2) The Secretary shall not approve any such modification that the Secretary finds would not be consistent with the purposes of this Title.

(3) The Secretary shall revise the map of the Yellowstone Protection Area to reflect any approved boundary modifications.

(4) If an approved State program includes procedures for the exercise of the Secretary's authority to approve modifications of the boundaries of the Yellowstone Protection Area, the Secretary shall follow such procedures.

(g) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the States of Montana, Idaho, and Wyoming and with the Secretary of Agriculture to fulfill the purposes of his Title.

(h) FEDERAL FINANCIAL ASSISTANCE.—(1) Subject to appropriation, the Secretary may provide financial assistance for the implementation of an approved State program. In providing such assistance, the Secretary may enter into appropriate funding agreements, including grants and cooperative agreements, with a State agency or agencies, upon such terms and conditions as the Secretary deems appropriate.

(2) A recipient State may invest funds provided under this subsection so long as such funds, together with interest and any other earnings thereon, shall be available for use by the State only under the terms and conditions of the approved State program and an agreement entered into with the Secretary under this subsection and shall not be used by the State for any other purpose.

SEC. 108. MONTANA PROGRAM.

(a) APPROVAL.—(1) The Congress finds that Article IV of the Compact fulfills the purposes of this Title regarding the protection of the thermal systems and features of Yellowstone National Park.

(2) All provisions of section 107 are applicable to this section, except for purposes of section 107(d)(1) the Compact shall be deemed to have been submitted to the Secretary, and, notwithstanding sections 107(d)(2), 107(d)(3), and 107(d)(4), Article IV thereof shall be considered an approved State program for regulation of groundwater resources within the Montana portion of the Yellowstone Protection Area. Article IV of the Compact shall not be considered an approved State program for the management of regulated resources within the Montana portion of the Yellowstone protection area other than groundwater resources.

(b) SCOPE.—Nothing in this Title shall be construed as amending the Compact or as altering its status in relationship to any litigation with regard to water rights.

(c) REVIEW PROCEDURES.—For purposes of sections 107(c)(3)(B), 107(c)(3)(C), 107(f)(1), and 107(f)(2), the provisions of the Compact with respect to—

(1) review of administrative decisions under Article IV of the Compact;

(2) enforcement of the Compact;

(3) the discretion of any party to the Compact to withdraw therefrom; and

(4) modification of boundaries and restrictions within the Controlled Groundwater Area, shall be deemed to be procedures for the exercise of the Secretary's authority to approve modifications of the boundaries of the Yellowstone Protection Area or to suspend the implementation of an approved State program.

SEC. 109. IDAHO AND WYOMING PROGRAMS.

(a) Section 104, subsection 105(a), subsection 107(b), and paragraph 107(c)(2) shall not be effective with respect to the Yellowstone Protection Area within the State of Idaho and the State of Wyoming for two years after the date of enactment of this Title if the Governor of the State notifies the Secretary that the State will prohibit any permit action or other approval action involving regulated resources within the Yellowstone Protection Area during such two year period.

(b)(1) The State of Wyoming or the State of Idaho may, within the two year period provided for in subsection (a), submit a state program to the Secretary for approval.

(2) Upon receipt of a state program within the two year period provided for in subsection (a), the Secretary shall review such program pursuant to section 107.

(c) Section 104, subsections 105(a), 107(b), and paragraph 107(c)(2) shall become effective with respect to the Yellowstone Protection Area within the State of Idaho or the State of Wyoming:

(1) upon the approval or disapproval of the respective State program;

(2) at the end of the two year period provided for in subsection (a); or

(3) if the State takes any permit action or other approval action contrary to the notification provided to the Secretary pursuant to subsection (a).

SEC. 110. JUDICIAL REVIEW.

(a) ADMINISTRATIVE PROCEDURES.—Except as provided in this section, any Federal agency action or failure to act to implement or enforce this Title shall be subject to judicial review in accordance with and to the extent provided by chapter 7 of title 5, United States Code.

(b) REMEDY.—The sole remedy available to any person claiming deprivation of a vested property right by enactment of this Title or Federal action pursuant to this Title shall be an action for monetary damages, filed pursuant to sections 1491 or 1505 of title 28, United States Code, in the Court of Federal Claims. Any just compensation awards determined by the Court of Federal Claims to be due to a claimant, shall be paid consistent with section 2517 of such title.

SEC. 111. REGULATIONS.

No later than two years after the date of enactment of this Title, the Secretary shall promulgate such rules and regulations as are necessary to implement this Title.

SEC. 112. AUTHORIZATION APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Title.

SEC. 113. SCOPE OF TITLE.

Nothing in this Title shall be construed as increasing or diminishing any rights of the United States with respect to water, or as affecting any previous adjudication of or any agreement concerning any such rights.

SEC. 114. LAND EXCHANGE.

(a) GENERAL.—Notwithstanding any other provision of law and subject to the provisions of this title, the Secretary of Agriculture shall acquire by exchange certain lands and interests in lands owned by the Church Universal and Triumphant, its successors and assigns, (referred to in this title as "the Church"), located in the Yellowstone Controlled Groundwater Area and Corwin Springs Known Geothermal Resource Area of the Gallatin National Forest.

(b) OFFER AND ACCEPTANCE OF LAND AND INTEREST IN LAND.—

(1) NON-FEDERAL LANDS AND INTERESTS.—If the Church offers:

(i) title that is acceptable to the United States to all rights, title, and interests to approximately 26 acres of land owned by the Church as depicted on the maps entitled "Church/Forest Service Land Exchange Proposal", dated July 1994;

(ii) all right, title and interest to the subsurface regulated resources estate on all Church properties within the Yellowstone Controlled Groundwater Area;

(iii) a perpetual public access road and utility easement of 60 feet in width, plus allowance for cuts and fills, over Church property to the Gallatin National Forest lands in the Cutler Homestead/Sentinel Butte area, as depicted on the maps referenced in paragraph (b)(1)(i); and

(iv) other rights and covenants in accordance with the terms of the "Church/Forest Service Land Exchange Specifications" document prepared pursuant to paragraph (b)(3); the Secretary of Agriculture shall accept a warranty deed to the land specified in paragraph (b)(1)(i), a special warranty deed to the regulated resources specified in paragraph (b)(1)(ii), State water rights transfer documents, and any other such instruments as may be necessary to transfer the above referenced property interests.

(2) FEDERAL LAND AND INTERESTS.—

(A) GENERAL.—Upon acceptance by the Secretary of Agriculture of title to the lands, interests, and rights and covenants offered by the Church pursuant to paragraph (b)(1):

(i) the Secretary, upon request by the Secretary of Agriculture, shall convey by patent to the Church, subject to all valid existing rights, and a reservation to the United States of all regulated resources, title to approximately 11 acres within the Gallatin National Forest, as depicted on the map referenced in paragraph (b)(3);

(ii) the Secretary of Agriculture shall convey an easement to the Church granting the right to collect and transport across Federal lands the natural unenhanced surface flow at LaDuke Hot Springs from its source to the east bank of the Yellowstone River as depicted on the maps referenced in paragraph (b)(1), and the United States shall withdraw all of its water rights claims and objections filed with regard to LaDuke Hot Springs in pending water rights adjudications under Federal and State law;

(iii) the Secretary shall grant to the Church standard Forest Service rights-of-way authorizations for existing roads across National Forest System land as generally depicted on the maps referenced in paragraph (b)(1) and further defined by the document referenced in paragraph (b)(1)(i); and

(iv) the Secretary shall grant to the Church other rights and covenants in accordance with the terms of the "Church/Forest Service Land Exchange Specifications" document pursuant to paragraph (b)(3).

(B) SURVEYS.—Surveys prepared to standards approved by the Secretary shall be furnished by the Church for the affected Federal and non-Federal lands and surface interests prior to conveyance of the Federal lands and interests in this exchange.

(3) AGREEMENT.—The document entitled "Church/Forest Service Land Exchange Specifications," jointly developed and agreed to by both parties, shall define the non-Federal and Federal lands and interests involved in this exchange, including legal descriptions of lands and interests, and other terms, conditions, and covenants, but shall not include any minimum surface flow requirements to the Yellowstone River from LaDuke Hot Springs. Such document, upon completion, shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives and shall not take effect until 60 days after receipt by both Committees.

(c) TITLE.—

(1) REVIEW OF TITLE.—Within ninety days of receipt of the approved surveys and title documents from the Church, the Secretary shall review the title for the non-Federal lands described in paragraph (b) and determined whether—

(A) the applicable title standards for Federal land acquisition have been satisfied subject to any variances expressly contained in this title; and

(B) all draft conveyances and closing documents have been received and approved.

(2) CONVEYANCE OF TITLE.—In the event the quality of title does not meet Federal standards or is otherwise unacceptable to the Secretary, the Secretary shall advise the Church regarding corrective actions necessary to cure title defects. The conveyance of lands to the Church described in paragraph (b)(2)(A) shall be completed not later than ninety days after the Secretary has approved title.

SEC. 15. GENERAL PROVISIONS.

(a) MAPS AND DOCUMENTS.—The maps referred to in section 14 are subject to corrections for any technical errors in describing the properties. The maps and documents described in section 14(b)(1) and (3) shall be on file and available for public inspection in the Office of the Chief of the Forest Service, in Washington, D.C.

(b) NATIONAL FOREST SYSTEM LANDS.—All lands and interests in lands conveyed to the United States under this Title shall be administered in accordance with the laws and regulations pertaining to the National Forest System.

(c) VALUATION.—The value of the lands and interests in lands to be exchanged under this Title and described in section 14(b) are deemed to be equal, and therefore, no appraisals shall be required.

TITLE II.—LOST CREEK LAND EXCHANGE.

SEC. 201. SHORT TITLE.

This title may be cited as the "Lost Creek Land Exchange Act of 1994".

SEC. 202. LAND EXCHANGE.

(a) GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter referred to in this title as the "Secretary") is authorized and directed to acquire by exchange certain lands and interests in lands owned by the Brand S Corporation, its successors and assigns, (hereinafter referred to in this title as the "Corporation"), located in the Lost Creek area of the Deerlodge National Forest and within the Gallatin National Forest.

(b) OFFER AND ACCEPTANCE OF LAND.—

(1) NON-FEDERAL LAND.—If the Corporation offers to convey to the United States fee title that is acceptable to the United States to approximately 18,300 acres of land owned by the corporation and available for exchange, as depicted on the maps entitled "Brand S/Forest Service Land Exchange Proposal," numbered 1 through 3, dated March 1994, and described in the "Land Exchange Specifications" document pursuant to paragraph (b)(3), the Secretary shall accept a warranty deed to such lands.

(2) FEDERAL LAND.—Upon acceptance by the Secretary of title to the Corporation's lands pursuant to paragraph (b)(1) and upon the effective date of the document referred to in paragraph (b)(3), and subject to valid existing rights, the Secretary of the Interior shall convey, by patent, the fee title to approximately 10,800 acres on the Deerlodge and Gallatin National Forests, and by timber deed, the right to harvest approximately 3.5 million board feet of timber on certain Deerlodge National Forest lands, as depicted on the maps referenced in paragraph (b)(1) and further defined by the document reference in paragraph (b)(3): Provided, That, except for the east ½ of sec. 10, T3S, R8E, the Secretary shall not convey to the Corporation the lands on the Gallatin National Forest identified as the "Wineglass Tract" on the map entitled "Wineglass Tract," dated September 1994, unless the Secretary finds that measures are in place to protect the

scenic, wildlife, and open space values of the Wineglass Tract. Such finding shall be contained in the document referenced in paragraph (b)(3)

(3) AGREEMENT.—A document entitled "Brand S/Forest Service Land Exchange Specifications," shall be jointly developed and agreed to by the Corporation and the Secretary. Such document shall define the non-Federal and Federal lands to be exchanged, and shall include legal descriptions of such lands and interests therein, along with any other agreements. Such document shall be transmitted, upon completion, to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives and shall not take effect until 60 days after transmittal to both Committees.

(4) CONFLICT.—In case of conflict between the maps referenced in paragraph (b)(1) and the document referenced in paragraph (b)(3), the maps shall govern.

(c) TITLE.—

(1) REVIEW OF TITLE.—Within sixty days of receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal lands described in paragraph (b) and determine whether—

(A) applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the Corporation has complied with the conditions imposed by this title.

(2) CONVEYANCE OF TITLE.—In the event the title does not meet Federal standards or is otherwise unacceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination. The Secretary, acting through the Secretary of the Interior, shall effect the conveyance of lands described in paragraph (b)(2) not later than ninety days after the Secretary has made an affirmative determination.

(d) RESOLUTION OF PUBLIC ACCESS.—The Secretary is directed, in accordance with existing law, to improve legal public access to Gallatin National Forest System lands between West Pine Creek and Big Creek.

SEC. 203. GENERAL PROVISIONS

(a) MAPS AND DOCUMENTS.—The maps referred to in section 202(b)(1) shall be subject to such minor corrections as may be agreed upon by the Secretary and the Corporation. The maps and document described in section 202(b) (1) and (3) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(b) NATIONAL FOREST SYSTEM LANDS.—

(1) IN GENERAL.—All lands conveyed to the United States under this title shall be added to and administered as part of the Deerlodge or Gallatin National Forests, as appropriate, and shall be administered by the Secretary in accordance with the laws and regulations pertaining to the National Forest System.

(2) WILDERNESS STUDY AREA ACQUISITIONS.—Until Congress determines otherwise, lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area pursuant to this Title shall be managed by the Secretary of Agriculture and the Secretary of the Interior, as appropriate, so as to maintain the presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(c) VALUATION.—The values of the lands and interests in lands to be exchanged under this title and described in section 202(b) are deemed to be of approximately equal value.

(d) LIABILITY FOR HAZARDOUS SUBSTANCES.—

(1) The Secretary shall not acquire any lands under this title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(2) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this title after their transfer to the ownership of another party, but nothing in this title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party.

PROPOSED REPORT LANGUAGE

H.R. 1137—The Old Faithful Protection Act

The Forest Service is encouraged to expedite land exchanges with the Idaho Department of Lands within the Yellowstone Protection Area in order to consolidate land ownerships.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, September 29, 1994, at 10:30 a.m., in SR-332, to consider the nomination of Marsha P. Martin, of Texas, to be a member of the Farm Credit Administration Board.

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

COMMITTEE ON ARMED SERVICES

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2:00 p.m. on Thursday, September 29, 1994, in open session, to consider the following pending military nominations: Gen. Ronald R. Fogleman, USAF for reappointment to the grade of General and to be Chief of Staff, U.S. Air Force; Lt. Gen. John J. Sheehan, USMC for appointment to the grade of General and to be Commander in Chief, U.S. Atlantic Command; Gen. Robert L. Rutherford, USAF for reappointment to the grade General and to be Commander in Chief, U.S. Transportation Command and Commander, Air Mobility Command; and Lt. Gen. Daniel W. Christman, USA for reappointment to the grade of Lieutenant General and to be assistant to the Chairman of the Joint Chiefs of Staff.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., August 29, 1994, to receive testimony on the agreement for cooperation on peaceful uses of atomic energy between the United States and the European Atomic Energy Community [Euratom].

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

COMMITTEE ON FINANCE

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, September 29, 1994 at 10:00 a.m., to consider legislation to approve and implement the Uruguay round of multilateral trade negotiations.

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

COMMITTEE ON THE JUDICIARY

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 29, 1994 at 1:00 p.m. to hold a hearing on implementation of the Violence Against Women Act.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KOHL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 29, 1994 at 10:00 a.m. to a closed hearing on intelligence matters.

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

SPECIAL COMMITTEE ON AGING

Mr. KOHL. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, September 29, 1994, at 9:30 a.m. to hold a hearing titled "Uninsured Bank Products: Risky Business for Seniors?" to examine the sale of uninsured bank products to older Americans.

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

SUBCOMMITTEE ON CLEAN WATER, FISHERIES AND WILDLIFE

Mr. KOHL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Water, Fisheries and Wildlife, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, September 29, beginning at 9:30 a.m., to conduct a hearing on the reauthorization of the Endangered Species Act focusing on conservation on public lands.

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

SUBCOMMITTEE ON FORCE REQUIREMENTS AND PERSONNEL

Mr. KOHL. Mr. President, I ask unanimous consent that the Subcommittee on Force Requirements and Personnel of the Committee on Armed Services

be authorized to meet at 9:30 a.m. on Thursday, September 29, 1994, in open session, to receive testimony on the Department of Defense response to the Persian Gulf illness.

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

ADDITIONAL STATEMENTS

POLISH ARMED FORCES CONTRIBUTIONS IN WORLD WAR II

• Mr. LAUTENBERG. Mr. President, today I am submitting for the RECORD a study entitled "Polish Armed Forces Contributions to Allied Victory in World War II." The study was prepared for the New Jersey Polish-American Congress and is an overview of Polish military and paramilitary activities dating from the Nazi invasion of Poland on September 1, 1939, to the surrender of Nazi forces nearly 6 years later, on May 8, 1945.

The study's author is retired Rear Adm. Sigmund Bajak, USNR. A member of the Polish-American Congress, Admiral Bajak is a veteran of World War II, Korea, and Vietnam. He is currently completing a doctorate in Polish military history at the University of Warsaw.

I hope my colleagues find this study informative.

I ask that the full text of my statement, as well as the accompanying study appear in the RECORD.

The study follows:

POLISH ARMED FORCES CONTRIBUTIONS TO ALLIED VICTORY IN WORLD WAR II

(By Sigmund Bajak)

Introduction: On May 8, 1945, when United States Army General Carl Spaatz, together with his Allied military colleagues, accepted the unconditional surrender of Germany in the Berlin suburb of Karlhorst the Polish Armed Forces numbered about 600,000. Of this total, 180,000 Polish soldiers were part of the 400,000-strong Soviet Army which conquered Berlin. The remainder of the Polish Forces served throughout the western front with the Allies.

In addition to regular Polish Forces, hundreds of thousands of Poles fought in the Polish underground armies in Poland as well as in the occupied countries of Europe. In Poland itself there were four different underground armies numbering about 500,000 partisans of both sexes and all ages. They were: the Home Army, Peasant Battalions, the Peoples Army and the National Armed Forces.

Son of Poland Pope John Paul II, on the 10th anniversary of his pontificate, said, "In World War II, on every front, Poles shed their blood for independence. Polish independence cannot be measured in geopolitical terms, but only according to authentic criteria of national sovereignty in its own nation."

It is necessary to elaborate on the participation of Poles in World War II, if only in the briefest terms, to truly understand Polish contributions to allied victory. What follows is a partial review of the efforts of Poles, in and out of uniform, as they fought from 1939 to 1945 for their independence and for the Allied cause.

POLAND—SEPTEMBER 1939

Westerplatte (Located in the Baltic Port of Gdańsk—a Free City): At 4 AM on September 1, 1939 the German battleship *Schleswig-Holstein* opened fire on the small Polish military transit depot, at Westerplatte. Major Henryk Sucharski, and his force of about 170 men held their ground for 7 days against overwhelming numbers of German ground troops before being forced to surrender. General Eberhadt, Commander of the German forces in Gdańsk, refused to accept the Major's sword because of the uncommon bravery shown by the Polish garrison. The sword was later taken away from the Major at a German prison camp.

Bzura River Counteroffensive (The Bzura River lies on a path Leczyca-Lowicz-Sochaczew, and joins the Vistula at Wyszogrod): On the evening of September 9, 1939, General Tadeusz Kutrzeba and his Polish Army of Poznań, located in northwest Poland, attacked the 4th, 8th and 10th German armies as they progressed eastward toward Warsaw. Kutrzeba was successful in delaying the Germans for two days before the Wermacht overwhelmed his forces. Kutrzeba's effort gave the Polish Warsaw and Lublin Armies time for reorganization after the initial German offensive.

The Hel Peninsula (Located between the Bay of Gdańsk and the Baltic Sea): Polish Admiral Józef Unrug, a Pole of German heritage, did not surrender his command, located on the Hel peninsula, until October 2, 1939 four days after Warsaw was forced to capitulate. Before doing so he gave his staff permission to attempt escape by sea to Sweden. During the surrender a German trawler was sunk by one of the Admiral's mines. It's reported that the Admiral always insisted on a translator in the Germany prison camp because he said he was a Pole.

Defense of Poland: The defense of Warsaw began on September 8, 1939. On the 17th of September the Red Army crossed the eastern borders of Poland and began its march toward Warsaw. Warsaw capitulated on September 28, 1939. German losses were about 45,000 killed and wounded. Poland lost 200,000 or more soldiers killed or wounded. The Germans took some 400,000 Polish soldiers prisoner and about 200,000 were taken by the Soviets. Another 85,000 soldiers were interned in Rumania, Hungary, Latvia and Lithuania. Both the victorious Germans and Soviets murdered thousands of Polish prisoners of war. Probably the best known atrocity was the murder of more than 15,000 Police officers and men by the Soviets at Katyn forest.

ENIGMA—JULY 1939

During the period 1933–1938 three Polish mathematician-decryptologists managed to construct their version of a German Enigma code machine. These scientists, Messrs. Marian Rejewski, Henryk Zygalski and Jerzy Rózycki, successfully broke the German code. At the end of July 1939, the Polish General Staff turned over the Polish Enigmas and decoded German ciphers to France and Great Britain. In Britain, operation "Magic" made use of the Poles' findings at the Center of Decryptology located in Bletchley. All Enigma and operation "Magic" files have not been declassified. Despite this fact, there is no disagreement among historians as to the role the Enigmas, further developed and used by the Allies, had on the outcome of the war.

POLISH ARMY IN FRANCE—1939 TO 1940

On September 20, 1939, Polish General Wladyslaw Sikorski, who would become the Commander-in-Chief of all Polish Armed Forces, was appointed commander of all Polish forces in France by the exiled Polish government in France officially recognized by the Allies on September 30, 1939. On June 5, 1940 when the Germans attacked France, Sikorski had an army of about 82,000 soldiers. In view of the military situation on France, Sikorski and Polish President Raczkiewicz flew to London and met with Winston Churchill who was moved by the Poles determination to continue their fight against the enemy. On June 21, 1939 following the French defeat only 27,000 Polish officers and men were evacuated to Britain with the President of Poland who was welcomed by King George VI.

TATRA HIGHLANDS RIFLE BRIGADE IN NARVIK, NORWAY—SPRING 1940

When the Germans attacked Norway on April 9, 1940, the Tatra Brigade was sent to Norway as part of an Allied Expeditionary Force to take back Narvik from a strong German force. The attack was successful but in view of the situation in France, the Allies decided to evacuate the Expeditionary Force to Brest and the Tatra Brigade provided cover for the evaluation. Three Polish destroyers, *Lightning*, *Storm* and *Thunder* protected Polish passenger liners, *Batory*, *Sobieski* and *Chrobry*, which were used to transport the Force. *Chrobry* was sunk on May 16, 1940 in the vicinity of Bodo. The Tatra Brigade reached Brest but was disbanded after France fell. Some members of the Brigade who were able to flee French ports, with great difficulty, reached Scotland to resume the fight.

CARPATHIAN RIFLE BRIGADE IN TOBRUK, LIBYA—1941 TO 1942

In August 1941 the Brigade, 4,683 strong and under cover of darkness, landed at Tobruk and eventually took up positions at the foot of Ras al-Medauar. Behind Ras al-Medauar were amassed 380 machine guns and another 110 guns of various sizes manned by crack German troops. On December 1, 1941 the Brigade attacked the German positions and at 1000 hours the red and white flag of the Polish Republic flew atop Ras al-Medauar. After the blockade of Tobruk, the Brigade took part in the counter-offensive of the British 8th Army. On the 15th of December they broke through the German-Italian lines at El Gazala. On March 24, 1942 the Brigade returned from the front to Egypt.

POLISH ARMED FORCES ON THE WESTERN FRONT FROM 1942 TO 1945

General Maczek's Polish First Armored Division: The 1st Polish Armored Division led by General Stanislaw Maczek began organizing in England on February 25, 1942. It was made up of Poles who managed to flee from France, and Polish soldiers repatriated from the Soviets following Polish-Soviet negotiations which took place on July 30, 1941. At the end of July 1944, the Division was in France; it numbered 885 officers and about 15,000 men. Maczek and his Poles fought in the Falaise-Chambois-Mont Ormel region, breaking through the 1st SS Adolf Hitler Division and the 12th SS Hitlerjugend Division and taking almost 5,000 prisoners including one general and 150 officers.

On September 28, 1944 the Division crossed the French-Belgian border and freed Ypres. Moving northward on October 27th they freed Breda, and the village made every member of the Division an honorary citizen. For the next five months the Division guarded the port of Antwerp in Belgium where the Allies shipped war supplies for the European campaign. In April, 1945, the Division was again in combat at the Kusten Canal and on

May 4, 1945, participated in the attacks on Wilhelmshaven. The following day the German forces in this area surrendered. The total losses of the First Armored Division were 1,290 dead, 3,803 wounded and 585 missing as it fought for Polish independence and Allied victory.

Polish Second Corps on the Italian Front—Monte Cassino, Ancona and Bologna: The Polish 2nd Corps was organized in 1943 from repatriated Polish soldiers who had been captured by the Soviets in 1939. The Corps was composed of 52,692 soldiers led by Polish General Wladyslaw Anders who reported to the British 8th Army Commander General Oliver Leese. General Leese ordered the Poles to take the Monte Cassino complex. The extremely bloody fighting began on May 11, 1944 and ended on May 19th when Monte Cassino was taken by the Poles. This forced the Germans to fall back from the Gustav line to the Hitler line of defense. The Polish losses included 4,290 killed, wounded and missing. British Marshal Alexander sent a signal to the Poles which said that if he had the opportunity to choose those he wanted to serve under his command, his choice would be the Poles of the 2nd Corps. The Marshal ended his signal with a salute of deep respect.

Monte Cassino was only a warmup for the Polish 2nd Corps. The following month, June 15, 1944, the Corps was transferred to the Adriatic front. From that date to the first days of September the Corps advanced, fighting brilliantly, taking Ancona and breaking the northern German defense line near Pesaro. The Poles took about 4,000 German prisoners and more than 300 weapons of all types. They buried nearly 3,000 Germans. General Leese congratulated General Anders and his soldiers for conducting a most successful campaign.

The Polish Corps moved slowly northward during the winter and early spring over difficult mountain terrain and in very bad rainy weather. By April 9th the Corps began its final thrust to Bologna. The way was mined and trapped. There were seven rivers to cross: Senio, Santerno, Sellustra, Sillaro, Giaino, Idice and Svena. On April 15, 1944 at 0600 hours the Poles entered Bologna following the American 5th Army which entered at 0800. The new British 8th Army Commander, General MacCreery, signalled General Anders: "In your march on the Vis Emilia to Bologna you fought the 26th and 1st German armored divisions and four parachute divisions, some of the best in the German Army. In these operations you showed admirable fighting spirit, steadfastness and competence in battle. I send you and all your officers and men my warmest congratulations and expressions of admiration." The campaign on the Adriatic side of Italy cost the 2nd Polish Corps 2,300 killed, 8,000 wounded and 264 missing.

POLISH AIR FORCE AND THE AIR BATTLE OF BRITAIN

After the defeat of Poland, much of the Polish Air Force fled to France. During the invasion of France, Poles downed 56 German aircraft and damaged another 9. Polish losses were 26 killed which included 11 pilots. Following the capitulation of France, 986 officers and 3,217 men of the Polish Air Force managed to escape to England.

In England, the Polish Air Force was organized into two fighter divisions—the 302 and 303—and two bomber divisions, the 300 and 301. After training conducted by the Royal Air Force (RAF), the Poles contributed to Allied victory in the Battle of Britain during the period August 8, to October 31, 1940. The score for Polish pilots was 203 enemy aircraft shot down, 35 probables, and 35 damaged. This was more than 25 percent of all the German air losses. The Poles lost 33 pilots out of a total of 131 who took part in the battle.

POLISH NAVY 1939 TO 1945

According to an agreement between Poland and Britain signed on November 19, 1939, what remained of the Polish Navy came under the command of the British Admiralty which also leased the Poles a number of ships. With this arrangement the Polish fleet numbered two cruisers, 10 destroyers, five submarines, 30 miscellaneous craft and 47 naval personnel units. The Polish fleet engaged the enemy 665 times sinking seven warships, two submarines, 339 transports and shooting down 20 enemy aircraft. Perhaps the most memorable of these engagements took place the night of May 26-27, 1941, when the Polish destroyer *Lightning*—as part of the 4th British Destroyer Flotilla—sighted and attacked the crippled German battleship *Bismarck*. The *Bismarck* was sunk on the morning of May 27th by the British Fleet.

Polish Navy losses during the war were 404 killed and 191 wounded. The fleet lost 13 ships of all types, two submarines and 74,500 tons of shipping.

THE POLISH UNDERGROUND 1940 TO 1945

HOME ARMY: The Home Army, otherwise known as the AK (an acronym for "Armia Krajowa") was by far the largest partisan organization in occupied Poland. On March 1, 1944, the AK numbered 389,129 soldiers. The Army conducted 1,175 recorded actions which included train derailments, burning of trains and the destruction of 38 bridges. In addition, the AK damaged 19,508 railroad cars, destroyed 1,167 containers of gasoline, burned 272 supply warehouses and damaged 4,326 vehicles of various types. German supply lines and communication points were constantly under attack. A number of Gestapo jails were broken into and almost 2,000 Gestapo agents were assassinated.

PEOPLES ARMY: The communist dominated Peoples Army was formed on January 1, 1944 and was joined by the Peoples Guards which created a partisan force of about 50,000 soldiers. The Army reported more than 1,550 actions which included 774 attacks on enemy transport and communications. There were 220 counterattacks against German terrorist activities and 190 sorties against the German military supply infra-structure. There were 370 battles recorded against the Wehrmacht and German Security Forces.

OPERATION "BURZA" (STORM): In January 1944, plan Burza was executed. The AK in an effort to reclaim Polish territories attacked retreating German forces and bands of Ukrainian Nationalists alongside the Red Army. At first there was cooperation between the Poles and the Reds. But in less than three weeks of Operation Burza AK General Okulicki was forced to disband the AK because he had no choice. The Red Army disarmed the Poles and sent some to the Polish Army in Wolyn and interned a portion in Vilno. The remainder were arrested and sent to camps in the USSR. About 200,000 members of the Home Army, including some 50,000 soldiers were deported to the east.

WARSAW UPRISING ON AUGUST 1, 1944: The eastern battle front had moved very close to Warsaw by the summer of 1944. This encouraged the Home Army Command (AK), in concert with the Polish government in exile, to liberate Warsaw by attacking the German occupation forces. An attack was ordered and a catastrophe ensued. Promised supplies from the west by air drop never came. In the east, Stalin's armies, which included General Zygmunt Berling's Polish army, were not allowed by Stalin to cross the Vistula to support the uprising. More than 10,000 insurgents were killed, most of them young men and women. Nearly 7,000 were wounded and 5,000 were missing. More than 188,000 civilians were killed. Hitler personally ordered that survivors vacate the city and that the German Army destroy all of Warsaw.

POLISH ARMY IN THE USSR AND THE EASTERN FRONT

REPATRIATION OF POLISH ARMY: When Hitler attacked the USSR in June 1941 Stalin found himself on the side of the Allies. This opened the door to diplomatic relations between Poland and the Soviets. On July 30, 1941, an agreement was reached between the Poles and the Soviets with the help of the British. General Sikorski met Stalin in Moscow December 3rd and 4th and discussed the repatriation of Polish prisoners of war in the custody of the Soviets and the freeing of Polish civilians.

From January 13 to 25, 1942, the Polish Army was transferred from the various Soviet prison camps to southern asiatic republics in the USSR. Polish prisoners were held in far away Soviet camps under extremely difficult conditions. Thousands of Poles died in captivity. An accounting of Poles held prisoner was almost impossible and research concerning those that never returned from captivity continues to this day. Finally, by the summer of 1942 the Poles were evacuated to Persia in two groups. The final count was 115,742 persons. There were 78,470 soldiers and 32,272 civilians which included 12,733 war orphans.

The repatriated Polish officers and men evacuated to Persia under the leadership of General Anders formed the 2nd Polish Corps which fought so well on the Italian front.

POLISH ARMY IN THE USSR: In April of the following year, the Poles in London and the Soviets broke off diplomatic relations. For Poles who had not managed to leave the USSR with General Anders this was another opportunity to fight the Germans. In May 1943 the 1st Polish Infantry Division was formed in Sielce under the leadership of Colonel Zygmunt Berling. By October 1943 the formation was large enough to be designated the 1st Polish Army Corps.

The baptism of battle for the 1st Polish Infantry occurred in the area of Lenino. Action against strong German forces began on October 12, 1943. The Poles showed a great will to fight and inflicted heavy losses on the enemy. More than 1,500 Germans were killed and 329 taken prisoner. The Poles lost 502 killed, 1,776 wounded and 663 missing.

The 1st Polish Army Corps by March 1944 had grown to the 1st Polish Army commanded by newly promoted, General Zygmunt Berling. At the end of April, the Poles joined Soviet armies at the White Russian (Belorussian) front.

THREE POLISH ARMIES AND WARSAW: In the 1944 Soviet summer offensive the 1st Polish Army marched westward freeing Lublin on July 22, 1944. At this time, in accordance with a decree of the communist-controlled Polish National Freedom Committee in Poland, the 1st Polish Army and the underground Peoples Army were joined into one force under the command of General Michal Rola-Żymierski. Two more Polish armies were formed; The 2nd commanded by General Stanislaw Poplawski and the 3rd under General Karol Świerczewski.

The armies marched westward and on September 14, 1944 General Berling with his 1st Army entered the Praga section of Warsaw

located on the east side of the Vistula River. The Warsaw insurgents were still fighting the Germans in Żoliborz and Mokotów on the west side of the Vistula in city proper. The Polish armies remained on the east side of the Vistula until January 1945 when General Berling was relieved of the 1st command by General Poplawski and the 3rd Army was disbanded. This left General Świerczewski free to take command of Poplawski's 2nd Army.

FROM THE VISTULA TO THE ODER: On January 14, 1945 the Soviets launched their great offensive from the Vistula to the west. By March the 1st Polish Army reached the Baltic in the vicinity of Kolobrzeg and by the 29th of March the Polish flag flew over Gdańsk. The 2nd Polish Army after February operations in the Kutno-Łódź area reported to the Soviet commander of the Ukrainian front, and then marched westward to take part in the Berlin operation.

POLISH FIRST AND SECOND ARMIES AND BERLIN: At the beginning of April 1945 both Polish armies reached a strength of about 390,000 soldiers. April 16, 1945, the 1st Army fought its way across the Oder and four days later was in pursuit of retreating German forces. On May 3, 1945 its troops reached the Elbe. The next day they joined with the American 9th Army in the outskirts of Berlin. The 2nd Artillery Brigade, the 6th Motorized Battalion and the 1st Infantry Division of the 1st Polish Army took part in the conquest of Berlin which took place on May 2, 1945. The Polish flag flew alongside the flag of the USSR over Berlin.

The 2nd Polish Army spent most of its time fighting the stubborn German "Mitte" (Middle) Army which refused to surrender after the fall of Berlin. On May 7, 1945, five days after the fall of Berlin the 2nd Polish Army crossed the border into Czechoslovakia in pursuit of the Mitte Army. On the 11th, the Germans ceased fighting near Prague.

POLISH WAR LOSSES 1939–1945

The contributions of the Polish Armed Forces to Allied victory were never well known and are by now mostly forgotten. Poles contributed much as can be seen from the foregoing review. But the Polish nation also lost heavily and suffered terribly while making its contributions and while trying to survive under the oppressor.

Hitler's aim was to exterminate not only the Jews but also Poles and their entire culture. Of all the Allies who fought, Poland suffered the greatest losses. It is estimated that Poland lost 220 out of every 1000 citizens during the war. By comparison the Soviets lost 124. The number for France was 13, Great Britain 8 and the United States 1.4.

In addition to human losses, Poland suffered enormous material losses which in 1945 were estimated to be near 50 billion dollars. There was also the loss of an estimated 43% of all Polish art, national archival material and other historical and cultural treasures.

It is appropriate to end this partial review by repeating the words of Pope John Paul II: "In World War II, on every front, Poles shed their blood for independence. Polish independence cannot be measured in geopolitical terms, but only according to authentic criteria of national sovereignty in its own nation."

NB. The primary source for this review is: Baluk and Michalowski, Polski czyn zbrojny 1939–1945, (Polish Military History 1939–1945), Wydawnictwo Polonia, Warszawa, 1989.

About the Author: Sigmund Bajak is a retired Rear Admiral in the U.S. Naval Reserve who served in World War II, Korea, Berlin Crisis and Vietnam. As a civilian, he spent 30 years as an executive for the National Broadcasting Company in New York rising to a Director's position. At present, he is a doctoral candidate in Polish military history at the University of Warsaw. He is a member of the Polish-American Congress.•

POSTMASTER GENERAL STAMPS OUT HOPES FOR VETERANS

• Mr. SMITH. Mr. President, this past Memorial Day, May 30, 1994, the Senate wrote to Postmaster General Marvin Runyon requesting the issuance of a commemorative stamp honoring American POW's and MIA's. On September 12, 1994, I took the floor to notify my colleagues that, at that time, 14 weeks later, we still had not received a response to our letter. Since 82 Senators had signed the letter, I felt that it would interest them to know that the Postal Service still lacked the common courtesy to respond.

Well, Mr. President, over 100 days, several unanswered telephone calls, and one floor statement later, I have the Postmaster General's answer, if it can be called an answer. I would point out that this is not the original signed copy. That is still making its way through the Postal delivery system. This one is a photocopy. In fact, I have received two photocopies. Both were addressed to me, but neither was intended for me. As indicated by the highlighted names at the end of the letter, one was intended for Senator KEMPTHORNE, and one was intended for Senator DASCHLE, both of whom were signers of the original letter.

The issue that brings me to the floor is not that I received the letter third-hand. Frankly, I was happy to receive it at all. The issue is not the fact that it took nearly 4 months to get an answer. I addressed that issue last time I took the floor.

The issue, Mr. President, is the letter itself. If this letter is representative of the current Postal Service management, we are in big trouble. The letter demonstrates that its author, Postmaster Runyon, or whoever drafted the letter, has little command over the issue at hand. Indeed, one would seem to infer from the response that the writer hardly read the original letter, signed by 82 Senators.

To begin, Mr. President, I will ask that the Senate's original letter to Postmaster Runyon, his response and my followup letter to him be inserted for the RECORD at this point, and then I will go through—point by point—my concerns with his response.

U.S. SENATE,
Washington, DC, May 30, 1994.

Hon. MARVIN RUNYON,
Postmaster General, U.S. Postal Service, Washington, DC

DEAR MARVIN: We are writing to urge you to approve the issuance of a commemorative stamp honoring American prisoners of war and missing in action personnel.

As you may know, in late 1992, the Senate unanimously adopted an amendment to the Department of Defense Authorization Bill mandating the issuance of a POW/MIA stamp. Although this amendment was removed from the bill in deference to the normal stamp approval process, the conference nevertheless stated its strong support for such a stamp.

The issuance of a POW/MIA stamp is very important to us and, we hope, important to you. As we are sure you realize, it is also important to the families of missing service personnel and to millions of American veterans, including many Postal Service employees.

We are also asking that the normal licensing fee for the stamp design be waived, as was recently done for the AIDS stamp, in order to allow veterans' organizations and POW/MIA family organizations to reproduce the design.

This year marks the 30th anniversary of the capture of Everett Alvarez, a Lieutenant j.g. in the U.S. Navy, who became the first and longest-held American POW in North Vietnam. Lt. Alvarez was released in 1973, during "Operation Homecoming." We are also observing the 50th anniversary of the landing at Normandy, which led to the liberation of Europe and the subsequent release of hundreds of American POWs. Given the recent focus on America's efforts to account for POWs and MIAs, we believe that the release of a POW/MIA stamp would be timely and appropriate.

National POW/MIA Recognition Day is scheduled for September 16, 1994. We suggest that this would be an excellent target date for the unveiling of the stamp. As the expedited approval of the AIDS awareness stamp demonstrated, this date is not unreasonable.

A POW/MIA stamp meets the critical elements normally used for selecting commemorative stamps.

1. American POWs and MIAs have contributed significantly to America and its history.

2. The POW/MIA issue is a theme of widespread national appeal and significance. Indeed, Presidents Reagan, Bush, and Clinton have publicly declared the resolution of this issue to be a matter of "highest national priority."

3. A POW/MIA stamp was last issued on November 24, 1970, over 23 years ago. This far exceeds the policy of not considering stamp proposals if a stamp treating the same subject has been issued in the last 10 years.

4. The Postal Service normally desires the submission of subjects three years prior to the proposed date of issuance. Members of Congress, veterans organizations, and families of POWs and MIAs have been continuously petitioning for such a stamp for well over a decade.

5. As the number of petitions which have already been sent to the Citizens' Stamp Advisory Committee would clearly demonstrate, there is considerable interest in a POW/MIA stamp and, as such, its issuance would generate millions of dollars in postal revenues. Veterans and veterans' organizations, families and friends of POWs and MIAs, military personnel, and supporters, would all be likely to use such a stamp. From a marketing perspective, a POW/MIA stamp would be an excellent choice.

We thank you in advance for your assistance and cooperation in this matter, and we look forward to working with you.

Sincerely yours,

Bob Smith, Bill Roth, Strom Thurmond, Herb Kohl, Dick Lugar, Barbara A. Mikulski, Kent Conrad, Thad Cochran, Fritz Hollings, Alfonse D'Amato, Daniel K. Akaka, David Durenberger,

Thomas Daschle, Larry E. Craig, John Breaux, Paul Sarbanes, Jesse Helms, Frank R. Lautenberg, Conrad Burns, Harris Wofford, Jeff Bingaman, Jim Jeffords, Ben Nighthorse Campbell, J. Bennett Johnston, Tom Harkin, Ted Stevens, Kay Bailey Hutchison, Hank Brown, Daniel Inouye, Judd Gregg, J. Lieberman, Arlen Specter, Paul Wellstone, Dirk Kempthorne, George Mitchell, Dan Coats, Lauch Faircloth, John Warner, Patrick Leahy, Paul Simon, Alan Simpson, Don Riegle, Richard Shelby, John Chafee, Dennis DeConcini, Sam Nunn, Robert C. Byrd, Bob Graham, Bill Cohen, Phil Gramm, John F. Kerry.

Chuck Grassley, Connie Mack, Carol Moseley-Braun, Slade Gorton, Wendell Ford, Jim Sasser, Edward M. Kennedy, David Patrick Moynihan, Chuck Robb, Harlan Mathews, Paul D. Coverdell, Russ Feingold, John Kerry, Patty Murray, Max Baucus, Trent Lott, Harry Reid, Nancy Landon Kassebaum, Christopher J. Dodd, Dianne Feinstein, Alfonse D'Amato, Frank H. Murkowski, Jay Rockefeller, Don Nickles, Richard Bryan, Larry Pressler, Bob Packwood, Pete Domenici, Byron Dorgan, Orrin Hatch, Barbara Boxer, Malcolm Wallop.

U.S. POSTAL SERVICE,
Washington, DC, September 20, 1994.

Hon. BOB SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: This is in response to the 35,000 signed public petitions and your request along with 81 other Senators, for the issuance of a commemorative stamp on September 16, to honor Prisoners of War and Missing in Action Personnel (POW/MIA).

The U.S. Postal Service supports the concept of publicizing information and scheduling events to increase public awareness of the continuing plight of locating and releasing POW/MIAs. As noted in your recent correspondence to us, we issued a commemorative POW/MIA stamp over 23 years ago on November 24, 1970. While 23 years may have passed since the issuance of this stamp, it still remains a one-time occasion, in competition with many other historical events. In view of these known realities, we would like to recommend for your consideration an alternative to the issuance of another POW/MIA stamp.

Our suggested option to the POW/MIA commemorative stamp emphasizes the need for a greater national appeal. In doing so, we realize that any relating commemorative events should include not only the efforts of the Postal Service, but that of Congress, state, local, and federal agencies, and POW/MIA organizations. In view of the prospective to both broaden and heighten the emphasis on this issue, we recommend that in 1995, Congress establish a national, annual recognition period (day, week, or month) to honor POW/MIAs.

In its efforts to make certain that such an annual event receives full attention and recognition, the Postal Service would support the activities initiated by the Veterans Administration or other lead governmental organizations. This could be accomplished by reminding our 700,000 employees of the event through creation of a generic special cancellation for use at local ceremonies. Additionally, the creation of a cancellation die hub could be used to cancel mail at selected locations.

We strongly believe that an annual recognition event would have more impact and generate more public awareness than issuing another one-time commemorative stamp. With that thought in mind, we would appreciate your careful consideration of our proposal. It is our goal to not only bring forth a compromise on this issue, but a greater substantive and meaningful approach to a national issue that is very important to families of missing service personnel, and to millions of American veterans, including Postal Service employees.

Best regards,

MARVIN RUNYON,
Postmaster General, CEO.

U.S. SENATE,
Washington, DC, September 30, 1994.

MARVIN RUNYON
Postmaster General, CEO, U.S. Postal Service, Washington, DC.

DEAR MARVIN: This is in response to your letter concerning the issuance of a POW/MIA stamp dated September 20, 1994, a copy of which has been provided to my office.

For your information, Congress has annually enacted a National POW/MIA Recognition Day since 1979 with the support of each Administration during this period. Therefore, your "compromise" proposal for an annual POW/MIA day instead of a commemorative stamp is not a reasonable compromise at all. It is offensive to the hundreds of thousands of veterans and POW/MIA families who have petitioned the Postal Service for a stamp on this matter for the last decade.

Since President Reagan took office, the POW/MIA issue has been designated as a matter of "highest national priority" by every Administration. Because of your inadequate response, I am now firmly committed to enacting legislation which will require the Postal Service to issue a POW/MIA stamp.

Given the expressed views of Congress on this matter by a vote of the Senate, Conference Report language, and the May, 1994 follow-up letter, I had hoped, and indeed still hope, that you will alleviate the need for legislative action by issuing a POW/MIA stamp in the same manner the AIDS awareness stamp was issued.

Sincerely,

BOB SMITH,
U.S. Senator.

Mr. SMITH. I will start at the top of the page, with the date. Postmaster Runyon's letter was sent on September 20, 1994. As my colleagues know, I personally presented the original letter to the vice president of the Postal Service, Robert Harris, on May 30, 1994. That letter, which I have just inserted for the RECORD, specifically requests that the stamp be issued by September 16, 1994. One would think that, at the very least, we could have received a response by then.

The letter begins "This is in response to the 35,000 signed petitions . . . ." Let's stop right here. Mr. President, I received that many petitions during my years in the other body alone. The Veterans' organizations have certified to me that there have, in fact, been hundreds of thousands of petitions sent to the Postal Service on this issue. I am not saying that the Postal Service needs to count every one of these petitions, although you would think that when someone goes through the trouble of signing and mailing a petition, they ought to be acknowledged. But there out to be some way to keep a close estimate of how many petitions have come in.

The first sentence goes on to acknowledge our request that the stamp be issued by September 16, 1994. This is correct, we did request that the stamp be issued on September 16. Although, given that Mr. Runyon's letter is dated September 20, 1994, the September 16 deadline would seem to be a moot point.

The next sentence:

The U.S. Postal Service supports the concept of publicizing information and scheduling events to increase public awareness of the continuing plight of locating and releasing POW/MIAs.

The most ironic part of this sentence is that the Postal Service supports the concept of publicizing information. Every year, we call the Postal Service to find out whether the POW/MIA stamp is even up for consideration by the Citizen's Stamp Advisory Committee. The Postal Service has always strongly maintained that it could not publicize this information. To correct that problem, I may well introduce legislation next Congress to require the Citizens's Stamp Advisory Committee to adhere to all of our Federal "government in the sunshine" laws. I know that the operations of the Citizens Stamp Advisory Committee were of concern to my friend Senator STEVENS, the ranking Republican on the subcommittee with jurisdiction over these issues, since, during the 102d Congress, he introduced legislation to restructure the Stamp Advisory Committee.

The letter goes on to say:

As noted in your recent correspondence to us, we issued a commemorative POW/MIA stamp over 23 years ago on November 24, 1970. While 23 years may have passed since the issuance of this stamp, it still remains a one-time occasion, in competition with many other historical events.

This is a bit confusing to me. First of all, as I understand the same approval guidelines, we are only supposed to allow a 10 year period between issuing stamps treating the same subject. That period has obviously long-since expired. I would like to ask unanimous consent that a report by the Congressional Research Service entitled "Commemorative Postage Stamps: History, Selection Criteria, and Revenue-Raising Potential," be included in the RECORD at the conclusion of my remarks. I would point out for my colleagues that the Senate's original letter specifically addresses the issue of how a POW/MIA stamp meet these criteria.

Second, and most importantly, what does Mr. Runyon mean by "it still remains a one-time occasion"? If any of my colleagues could help me figure this one out, I would appreciate it. I hope he is not implying that we should

only care or be concerned about these Americans only once in a lifetime. There were still many POW's in Vietnam in 1970, when the POW/MIA/KIA stamp was issued. But, Vietnam was certainly not the only place in which Americans were held as prisoners of war, and if Mr. Runyon is implying that the taking of prisoners was a one-time occasion in Vietnam, he is sorely mistaken. Frankly, I have tried to see Mr. Runyon's point here, and I cannot see how he can consider the plight of American POW's and MIA's to be a one-time occasion, because it certainly is not.

Frankly, I would like to know what the Postmaster General considers a one time occasion. I would assume that the Moon landing would be a one time occasion. That was a truly historic occasion, and I can remember watching it. Of course we ought to have a stamp honoring that occasion, and the men who took that giant step for mankind. They risked their lives so that they could spend a long extended period of time in a cramped, uncomfortable environment, terrified, and uncertain of their fate. It is perfectly appropriate that we pay tribute to their achievement. That is why, since that time, there have been no fewer than five different stamps treating the subject of the Moon landing. There have also been numerous others treating the overall subject of space exploration. But, Mr. President, at the same time that all of this great achievement took place, there were American soldiers held in Vietnamese prison camps, suffering inhuman conditions, and facing near-certain deaths. They risked everything so that we might have our freedom. They are as deserving as anyone of commemoration.

Mr. President, I would only like to make three more points on the subject of the one time occasion. First, the Moon landing was, in fact, an occasion. But, POWs and MIAs are people. To commemorate them is not to commemorate some one-time occasion, because, in fact, we can not point to any one occasion that exemplifies their heroism. We commemorate the soldiers themselves, not any related event. Second, I would say that, even if it were a one-time event, that is not an adequate excuse as to why the Postal Service refuses to issue a stamp. That is pointed out by the fact that the Moon landing has been the subject of numerous stamps in a shorter amount of time. Third, one might say that the Moon landing has much broader appeal. I would disagree in the strongest possible terms. Evidence of this is the fact that hundreds of thousands of Americans have signed and mailed petitions to the Postal Service requesting a POW/MIA stamp. At the same time, the Postal Service has been forced to run paid television advertisements to sell their space exploration stamp.

My point is not that there is anything wrong with space stamps. I am one of the strongest supporters of space exploration, and I believe it is a perfectly appropriate subject for commemorative stamps. And they do have a broad appeal. Everyone loves space exploration. But, my point is that, if the Postal Service's main criteria for choosing stamp designs is what will sell—as I personally believe it should not be—but if that is their criteria, they could not pick a stamp with a larger popular appeal than the POW/MIA stamp.

Mr. President, the whole issue of this being a one-time occasion brings up an important point. When many people think about POWs and MIAs, they think about the Vietnam war. This is understandable. But, more recently, the issue took on a special meaning for me when I watched Michael Durant, one of my constituents from Berlin, NH, bravely standing before the television cameras while he was being held captive in Somalia. Mr. Durant was thankfully returned home to his family, and I had the honor of attending an event in Berlin paying tribute to Mr. Durant. But, not every POW was returned to his family. In fact, as television cameras graphically depicted, some were beaten to death and dragged through the streets of Mogadishu. Sadly, they will not be returned to their families to be honored with celebrations and parties. The least we can do is to issue a commemorative stamp which pays tribute to their bravery. And we should also be paying tribute to those who remain unaccounted for as a result of their military service during World War II, the Korean war, and the cold war. There are several hundred military personnel from these wars whose fates remain unknown to this day. There are even servicemen from the Persian Gulf war whose remains have not or cannot be recovered by the United States. We should be paying tribute to all of these personnel who made the ultimate sacrifice.

Now, Mr. President, comes the most interesting and pathetic part of Mr. Runyon's letter. In light of Mr. Runyon's unyielding reluctance to issue a stamp honoring POWs and MIAs, he suggests a compromise. We compromise all the time around here, so I was interested to read on and hear him out. But, by virtue of the compromise he suggests, which is the whole point of his letter, I can come to no conclusion other than the fact that he did not even bother to carefully read the letter signed by 82 Senators. Mr. Runyon writes as follows:

> In view of these known realities, we would like to recommend for your consideration an alternative to the issuance of another POW/MIA stamp.
>
> Our suggested option to the POW/MIA commemorative stamp emphasizes the need for a greater national appeal. In doing so, we realize that any relating commemorative events should include not only the efforts of the Postal Service, but that of Congress, State, local and Federal agencies, and POW/MIA organizations. In view of the prospective to both broaden and heighten the emphasis on this issue, we recommend that in 1995, Congress establish a national, annual recognition period (day, week, or month) to honor POW/MIAs.

Until now, I had thought that the Postal Service had been about as unresponsive as it could possibly be. This alternative proposal proved me wrong. First of all, as my colleagues know, for the past 10 years, Congress has passed annual resolutions calling on the President to issue proclamations in observance of National POW/MIA Recognition Day. I would have hoped that the Postmaster General would have known that, particularly in light of the large number of Postal Service employees who are veterans. But, he is a busy man, and I guess he cannot be responsible for knowing all of these things. The fact that irritates me is that it was clearly stated in our original letter that September 16, 1994, was National POW/MIA Recognition Day. The fifth paragraph of our letter states as follows:

> National POW/MIA Recognition Day is scheduled for September 16, 1994. We suggest that this would be an excellent target date for the unveiling of the stamp.

Even if he hadn't read the letter, you would think that, after 14 weeks, his staff could have done some research about what had been done to honor POWs and MIAs. Second, how can Postmaster Runyon acknowledge our request for the issuance of a commemorative stamp on September 16, and ignore the very reason that request was made. I could say that perhaps Mr. Runyon overlooked the part about POW/MIA recognition day, but it is inconceivable that that is so. The only place that the September 16 date was mentioned in our letter was when we said "National POW/MIA recognition day is scheduled for September 16, 1994." It does not appear anywhere else in the letter. Yet, Mr. Runyon acknowledges the September 16 date in the very first sentence of his letter, and he goes on to offer his brilliant idea, his compromise, to use his own words, as an alternative to our stamp request. He does so as if it had not even occurred to any of us, and as if he was in some special position to offer such a proposal.

Mr. President, this is no compromise. Furthermore, this is not an oversight. As it is impossible to conclude that this was an error, the only conclusion I can make is that this is a blow off. Pure and simple. Postmaster Runyon does not want a POW/MIA stamp, for whatever reason. He ought to just say so. This is an attempt to appease the hundreds of thousands of petitioners and the 82 Senators who have have expressed their strong desire for a POW/MIA stamp. But, Mr. President, it doesn't fly.

Mr. Runyon goes on to write:

In its efforts to make certain that such an annual event receives full attention and recognition, the Postal Service would support the activities initiated by the Veterans Administration or other lead governmental organizations. This could be accomplished by reminding our 700,000 employees of the event through the creation of a generic special cancellation for use at local ceremonies. Additionally, the creation of a cancellation die hub could be used to cancel mail at selected locations.

These are things that Mr. Runyon could have and should have been doing all along. Why did he not remind his 700,000 employees of POW/MIA recognition day this year. A resolution was passed by both Houses of Congress. The Postal Service has an entire legislative department that monitors legislative developments. Someone should have taken notice when Congress declared September 16, 1994, to be POW/MIA recognition day. If not, Mr. Runyon was made aware of this upcoming recognition day when 82 Senators wrote to him. Finally, if he had not noticed any of that, President Clinton himself issued a Presidential proclamation calling for the observance of POW/MIA recognition day. I ask unanimous consent that President Clinton's proclamation be inserted in the RECORD at this point.

The proclamation follows:

NATIONAL POW/MIA RECOGNITION DAY, 1994—A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

This year marks the 50th anniversary of America's participation in the largest single amphibious assault in history. Considered by many to be a turning point in the Second World War, the D-Day invasion at Normandy serves as a clear reminder of our Nation's long-standing commitment to fight for the principles of democracy and to defeat the forces of oppression.

We must always remember the dedication and sacrifice of our service men and women who, throughout our history, have risked their lives to preserve freedom for future generations. As a Nation, we are forever indebted to these outstanding Americans for their selfless devotion to duty. In expressing our gratitude, we should also pause to recognize those patriots who were held as prisoners of war and those who remain unaccounted for as a result of their heroic service.

On September 16, 1994, the flag of the National League of POW/MIA Families, a black and white banner symbolizing America's missing, will be flown over the White House; the Capitol; the U.S. Departments of State, Defense, and Veterans Affairs; the Selective Service System headquarters; the Vietnam Veterans Memorial; and national cemeteries across the country. This flag is a powerful reminder to people everywhere of our country's firm resolve to achieve the fullest possible accounting of every member of the United States Armed Forces.

On this day, we pay tribute to our missing service members and civilians. In their names, we reaffirm our national commitment to securing the return of all Americans who may be held against their will and to repatriating all recoverable remains of those who died in service to our country. That effort ranks among our highest and most solemn national priorities. America's heroes, and their families and loved ones, deserve no less.

The Congress, by Senate Joint Resolution 196, has designated September 16, 1994, as "National POW/MIA Recognition Day" and has authorized and requested the President to issue a proclamation in observance of this day.

Now, Therefore, I, William J. Clinton, President of the United States of America, do hereby proclaim September 16, 1994, as National POW/MIA Recognition Day. I ask that every American take time to honor all former American POWs, as well as those service members and civilians still unaccounted for as a result of their service to our great Nation. I encourage the American people to recognize the families of these missing Americans for their ongoing dedication to seek the truth and for their determination to persevere through many long years of waiting. Finally, I call upon State and local officials and private organizations to observe this day with appropriate ceremonies and activities.

In Witness Whereof, I have hereunto set my hand this fourteenth day of September in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.

WILLIAM J. CLINTON.

Mr. SMITH. My colleagues will note that the President calls on "State and local officials and private organizations to observe this day with appropriate ceremonies and activities," the very same suggestions that Mr. Runyon makes in his "compromise proposal."

Mr. Runyon's concluding paragraph states as follows:

We strongly believe that an annual recognition event would have more impact and generate more public awareness than issuing another one-time commemorative stamp.

First of all, it is ludicrous to say that a National Recognition Day would generate more public awareness than a commemorative stamp. Evidence of this fact is that neither Mr. Runyon or any of his deputies who wrote this letter has any idea that there already is a POW/MIA Recognition Day, and has been for the past 10 years. Everyone uses stamps. I suspect that a first-class POW/MIA stamp—29 cents or whatever the going first-class rate is at the time that it is issued—would be that most popular stamp issued. As popular as Popeye, Marilyn Monroe, and Elvis may be, I think that a stamp honoring our American POWs and MIA's would have a much broader and more serious appeal. Certainly, it would be more in keeping with the traditional role of stamps calling attention to outstanding Americans, historic events, and national goals.

Finally, Mr. Runyon states "With that thought in mind, we would appreciate your careful consideration of our proposal." Mr. President, as the author and sponsor of Senate Joint Resolution 196, designating September 16th as National POW/MIA Recognition Day, I can tell you that this certainly was not Postmaster Runyon's proposal. Nor, Mr. President, do I claim ownership for the proposal. The recognition day initiative belongs to the thousands of families of POW's and MIA's. It belongs to the millions of veterans and their families and friends. It belongs to the POW's and MIA's themselves, many of whom we are still trying to account for.

So, Mr. President, in conclusion, I am not going to consider Mr. Runyon's proposal, because it is not a proposal. What he proposes has already existed for over a decade. His letter is, therefore, an affront to every American who has worked so hard to gather signatures, and to push for this simple stamp. More importantly, it is an affront to all American prisoners of war, whether they came home or are still missing. Issuing a POW/MIA stamp is a simple gesture that Mr. Runyon could do in an afternoon. He did it in a heartbeat when he wanted the AIDS stamp. He could do it now. What I am going to consider is offering legislation, identical to the legislation I offered last year, mandating that Postmaster Runyon issue a POW/MIA stamp. It had 65 cosponsors and passed the senate unanimously as an amendment. I was told that it was stripped from the underlying bill by a handful of conferees because they did not want to create a precedent for Congress to mandate stamps. I was urged to go through the normal channels in trying to encourage Mr. Runyon to make this simple gesture.

But, now, Mr. President, having gone through every nonlegislative channel, I have come to the conclusion that Postmaster Runyon simply does not want to issue a POW/MIA stamp. Perhaps it is because it is not politically correct, like many of the other stamps the Postal Service has issued during Mr. Runyon's tenure. Whatever the reason, it is not good enough for this Senator, and it is time for Congress and the American people to step in.

CRS REPORT FOR CONGRESS—COMMEMORATIVE POSTAGE STAMPS: HISTORY, SELECTION CRITERIA, AND REVENUE-RAISING POTENTIAL

(By Bernevia M. McCalip, Analyst in Business and Government Relations Economics Division)

SUMMARY

One of the most successful revenue-raising programs, other than the sale of regular postage stamps, operated by the U.S. Postal Service (USPS) is the commemorative stamp program. The technical name for stamp collecting is philately. A major portion of philately involves the printing, buying, selling, and collecting of commemorative stamps. In fiscal year 1991, philatelic sales generated an estimated $191 million in revenues, a 24-percent increase over 1990.

In fiscal year 1991, the USPS produced 110 new stamps and stationary items in honor of anniversaries, notable people, and special events. According to Postmaster General (PMG) Marvin Runyon, fewer commemorative stamps will be issued in 1993 in response to collectors' complaints about the number of new stamps issued and concerns that the

current level of commemoratives issued diminishes the value of stamps and drives collectors away.

To help in the selection of commemorative stamps, the PMG seeks the aid of its Citizens' Stamp Advisory Committee. The Committee considers each stamp proposal and advises the PMG on stamp selection and design after which the PMG makes the final selections. The process of selecting commemorative stamps is a complex procedure guided by twelve basic criteria.

In recent years, the production and quality of commemorative stamps have raised various concerns among policymakers and stamp collectors. These concerns were the primary focus of congressional hearings held in 1991 by the House Post Office and Civil Service Subcommittee on Postal Operations and Services.

Since 1971, when the Post Office was reorganized, commemorative stamp sales have been viewed as an important and much needed revenue-raising function of the USPS. In the United States, the number of stamp collectors is estimated at 15 million, making stamp collecting one of the most popular hobbies in the United States if not in the world. Thus, a "well-chosen" stamp design can generate millions of dollars in postal revenues.

THE USPS COMMEMORATIVE POSTAGE STAMP

In addition to its regular line of postage stamps, one of the major activities of the USPS is the issuance of commemorative stamps. Since these issues focus on an important event, person, or theme, the selection of subjects and design of these stamps can be both controversial and financially rewarding to the USPS. Consequently, the USPS has developed a structured procedure to deal with the commemorative stamp process and, for economic reasons, to consider the revenue-raising potential through effective marketing.

The first commemorative postage stamp was issued in 1893 commemorating the historic Columbian Exposition. This series of 16 Columbian stamps was among the first postage stamps in the United States to feature pictures of other than portraits of Presidents or other famous people. The success of the Columbian stamp series prompted the Post Office to continue offering stamps to mark historic events and thus, the commemorative stamp became a regular feature of the Postal Service. Later, commemoratives were expanded and now include social issues such as conservation, employment of the handicapped, and higher education.

Commemorative stamps are printed in limited quantities in specific postage rate denominations and are sold in local post offices for specified periods. When the supply of commemorative issues is no longer available from the Postal Service, the issue is only available through buying, selling, and trading among the estimated 15 million stamp collectors and dealers in the United States.

The selection of subjects for commemoratives is a difficult and complex task, one which requires the aid and expertise of a Citizen's Stamp Advisory Committee. The Committee, made up of private citizens, reviews all proposals for the Postmaster General. In fiscal year 1991, the Postal Service received over 13,000 letters proposing more than 3,800 stamp issues.[1] Of the 3,800 stamp suggestions received, 110 stamp and postal stationery items were approved for commemoration and printed for distribution to the public.

In recent years, the Postal Service's stamp program has been criticized by collectors for issuing to many commemoratives, as well as producing too many stamps of a particular issue. Concerns are that too many stamps not only diminish the value of the hobby but drive collectors away. Postmaster General (PMG) Marvin Runyon, a former collector himself, has placed new persons in management positions, including those affecting the commemorative stamp program. Consequently, only 63 commemorative stamps are planned in 1993, a significant reduction in the number of commemoratives issued in 1992.

What additional effect the reorganization within the USPS' management level will have on the commemorative stamp program is unclear. Also unclear is how many of the current commemorative stamp functions will be retained by the Postal Service under a restructured program. One popular element of the stamp program is "first-day ceremonies" (the day that new stamps are unveiled) to the public. PMG Runyon has publicly announced that first-day ceremonies will continue, although the question as to who will arrange the events has not been addressed to date. Nevertheless, since the Postal Service is now in the midst of a major cost-reduction program, the revenue-raising potential of commemoratives could be a factor in deciding future stamp activities. And, although the positions of many Postal headquarters personnel previously assigned to arrange events such as the first-day ceremonies have been eliminated under the management restructuring plan, such authorized events could be managed by postal officials at the local level.

THE CITIZEN'S STAMP ADVISORY COMMITTEE

The Citizen's Stamp Advisory Committee was established in the former U.S. Post Office Department in March 1957 by the Postmaster General to "provide the Post Office Department philatelic, history, and artistic judgment and experience influencing the subject matter, character, and beauty of postage stamps." Carried over into the new USPS in the 1970 Postal Reorganization Act (P.L. 91–375), the Committee operates under the powers granted in Title 39 U.S.C., section 404(4)(5) and consists of a cross-section of experts in American art, business, history, technology (stamp design), culture, and philately. The members of the Committee serve at the pleasure of the Postmaster General for indefinite periods. The Committee now consists of eleven members, none of whom are postal employees.

The primary responsibility of these eleven members is to review and appraise all proposals for stamp subjects and to make recommendations for stamp subjects and design to the Postmaster General who has the exclusive and final authority to determine both subject matter and designs for U.S. postage stamps and stationery.[2] Because the Committee does not operate under a budget and meets about every eight weeks to carry out its statutory responsibilities, a considerable amount of research and work is required prior to a Committee meeting. To speed up the Committee's task, research employees of the USPS' Stamp Management Office receive and analyze all stamp subjects upon initial receipt. Subcommittees are formed among researchers by special theme such as sports, medicine, transportation, Black heritage, and performing arts to provide additional background and research if it becomes necessary. Occasionally, commemorative ideas require additional research into the subject to further "explore the idea's merit or to come up with a strong visual angle."[3] All supporting materials are then presented to the Committee along with the suggestions.

CRITERIA FOR SELECTING COMMEMORATIVE STAMPS

As a basis for its recommendation to the Postmaster General, the Citizen's Stamp Advisory Committee has outlined twelve standards for considering suggested commemorative stamp subjects.

1. It is a general policy that U.S. postage stamps and stationery primarily will feature American or American-related subjects.

2. No living person shall be honored by portrayal on U.S. postage.

3. Commemorative stamps or postal stationery items honoring individuals usually will be issued on, or in conjunction with, significant anniversaries of their birth, but no postal item will be issued sooner than 10 years after the individual's death. The only exception to the 10-year rule is the issuance of stamps honoring deceased U.S. Presidents. They may be honored with a memorial stamp on the first birth anniversary following death.

4. Events of historical significance shall be considered for commemoration only on anniversaries in multiples of 50 years.

5. Only events and themes of widespread national appeal and significance will be considered for commemoration. Events or themes of local or regional significance may be recognized by a philatelic or special postal cancellation,[4] which may be arranged through the local postmaster.

6. Stamps or postal stationery items shall not be issued to honor fraternal, political, sectarian, service or charitable organizations which exist primarily to solicit and/or distribute funds, commercial enterprises; or a specific product.

7. Stamps or postal stationery items shall not be issued to honor cities, towns, municipalities, counties, primary or secondary schools, hospitals, libraries or similar institutions. Due to the limitations placed on annual postal programs and the vast number of such locales, organizations and institutions, it would be difficult to single out any one for commemoration.

8. Request for observance of statehood anniversaries will be considered for commemorative postage stamps only at intervals of 50 years from the date of the State's first entry into the Union. Requests for observance of other State-related or regional anniversaries will be considered only as subjects for postal stationery, and only at intervals of 50 years from the date of the event.

9. Stamps or postal stationery items shall not be issued to honor religious institutions or individuals whose principal achievements are associated with religious undertakings or beliefs.

10. Stamps or postal stationery items with added values referred to as "semi-postals," shall not be issued.[5] Due to the vast number of worthy fund-raising organizations in existence, it would be difficult to single out specific organizations to receive such revenue. There also is a strong U.S. tradition for private fund-raising for charities, and the administrative costs involved in accounting for sales would tend to negate the revenues derived.

11. Requests for commemoration of significant anniversaries of universities or other institutions of higher education shall be considered only in regard to Historic Preservation Series postal cards featuring an appropriate building on the campus.

12. No stamp shall be considered for issuance if one treating the same subject has been issued in the past 10 years. The only exceptions to this rule will be those stamps issued in recognition of traditional themes

Footnote at end of article.

such as Christmas, U.S. Flag, Express Mail, Love, etc.

The USPS encourages the submission of subjects for commemorative postage stamps to the Committee at least three years prior to the proposed date of issuance to allow sufficient time for consideration, design, and production. Suggestions may be addressed to the Citizen's Stamp Advisory Committee, 475 L'Enfant Plaza, Room 4474E, Washington, D.C. 20260-6756.

Congressional involvement in the commemorative stamp process

In the selection and design of commemorative stamps, only the Postmaster General has the statutory authority to approve and issue such stamps. However, Members of Congress are generally requested by their constituency to support a particular commemorative theme or event. In doing so, a Member may choose to write the Postmaster General expressing support for a particular stamp proposal. In some cases, Members have introduced a House Resolution calling for the issuance or non-issuance of a stamp to commemorate a specific proposal. In the 102d Congress, nine such resolutions were introduced addressing the issue of commemorative stamps.

REVENUE RAISING POTENTIAL

Since operation of the Postal Service in 1971, the selection of commemorative stamps has been viewed as an important and necessary revenue-raising function. A "well-chosen" stamp design can generate millions of dollars in postal revenues. Consequently, a keen marketing strategy is also included as part of the commemorative stamp process.

Estimating revenues generated from the sale of commemorative related products is difficult, mainly because commemorative sales are not counted separately from the sale of other stamps and stamp products. Therefore, the Postal Service cannot accurately determine which stamps or products are actually used as postage and which are held by purchasers and not redistributed through the mail stream.

However, the Postal Service, in an attempt to gain some knowledge of how successful its commemorative program is, conducts annual surveys. The USPS' records show that the commemorative postage stamp program, other than the sale of regular postage stamps, is one of the most successful revenue-raising activities of the U.S. Postal Service. Although only a small proportion of the USPS' total revenue (less than one-half of one percent), the USPS estimated that $191 million was generated from the sale of commemorative stamps and postal stationery in fiscal year 1991. The Postal Service, in its 1991 *Comprehensive Statement on Postal Operations* (p. 52), noted that the Postal Service stamp program continues to generate the interest and enthusiasm of stamp collectors and the public.

Over the past several years, the USPS' commemorative sales marketing strategy has changed and at times has generated controversy. Until recent years, stamps celebrating historic Americans and events were the mainstay of the commemorative stamp program. According to Postmaster Runyon, while stamps honoring or featuring historic Americans or events are historically important, they have relatively little revenue potential. While stamps commemorating flowers, sport horses, entertainers (e.g., Elvis Presley) etc., generate some degree of controversy, the USPS has determined that the sale of such stamps have a greater revenue-raising potential. While it is expected that stamps commemorating historic Americans or events will not be significantly cut, stamp collectors and the public can expect much less of the old and much more of the "big attention-getters" such as the Elvis Presley stamp.[6]

FOOTNOTES

[1] There are rare occasions when the Postmaster General may select a commemorative stamp absent the Stamp Advisory Committee's recommendation.

[2] Three items of postal stationery are popular with collectors: embossed stamped envelopes, postal cards, and aerogrammes.

[3] Birth of a Stamp is a Sticky Issue. Insight, July 4, 1988. p. 61.

[4] Special postal cancellation is a phrase to commemorate a local event used by the Postal Service to cancel stamps.

[5] Semi-postals are stamps with a surcharge over and above the usual postage rate, with the extra revenue earmarked for a designated charity or government program.

[6] Stamp Trail to Oregon, Washington Post, Weekend, November 27, 1992. p. 78.●

AQUATIC WEED MANAGEMENT

● Mr. COCHRAN. Mr. President, a growing problem faces the water resources of our country. The inadvertent introduction of exotic plant species from Europe and Asia, such as Eurasian watermilfoil and hydrilla, is a nationwide ecological disaster in the making.

These nuisance aquatic weeds are rapidly choking our freshwater bodies, crowding out native and endangered aquatic species, hindering shipping lanes, restricting recreational activities, causing waterfront property values to drop, and restricting water flow through irrigation canals, drainage ditches and hydroelectric intake screens and turbines.

There are several methods of aquatic weed management, but very limited dollars are earmarked for solving this growing problem. State ecologists, fish and wildlife experts, and waterbody managers are convinced that safe, selective tools are available for controlling these nuisance weeds and restoring the ecological balance of our waters. States simply need funding to get the job done.

Therefore, I hope when we consider the Interior and related agency appropriations for fiscal year 1996, we will take a serious look at providing funding for States to institute effective methods of aquatic weed management.●

ORDER FOR STAR PRINT—S. 1991

Mr. KOHL. Mr. President, I now send to the desk and ask unanimous consent that a star print be made of S. 1991, the Professional Boxing Safety Act, in order to correct an inadvertent omission when the Senate Commerce Committee reported this matter on September 28.

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

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1098, 1099, 1100, 1143, 1145, 1179.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Paul M. Igasaki, of California, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1997.

Paul Steven Miller, of California, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1998.

Gilbert F. Casellas, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1999.

DEPARTMENT OF DEFENSE

Philip Edward Coyle, III, of the District of Columbia, to be Director of Operational Test and Evaluation, Department of Defense.

Jan Lodal, of Virginia, to be Deputy Under Secretary of Defense for Policy.

DEPARTMENT OF LABOR

Timothy M. Barnicle, of Maryland, to be an Assistant Secretary of Labor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993—MESSAGE FROM THE HOUSE

Mr. MITCHELL. Mr. President, I ask the chair to lay before the Senate a message from the House on S. 3.

The Senate resumed consideration of the message from the House.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Friday, September 30; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate resume consideration of the motion to request a conference with the House on S. 3, campaign finance reform, with the time until 9:30 a.m. for debate on the motion to invoke cloture on the motion to request a conference; and that the time be equally divided and controlled between Senators BOREN and MCCONNELL, or their designees; that at 9:30 a.m., the Senate vote on the motion to invoke cloture.

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

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:33 p.m., recessed until Friday, September 30, 1994, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1994:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PAUL M. IGASAKI, OF CALIFORNIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1997.

DEPARTMENT OF DEFENSE

PHILIP EDWARD COYLE III, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

JAN LODAL, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY.

DEPARTMENT OF LABOR

TIMOTHY M. BARNICLE, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, September 29, 1994*

The House met at 10 a.m.

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

When we see the opportunities of the new day, O God, may we remember the beauty of Your creation in all the world; when we see people become whole and experience the fullness of life, may we give thanks for healing in body, mind, and spirit; when we see anger turn to kindness and estrangement turn to conciliation, may we express our gratitude to You, O God, for Your grace and Your mercy and Your peace. In Your 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. HEFLEY. 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. HEFLEY. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 1, rule I, the vote will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. VISCLOSKY] come forward and lead the House in the Pledge of Allegiance.

Mr. VISCLOSKY 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.

THERE IS NO FREE LUNCH UNLESS YOU ARE RICH

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

Mr. VOLKMER. Mr. Speaker and Members of the House, "There is no free lunch unless you are rich." This should be the motto of the Republican Party. In 1980 Republicans said they could cut taxes, increase defense spending, and balance the budget. They cut taxes for the richest Americans by over half and increased defense spending by massive amounts. Did they balance the budget? Hardly, as our debt increased by $3 trillion or $12,000 for every American, under this supply side economic plan. This week Republicans called their fold together to sign a contract for their plan of action. What is their plan? Cut taxes for the rich, increase defense spending, and balance the budget. After offering their plan they then partied with those that will benefit the most, special interests and fat cats. Do we want another decade of massive deficits when only the Michael Milikins of the world get richer while the middle class, students, and senior citizens pay the way? Americans, watch closely today and see how Republicans vote on the rule and bill to cut off lobbyists. Do they represent you or do they represent special interests?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that it will restrict 1-minute requests to 10 on each side.

THE AMERICAN PEOPLE KILLED HEALTH CARE REFORM

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

Mr. HEFLEY. Mr. Speaker, the leader of the other body has pulled the plug on health care, and do you know who is to blame for no health care reform this year? He says it is the Republicans that are to blame for no health care reform.

Now, maybe I am confused. I thought that the Democratic Party had the majority in both houses and could do anything they could agree upon doing. But, no, it is the Republicans, they say, that are at fault for no health care reform.

Why could he not have just been honest? Why could he not have said we made a mistake? And the mistake we made was letting the American public find out what was in the health care bill. We could have passed it, had the American people not found out.

The people found out they did not want less choice, a giant bureaucracy, major tax increases, rationing, employer mandates, and on and on. So it was not the Republicans and it was not the talk show hosts that killed health care reform in this session of Congress. It was the American people, who found out, and is not it about time we began to listen to the voice of the American people?

REJECT ASSAULT ON SENIORS AND TAX CUTS ON WEALTHY

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

Mr. GEPHARDT. Mr. Speaker, I rise today out of deep concern for America's seniors—the elderly men and women who built this country, and gave us everything we have today.

For generations, the hallmark of the Democratic Party has been our commitment to seniors. That is why we fought for Social Security, even though the Republicans called it "the lash of the dictator." That is why we fought for Medicare, even though the Republicans said it was "socialized medicine."

This week, the Republican assault continues. Virtually every Republican House candidate in this country has now signed a contract with their leadership—a blood oath which many candidates had not even seen before they signed it.

The Republicans pledge to cut taxes for the wealthy, jack up defense spending, and balance the Federal budget.

If you look at the numbers, it is clear that their budget would be balanced on the backs of our seniors.

Since their giveaways to the rich would create a trillion-dollar hole in the budget—since they will not increase taxes or cut defense spending—and since Social Security and Medicare make up 40 percent of all funds available for cutting—they will have no choice but to make deep, devastating cuts in Social Security and Medicare—anywhere from 24 to 33 percent of their budgets in the year 2002.

Think about what a whopping 24-percent cut in a Social Security check would mean to an older American. Think about how a 24-percent Medicare cut would devastate elderly who need quality medical care. Let's face it—when you are living check to check, a tax cut for the wealthy, just does not pay the bills.

Let us reject this assault on seniors—as we have rejected so many Republican assaults in the past. That is in

the best tradition of our party—and the best tradition of human decency as well.

DEMOCRAT LIABILITY INSURANCE

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

Mr. BALLENGER. Mr. Speaker, the Democrats are distorting the record on the Republicans' contract with America. Could it be that they are just afraid of their own, so close to November?

As anyone knows who has read the Republican contract, it lays out 10 proposals that embody America's demand for change in Washington.

Our contract represents not just a promise but a guarantee that we will bring these bills up for a vote if Republicans control the agenda.

Of course, the Democrats not only would never offer a contract with America, they have yet to make contact with America.

Instead the President satisfies himself with reshuffling the White House, while continuing to deal America the same bad hand time and time again. In the administration's policy deck, all the cards seem to be jokers.

The contrast between Republicans and Democrats has never been clearer than it is today. With Republicans, America gets a contract, a guarantee as to what we will do.

With Democrats, America needs to get liability insurance for what they have already done.

COMMENTS ON GOP CONTRACT WITH AMERICA

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

Mr. FAZIO. Mr. Speaker, on Tuesday the Republicans held a giant pep rally on the Capitol steps to show their party unity and their support for their leadership. There they very publicly unveiled and signed the Republican leadership's contract on the American people.

Republican challengers traveled from as far away as California to publicly sign their loyalty to the Republican leadership. Incumbents, however, signed in private. Nobody knows how many of them actually put their name on the line. There was no publicity, no cameras.

The pledge they signed, those who did, indicated openness in government would be their watchword. We are now hoping that the Republican leadership will release names of all those who signed, not just who said they might sign ahead of time.

Now, in press reports we are hearing about people backing down with codicils and caveats, and people who actually did not bother to show up and did not, therefore, follow through on their commitment to sign it. This is an opportunity for the American people to know where people really stand. So we are hopeful that the American people will soon know who it is who believes that the Republican Party, in the midst of an election, should once again sign up for trillion dollar deficits and cuts in Social Security and Medicare. Perhaps those who are not publicly on the list at the moment have come to realize, as we Democrats have, that this contract is really a con on the American people.

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THE FACTS ON THE CONTRACT WITH AMERICA

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

Mr. THOMAS of Wyoming. Mr. Speaker, this week, as has been pointed out, on the steps of the Capitol, Republican Members of the House and Republican candidates from around the country unveiled a contract with America. It is a contract which has caused the Democrat spin doctors to work overtime, and it is driving the Democrats crazy.

The Democrats are visibly upset because the Republicans are going to do something they would never do. We are going to spell out to the American people exactly what will happen when we become a majority next November.

On the first day of the new Congress, we will cut the number of committees and committee staffs. What is wrong with that?

We will impose a three-fifths majority on any bill requiring tax increases. What is wrong with that? We will eliminate proxy voting. How about that one? Would that be all right?

And in the first 100 days, we will vote up or down on a balanced budget. Are they opposed to that? How about a line-item veto? They do not like that one. A crime bill, welfare reform, tax cuts, term limits, none of these appeal to them.

We will guarantee all of this in writing. And if we do not deliver, let our constituents fire us.

Mr. Speaker, there is a reason why Democrats spin doctors are working overtime. The American people are going to embrace the contract, and they are going to elect a new Congress which will honor the terms of this contract.

MORE ON THE CONTRACT WITH AMERICA

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

Mr. VISCLOSKY. Mr. Speaker, recently, Republican candidates were summoned to Washington to sign a contract with their congressional leadership.

The Republican leadership contract claims to balance the budget by cutting taxes for the wealthy and increasing defense spending.

Anyone who believes this, might be interested in the Republican leadership contract diet—you lose all the weight you want by stuffing yourself with cake and ice cream.

These same people might be interested in the Republican leadership contract medical degree—you become a doctor by watching "General Hospital" and "Oprah" every day.

The American people are too smart to be tricked by this plan. Like any snake oil, they know the reality will not match the rhetoric. The Republican contract is the same old voodoo economics that tripled our national debt in just 12 years.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 995) "An Act to amend title 38, United States Code, to improve reemployment rights of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

THE AMERICAN DREAM AND OUR CONTRACT

(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, the American Dream has always been a goal that has drawn people from around the globe to our shores. But more importantly, this vision of success has inspired people to build a brighter and more prosperous future for their families.

It has been said that every American is the owner of this idea. But sadly, after 40 years of half-hearted, hollow promises, this heritage has all but vanished from the American landscape. The Democratic leadership has tried to convince the hardworking public that their policies of a bigger and more costly government are an essential part of our national identity.

Nothing could be further from the truth.

Two days ago, the Republicans in, and those that aspire to this Chamber,

signed an agreement that will begin to restore the public's faith in the promise of the American Dream.

The American Dream Restoration Act is one of the 10 key elements of our contract with America. It tries to right the wrongs of 40 years of one-party political domination.

By our very nature, Americans are hopeful. We live for the promises of a brighter future, and a mere 48 hours ago, we staked our claim to help fulfill this promise.

REPUBLICANS' CONTRACT FOR FISCAL DISASTER

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

Mr. PRICE of North Carolina. Mr. Speaker, if anyone wondered about whether Republicans cared about reducing the Federal deficit or being fiscally responsible, we got a clear and resounding answer on the steps of the House on Tuesday: No.

The Republicans' contract for fiscal disaster would reverse the tremendous progress we have made on reducing the Federal deficit. It is incredible that just when we have succeeded in getting the deficit down for 3 years running—the first time since Harry Truman's administration—the Republicans want to resurrent discredited supply-side economics and blow the deficit sky high.

But you do not have to believe a House Democrat. One Republican Senator has been quoted in the Wall Street Journal as saying the Republican proposal is "just blowing away money." And Martha Phillips of the Concord Coalition said in the Washington Post, "The question is, 'how do you pay for that and does anyone care about the deficit?'"

Our efforts at deficit reduction are too critical to fall prey to a political stunt by the House Republican leadership. I urge those Republicans who signed on so eagerly Tuesday to go back to their homes and let people know they have signed over the interests of their districts to Republican party leaders in Washington without consulting them. And then let them know it will cost a trillion dollars. And after their constituents are revived by smelling salts, I hope they will do the correct thing for their district and the Nation: Remove their name from the Republican contract for fiscal disaster.

CRITICISM OF THE CONTRACT WITH AMERICA DOESN'T PASS THE LAUGH TEST

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

Mr. SMITH of Texas. Mr. Speaker, the House Republican "contract with America" is a bold effort to change politics as usual. The American people are fed up with Congress. Why? Because Democrats in Washington do not listen to the American people.

The contract with America is different than empty political promises. It is literally a contract with the American people that says: if you will give the Republicans the opportunity to lead Congress we will honor your trust by voting on the issues most important to you.

Political promises are one thing, but a signed contract is quite another. The Republican contract with America scares the Democrats in Washington because it is different: the contract is for a balanced budget, a tough crime bill, real welfare reform, and term limits.

Democrats claim that the contract with America will increase the deficit. Coming from the tax-and-spend party, this criticism doesn't pass the laugh test.

Mr. Speaker, the fact is Democrats in Washington don't care about the deficit, they care about holding on to power.

If the Democrats have a better plan than Republicans for America, let us see it.

A CONTRACT OF CONCEPTS, BUT NO DETAILS

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

Mr. JOHNSTON of Florida. Mr. Speaker, Will Rogers enjoyed telling the story of a Republican House Member who was asked by a reporter during World War I how to stop the German U-boats from sinking American ships.

He thought for a minute and said: "Drain the Atlantic Ocean."

The astonished reporter said, "How do you plan to accomplish this?"

The Republican Member simply replied, "I deal in concepts, not in details."

Tuesday my Republican colleagues unveiled their ambitious contract with America.

The Republicans were again asked the question: How do you propose to accomplish your goals without increasing the debt by $1 trillion?

Based on the statements forthcoming from Republicans, they still want to drain the Atlantic Ocean. They are dealing in concepts, Mr. Speaker, not in details.

CONSTITUENT SUPPORT FOR REPUBLICAN CONTRACT

(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, I have talked to my constituents about the Republican contract. I am addressing the Democratic side of the aisle. They see the merit in that contract. They are not worried about the false charges of increasing the deficit, because they know if they reelect a Democratic Congress, we will increase the deficit. Those charges are so phoney, it is unbelievable.

Just look at the bills the Republicans have put forth to cut the deficit, to cut the budget, and Members will see where we get the money. Democrats can get up and talk all they want in general terms about us increasing the deficit. Give us the majority and we will show them how to reduce that deficit and carry out what the American people want.

If they think I am frustrated, they ought to sit on our side of the aisle and watch themselves govern as I have and the American people have, and they will see something change.

□ 1020

FLOW CONTROL

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

Mr. RICHARDSON. Mr. Speaker, along with my colleague, JACK FIELDS, I will offer a bipartisan amendment in the nature of a substitute that sharply curtails the future ability of local governments to exercise complete control of municipal solid waste disposal.

If adopted, this amendment will send a signal that Congress cares more about the environment, more about the free market and more about the future ability of businesses large and small to compete than about the pressure packed pleas of those who have been telling us that local governments need unfettered monopoly power over local solid waste disposal decisions.

The Richardson-Fields amendment addresses the legitimate concerns of local governments by allowing them to continue exercising flow control authority for a limited time but says that future waste disposal decisions should be based on competition not monopoly control.

Our amendment will not saddle waste generators with potential Superfund liability or require them to send waste to substandard facilities.

Our amendment will not open the door for more dangerous waste incinerators to be built.

When the House takes up flow control today, I urge my colleagues to support the Richardson-Fields amendment.

DESPITE PARTISAN ATTACKS, THE PEOPLE WILL SPEAK ON NOVEMBER 8

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

minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, this is for me at least deja vu all over again. Two years ago I had the privilege of being the instrumentality used by the people of the 10th District of Ohio to rid themselves of representation that they did not feel was very good, that did not give them the kind of honest representation in the House they wanted.

What we have seen now with the big dogs coming out first, and everybody else throwing on their smear, is the same exact kind of campaign that I went through. What you are going to see is all kinds of distortions of the record, and it is not about, it is not about representative government, it is about the kinds of things that happen before a group that has had a stranglehold on power for 40 years finally gives it up.

It has only begun. The attacks have only begun. The dirt, the poison, the grotesqueness of the attacks, have only just begun. Just see the pitch go up and up and up and up as money on this side, money, tries to outdo the reality of representing people on this side.

This House does not belong to the Democratic Party any more than it belongs to the Republican Party. It belongs to the people of the United States of America, and they are the ones who will speak on November 8.

MORE EMPTY PROMISES FROM THE GOP

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

Mrs. MEEK of Florida. Mr. Speaker, the Republicans are pouring old wine into new bottles.

Mr. Speaker, in 1980 a group of Republican candidates came to the Capitol steps and pledged that, if elected, they would enact a supply-side miracle that would raise defense spending, cut taxes across the board, and still eliminate the deficit in 4 years.

Ronald Reagan was President, the Senate was controlled by Republicans, and a coalition of conservative Democrats combined with the Republicans and took effective control of the House. They rammed their supply-side quick-fix through the Congress, and claimed it would solve all of our problems.

Well, as they say, "The Rest is History."

We all learned the hard way that neither a family nor a nation can increase spending, cut income, and produce anything but a financial disaster.

After the 1980 mess: Deficits exploded to four times the previous highs; the national debt quadrupled; and the rich rode a gravy train while everyone else paid the bill.

Mr. Speaker, this country has been digging itself out from under the mountain of debt and the terrible unfairness left by that Republican magic. And now in an incredible display of contempt for the intelligence of the American people, House Republicans are betting Americans will have forgotten the wreckage produced by their first contract.

The Republicans now want to do it all over again.

Their latest contract calls for: Another round of defense spending increases, and a longer list of pie in the sky tax cuts.

What they do not tell us is that their contract will do two other things: First, blow a $1 trillion hole into their balanced budget promise; and second, produce another tax windfall for the wealthy while leaving the middle class and the poor behind.

Mr. Speaker, the Republicans are simply looking to the past for answers to the future. This contract is not only reckless but deceptive.

DEMOCRATS ATTACK GOP CONTRACT OUT OF FEAR

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

Mr. WALKER. Mr. Speaker, today we have heard from Democrats who are scared to death of the Republican contract with America because they have totally lost contact with America.

All one has to do is look at the legislation that they are bringing to the House floor today. The so-called lobbying bill turns out to be a massive assault on religious people in America who seek to petition their government.

Not long ago, the chairman of the Democratic Congressional Campaign Committee said that his party was going to launch a political assault on the religious conservatives who have the audacity to think that they should have some say about what their government does. Now we see what he meant. The lobbying bill contains a grassroots gag rule that could result in intimidation of religious groups that seek to speak up for the things they believe.

The Democrats attack the contract with America because they fear the commonsense policies it advocates. Meantime, they propose legislation aimed at shutting up America so they do not have to listen to the complaints about Democrat failures.

ELIMINATE THE CIA AND INVEST IN AMERICA

(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, 20 CIA patriots were assassinated because of a spy named Aldrich Ames. One of the worst breaches of security in American history, and CIA Director Woolsey has finally acted.

Mr. Speaker, the CIA director has reprimanded 11 agents for gross negligence. Beam me up. Not one demotion, not one firing. Does that mean, Mr. Speaker, that they will at least lose their parking privileges? Mr. Speaker, when did Congress make treason a misdemeanor?

We need the CIA about as much as we need more double agents from Russia. I say throw them the hell out and invest in our cities. You will have a safer America, and you will not need all these contracts.

URGING DEFEAT OF THE GRASSROOTS GAG RULE

(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, I urge all of my colleagues to look at page 13 of the conference report on the grassroots gag rule that is being brought to the floor today. It says that churches are exempted from this, and religious orders are exempted from this, "if the communication constitutes the free exercise of religion."

Who is going to decide that? A director appointed by Bill Clinton. As for me, Mr. Speaker, the prospect of a Roberta Achtenburg, of Dr. Elders, or of VIC FAZIO or their ally being appointed to define "the free exercise of religion" I think is a very chilling prospect.

I urge the defeat of this effort to gag Americans at the grassroots level.

COMMEMORATING THE 175TH ANNIVERSARY OF THE ESTABLISHMENT OF THE UNDERGROUND RAILROAD

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

Mr. WATT. Mr. Speaker, today, citizens in my district will commemorate the 175th anniversary of the establishment of the national Underground Railroad. While many people associate the Underground Railroad with the courageous efforts of Harriet Tubman, in actuality the Underground Railroad started in Greensboro, Guilford County, NC, in 1819, 1 year before Harriet Tubman was born.

Founded by Vestal Coffin, a member of the Society of Friends, this slave escape system made it possible, during more than 35 years of operation, for hundreds of thousands of African-Americans to flee from captivity and enslavement. This mysterious transportation system, a primitive system with many routes, was never discovered by the slave owners.

According to "White Water, Colored Water," a history of Greensboro's African-American community, the Underground Railroad began when Greensboro, founded in 1808, was a village only 11 years old.

A slave named Sol assisted Vestal Coffin in preparing many slaves for their escape. By day, Sol sought out slaves who were interested in escaping or who had been free blacks, kidnaped and forced into slavery. He then fed this information to Coffin. In 1819, John Dimrey became the first passenger on the secret escape route traveling from Greensboro to Richmond, IN.

As John Dimrey was traveling north from Greensboro on the Underground Railroad, another African-American man, Benjamin Benson, became the first slave to successfully go to a local court to obtain his freedom. This was in Greensboro, NC. Many will also remember that Greensboro later became the place of the first sit-in demonstrations which launched years of efforts which resulted in the opening of public accommodations to black people.

The Quakers—as the members of the Society of Friends are called—stood against the institution of slavery through the Manumission Society, also based in Greensboro. One of the Quakers, Levi Coffin—cousin of the founder of the Underground Railroad and also a Greensboro native—became the president of the national Underground Railroad system.

I ask all Americans to join me, Project Homestead and Greensboro city officials today in this special remembrance of Sol, Vestal Coffin, Levi Coffin, John Dimrey and others who originated the historic Underground Railroad.

LIBERALS ARE WORRIED

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

Mr. YOUNG of Florida. Mr. Speaker, I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, the liberal Democrat establishment in Washington is worried. Judging from their reaction to the idea of a contract with America it is clear they are afraid—if the American people are given a pledge that is kept, it will ruin their chances of every making empty promises again.

Everyone should be aware that the same people who are upset with the contract with America are the same people who promised to deliver health care in 100 days—2 years ago; the same people who promised a middle class tax cut and raised everyone's taxes instead; the same people who promised to end politics as usual and instead have given us a scandal a week.

Every part of the Republicans' contract with America is supported by the American people. That's what Democrats are worried about.

□ 1030

A VOTE AGAINST GATT

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

Mr. DEFAZIO. Mr. Speaker, I congratulate Senator HOLLINGS for his decision to slow down the GATT—a new world trade agreement that is the culmination of nearly 15 years of radical free-trade-at-any-price policies that have run up more than $1 trillion in trade deficits and made the United States the world's largest debtor nation.

All we hear is that this GATT lowers tariffs. If that is all it did, I might support it. But it goes much further than that.

This GATT creates a new world trade organization—a United Nations of trade—except the United States will have no veto power. The tiny nation of Rwanda will have exactly the same vote and same power in this organization that we will.

A panel of three unelected trade bureaucrats will decide international trade disputes in secret sessions, without any possibility of appeal.

GATT puts every one of our Federal, State, and local laws on the table. If they are challenged as unfair trade barriers, a secret tribunal could order massive trade sanctions against our products and our markets until Congress changed those laws.

U.S. food safety standards could be challenged as unfair trade barriers. U.S. consumers could be forced to accept foreign foods that contain pesticide residues that are illegal under our laws.

U.S. environmental laws—like our automobile mileage standards will be overturned and protections for dolphins and other wildlife—have already been successfully challenged.

The Japanese Government has already said it will challenge our ban on the export of logs from our national forests as an unfair trade barrier. Many State and local laws, like Oregon's bottle bill, could be challenged.

Under the new GATT, faceless trade bureaucrats in Switzerland would aim trade sanctions against our markets that would put huge costs on U.S. consumers—until Congress changed those laws.

And finally, Mr. Speaker, this GATT is a $40 billion budget buster. And to pay for it, the Clinton administration is resorting to gimmicks that would make Ronald Reagan blush.

Senator HOLLINGS is right. Give the American people and the Congress a few months to read the fine print before Congress signs on the bottom line.

Send this turkey back to the White House for Thanksgiving and give the American people a break.

DO NOT SURRENDER OUR SOVEREIGNTY

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

Mr. HUNTER. Mr. Speaker, the President in sending GATT down in an attempt at the last minute to get it through is really doing a disservice to our country. He is doing a disservice particularly to the sovereignty of this country. Eighty-three of the nations that will be members of the WTO, the World Trade Organization, and that will be about two-thirds of the membership, have a record in the United Nations of voting more than 50 percent of the time against America.

What President Clinton is doing is giving away our strong right to bilateral negotiations in trade. He is surrendering that to a committee that does not like us very much. This President is sending our Government to the United Nations, our troops to Haiti, and our jobs to Japan.

CONTRACT WITH AMERICA IS A CONTRACT FOR FAILURE

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

Ms. DELAURO. Mr. Speaker, on Tuesday, Republican Members of this body and Republican candidates from across the country gathered on the steps of the U.S. Capitol to pledge their allegiance to the GOP agenda. That agenda is nothing new. It is the same old combination of increased defense spending and tax cuts for the wealthy that tripled our country's debt in the 1980's.

Of the so-called contract with America, David Broder wrote: "It sounds suspiciously like the fairytale economics of the 1980's, which landed us in this budgetary mess."

The New York Times called the contract "duplicitous propaganda."

The director of Citizens for Tax Justice called the contract "voodoo economics: the sequel."

Now that the reviews are in, Republican candidates across the country are shying away from the contract. And, the Republican leadership will not release the names of the candidates who blindly signed this contract for failure. The same party that led the fight to have discharge petitions made public, now has its own secret list. Let the American people see who signed this contract to cut Social Security and Medicare. Release the list.

PASS REFORM LEGISLATION

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

Mr. BARCA of Wisconsin. Mr. Speaker, today we will bring up for debate a lobby law reform. That is very positive, that at long last this will be brought before us for a debate and final resolution.

But let us not forget the rest of the reform agenda. My understanding is that we are very close to an agreement on election law reform. We passed a strong election law reform bill in this House that was supported by all of the reform groups. We need to pass it. We need more support from our colleagues to team up with the rest of us who are demanding that the Senate bring up the Swett-Shays Congressional Accountability Act. That passed this House nearly unanimously.

Then we need to have a similar kind of bipartisan team effort to call for the rest of the reform agenda: A line-item veto, emergency spending restraint, and baseline budgeting. All of these passed this House by a large majority. Let us team up. Let us ask for colleagues in the Senate. We can still pass it this session. That will bring fiscal responsibility to this Congress once and for all.

CONTRACTS AND PLEDGES SHOULD BE KEPT

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

Mr. STENHOLM. Mr. Speaker, we are talking a lot about contracts today and I could not agree more with the gentleman who said that contracts and pledges should be kept. I found it very ironic that yesterday on the agriculture reorganization bill, the first recorded vote that this body, after a contract has been signed for reform and making changes, that 171 of my colleagues on the Republican side of the aisle, and 6 on this side voted against reform and change.

As the chairman of the committee that has worked very hard for over 2 years with the previous administration as well as this administration, I found it very ironic that on the first recorded vote of keeping a pledge for change and reform and saving money, we vote different than what we pledge.

I say in a very, very sincere way: Whatever we do or say in this campaign on whatever issues we say, we must be prepared to come to this floor and vote the same way that we say.

VOTERS BEWARE OF TRICKS

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

Ms. SHEPHERD. Mr. Speaker, voters should beware of election year tricks.

It is a trick to propose a plan that pretends to cost nothing, but that adds $1 trillion to the Federal deficit.

It is a trick to support reform in word and then vote against it on the floor.

The latest trick is the assertion that the lobbying reform bill threatens grassroots religious efforts.

The Lobbying Disclosure Act has received the support of the U.S. Catholic Conference, the Baptist Joint Committee, and the Religious Action Center of Reform Judaism. The Joint Baptist Committee says that the language of the bill and the report "protects the free exercise of rights of Churches and religious organizations. * * *"

Mr. Speaker, today the real reformers will stand up and be counted by voting "yes" on the rule and then "yes" for adoption of the Lobbying Disclosure Act.

TIME FOR A CHANGE

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

Mr. BURTON of Indiana. Mr. Speaker, I have heard my Democrat colleagues come to the floor today attacking our contract with America because they are scared to death. They have lost election after election after election this year. The Speaker only got 35 percent of the vote in his own district. They are all terrified.

I would like to ask them, what is wrong with making a contract with America that says we will bring to the floor of the House a balanced amendment to the Constitution? They do not want to do that. What is wrong with bringing a line-item veto piece of legislation to the floor for a vote? They do not want to do that. What is wrong with tax fairness for senior citizens, where they go on Social Security and right now they are penalized if they work. We are going to change that if we get a chance, but they do not want to do that because they say it is going to take money away from the Treasury that they want to spend on more and more new social programs.

If we cut taxes, we put more money in Americans' pockets that they can spend and create an economic boom that brings in more taxes because more people are working. But they do not want to do that. They believe Government knows best how to spend your money. We do not believe that. That is why we want to change. They have had control for 40 years. It is time for a change, America.

We are going to bring these things to the floor so you will get what you want out of Congress, not what they are giving you, more and more government.

REPUBLICANS WILL BALANCE BUDGET

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

Mr. SOLOMON. Mr. Speaker, I sure am glad that 16 years ago I did not move to Washington after I was first elected to the House. I have been going home every weekend, because people outside the beltway think differently than the Democrats. I just cannot believe Democrats stand up here and complain when we Republicans want to take money out of the way of the Government and give it to the people. What in the world is wrong with that?

Democrats say that we Republicans want to balance the budget and that this is going to cost $1 trillion. Ladies and gentlemen, that is going to save $1 trillion. The balanced budget alternative that I offered on this floor back in April actually cut the deficit by $750 billion. That did not cost the taxpayers, it saved the taxpayers. Who did it cost? It cost the Government bureaucrats.

Give us 218 Republicans and we will pass not just the balanced budget amendment, but a balanced budget as well. We will give the American people back $750 billion.

□ 1040

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3949

Mr. FROST. Mr. Speaker, I ask unanimous consent my name be withdrawn as a cosponsor of H.R. 3949.

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

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 544 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 554

Resolved, That all points of order against the conference report to accompany the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, and against its consideration are waived.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself

such time as I may consume. All time yielded during the consideration of this resolution is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 554 waives all points of order against the conference report to accompany H.R. 4650, the Department of Defense appropriation for fiscal year 1995, and waives all points of order against the consideration of this conference report.

Mr. Speaker, indeed all of the bills which appropriate funds to operate our Government are important, but the events of the past year, and certainly of the past few weeks, show the critical importance of the appropriations bill for the Department of Defense. This conference report appropriates $243.6 billion for defense programs which is $3.5 billion more than the amount appropriated for the current fiscal year.

The conference agreement contains $299 million to pay for the relief operations in Rwanda and Guantanamo, as well as recent rescue operations off Haiti and Cuba. These funds do not, however, fund the costs associated with Operation Restore Democracy; the administration will submit a request for those funds with their budget request next year. The $299 million is provided to replenish operations funds which have been drawn down in order to fund the Cuba and Haiti humanitarian programs.

The conference agreement also contains $467 million in research and development funds for the V-22 Osprey. I was gratified earlier this month when the Defense Acquisition Board recommended that the Department of Defense go forward with production of this vital new aircraft. Because the Osprey was included in a list of defense programs the Deputy Defense Secretary sent to the Defense Resources Board to consider for reduction or cancellation, the DAB recommendation is especially important. The events in Haiti certainly point to how valuable the capabilities of the V-22 would be to the Marine Corps and I commend Chairman MURTHA and his subcommittee for their continued support for this important defense program.

The conference agreement also contains $2.9 billion for missile defense systems, $2.2 billion for a new aircraft carrier, and $2.2 billion for six C-17 transport planes. But, in addition to the funds for procurement, this bill contains an important appropriation of $400 million for denuclearization and demilitarization efforts in the states of the former Soviet Union. These efforts, along with the continued development of our own military systems, are critically important to guaranteeing long term stability in the post-cold-war world.

Mr. Speaker, I am sure most Members of this body, myself among them, believe that funding for our Nation's defense should never be compromised. Any further reductions of DOD programs should be carefully weighed against the cost of possibly leaving our men and women in uniform unprepared to meet today's challenges. However, given the budget realities in which we operate, it would be extremely difficult to develop a better balanced package than the conference agreement before us today. I urge my colleagues to support this rule in order that we may proceed to the consideration of this conference agreement.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, we have before us a rule that will permit the expeditious consideration of the conference report for the defense appropriation bill for the coming fiscal year. This is the 13th and final general appropriation bill to come before the House. As far as I am concerned, once we pass this one and the Senate is done with it, let us go home and get out of here and go back to the real world.

The Committee on Appropriations should be saluted for completing its work on budget and on time. Maybe we should have put them in charge of health legislation and maybe we would have come out with something decent this year. In any event, Mr. Speaker, the committee deserves our thanks.

There is no need to repeat what the gentleman from Texas has told us other than to say that the rule now before us does waive all points of order against the conference report and against its consideration. The waivers are required for a handful of items and deal with either scope, germaneness, or legislating in an appropriation bill. I am assured by the gentleman from Pennsylvania [Mr. MURTHA], chairman of the subcommittee, whom I have great respect for, and the gentleman from Pennsylvania [Mr. MCDADE], the ranking Republican, whom I have really great, great respect for, that there are no violations of the Budget Act. And if they say there are not, then there are not.

I might point out that the supplemental appropriation of just under $300 million which is contained in this conference report will replenish the readiness account, and there are very few things more important than that, ladies and gentlemen. So I commend the committee for doing that.

I am not going to make an issue of these waivers. The House must be permitted to go forward and work its will on this final appropriation bill.

Mr. Speaker, the appropriators have a long record of trying to keep their bill closely in line with the defense authorization bill, and that bill is about to be signed by the President in probably the next day or two. That of course is indeed the case again this year. The two bills are very much consistent.

Mr. Speaker, I said last year during the debate on this bill that there are no two Members in this body to whom I would be more willing to entrust the security of the country than the two gentlemen who just happen both to be from Pennsylvania, JOHN MURTHA, the chairman, and JOE MCDADE, the ranking Republican. Once again, they and their colleagues have produced a bill that makes the most out of a very, very difficult situation. With the limited funds available to them under the budget resolution, they have seen to it that our Armed Forces will retain a good state of readiness in the coming year and that the quality of life issues that are so important to maintaining a high state of morale among our military personnel—our all volunteer military—see to it that those needs have been adequately addressed.

But, Mr. Speaker, despite all of the good work by the gentlemen from Pennsylvania and their colleagues on the Committee on Appropriations, the danger signs are everywhere. They are very apparent. I honestly wonder how much longer our defense budget can hold up under the fiscal and policy constraints that have been imposed upon it.

I know one thing: The ability of our country to meet its obligations and defend its vital interests is withering all over this world.

Mr. Speaker, by the end of fiscal year 1995, which will be next October, defense spending will represent only 3.8 percent of the Nation's gross domestic product. A level that low has been seen only once since 1941, and that came in 1948 after the end of the Second World War when we were demobilizing and Stalin was carving up Eastern Europe. We all understand the consequences of that and what happened when we let defense spending reach that low ebb.

By fiscal year 1999, at the end of the current 5-year phased reduction in defense spending, the defense budget will be down to 2.9 percent of gross domestic product. Ladies and gentlemen, read the Constitution of the United States. This is a republic of States that was formed to provide for the common defense.

My colleagues, a level of 2.9 percent for defense spending has not been seen since the 1930's when dictators were on the march and America was fumbling along with Armed Forces smaller than those of a country like Romania.

Let us look at some other figures.

Active duty force levels are down by 29 percent since 1985. That is almost one-third. And active duty reserves and civilian defense personnel are being cut, that means they are being furloughed, and they are being sent home, knocked out of the military, at a rate of 15,000 a month. Even now, 15,000 are being furloughed every single month.

□ 1050

Procurement in real dollars is down by 67 percent since 1985. Listen to this,

the Army has been reduced from 18 active divisions down to 12 since 1989. The Navy's battle fleet has been reduced by almost one-third, 32 percent, in the past 5 years. The number of aircraft carriers on active duty has been reduced from 15 down to 11. Those aircraft carriers are the reason we can defend America's interests around the world, and now we are down to just 11 of them. The Air Force's active fighter wings have been reduced from 24 down to 13. All of this has happened just since 1989.

Mr. Speaker, I could go on and on with these kinds of statistics. One thing is crystal clear: 3 years after Operation Desert Storm, our country could no longer even think about mounting such an effort without leaving ourselves dangerously exposed in many other critical areas of the world.

Mr. Speaker, in conclusion, I salute the good work of the appropriators, especially under such extraordinary budgetary constraints. But I must once again warn all Members that a level of commitment to the common defense of this Nation at these low levels cannot go on much longer without doing substantial, even irretrievable, damage to our national interest and the peace of this world.

I hope that Members will not oppose this rule so that the House may be able to consider the conference report expeditiously.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

As a member of the Appropriations Subcommittee that brings this bill to the floor, I want to commend the gentleman, and I want to thank him for his understanding of how our subcommittee is not responsible for the tremendous reduction in our defense appropriation.

We are in a dangerous trend. This is the ninth year in a row that we have reduced funding available for our national security interest, and the gentleman made excellent points about how this has happened, how we reduced the Army and the Navy and the Air Force and the Marine Corps.

The reason I asked the gentleman to yield is I would like to point out that while we have been reducing the members of our Armed Forces, we have been giving them more jobs to do than they have had to do in a long time. We are deploying Armed Forces personnel all over the world in places that Americans do not even know about. We are finding that soldiers and sailors and airmen and marines are being deployed for longer periods of time now than they have before. This is causing tremendous problems not only in the military but in their families, family problems, domestic problems in the military today, especially at the lower ranks, which are getting worse and worse. Nearly 65 percent of our enlisted personnel are on food stamps. We are making a big mistake.

If we ever get faced with a real major regional conflict, and I pray that we do not, but I am not satisfied that we are going to be able to defend our own national security interest. This trend has got to stop. We need to pass this rule, and we need to pass this conference report, because it is a good job and an excellent job with the assets that were available to us.

But the trend has got to stop, or this country could be in serious trouble in the future.

Mr. SOLOMON. Mr. Speaker, I just want to say this about the gentleman from Florida. He serves not only on the Committee on Appropriations, on the Defense Subcommittee, but he is also the former ranking member on the Intelligence Committee and has served on that committee for many, many years. He probably has more expertise in this field and knows the real dangers out there than any other Member in this body.

I really do commend the gentleman for the great work he has done on the committee.

Mr. Speaker, I yield to the gentleman from Louisiana [Mr. LIVINGSTON], a member of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend, who is the ranking minority member of the Committee on Rules, soon to be chairman of the Committee on Rules, and for his comments.

I likewise want to congratulate the gentleman from Florida for his comments. I totally agree.

I am a member of the subcommittee, and I think the subcommittee, under the leadership of the chairman and the ranking member, has done an outstanding job on the bill to provide the money for our armed services within the parameters given us by the Committee on the Budget and by OMB and by the White House and by this administration, but just as we speak, we have thousands of troops, 10,000 or more troops, down in Haiti. We have troops in northern Iraq. We have troops all over Europe. We have troops in Asia. We have troops all over this world. Some 80,000 to 100,000 troops are deployed all around the world in at least 18–19 separate countries, and yet we are still continuing the downward spiral in the overall appropriations for the armed services of this country when you consider inflation into the numbers since 1985. That concerns me greatly.

Our troops are suffering. They are suffering in terms of limited money for training. Our Navy has just found they did not have the money to sustain the Reserves. We are cutting back on squadrons and fleets, as the gentleman from Florida has pointed out, and moreover, our airmen and our sailors and marines and perhaps our Army is being deployed in more and more places with less and less time to go home and regroup, rest, and relax and be with their families. All of this is destroying the morale of our troops.

Frankly, I think it is a terrible trend which is certainly not going to be improved by the deployment of our troops in Haiti, the poorest nation in the Western Hemisphere, which has no relationship to the United States national interest. I am of great concern North Korea could blow up with its nuclear capability or Iran, which is threatening the Middle East with its fundamental radicalism, could prove a great, great problem in the weeks or months to come, and here we are wasting our time with all of our forces against the superpower of the Caribbean known as Haiti.

I think, frankly, this administration better go back to the drawing board, rethink its foreign policy, and start supporting the troops that we are asking to do all of these jobs, or else we ought to start pulling out of these other countries altogether and forget about peacekeeping throughout this world.

I thank the gentleman for his time.

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

Mr. Speaker, the gentleman makes an excellent point in citing the 10,000 troops that we now have in Haiti. And one thing that bothers me is all this being talked about as a multinational force. There are 10,000 American troops there. There are 24 from other countries, 24. That shows us what kind of costs we are incurring to maintain our troops, and those costs will drain this defense budget by three-quarters of a billion dollars in just a very short time. That will exacerbate the serious problems we have now.

The gentleman from Louisiana is a very great member of the Committee on appropriations. We commend you for the great work you did.

Mr. LIVINGSTON. If the gentleman will yield further, I think it is inspirational we have those 24. I appreciate those countries committing them. I cannot escape remembering the headlines 3 weeks ago across the Washington Post, which said, "21 nations are going to help us in Haiti"; Barbados, Trinidad. I tell you what, this is a joke.

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

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. BROWN], the chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. of California. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, I have had some problems with the defense appropriation

bills in the recent past. I am happy to say that I have fewer problems with this bill than I have had in the past. I likewise have had some problems with the rules, and again I have fewer problems with the rules this time than I have had in the past. This lukewarm endorsement is about the best that I can do.

I am not going to urge defeat of either the rule or the conference report, but I do want to point out some of my concerns.

The rule waives all points of order against the bill, which I consider to be extremely undesirable. There are a number of things in here which should be subjected to debate, but since they are protected by the rule, we will not get the chance to do that.

I want to commend the Committee on Rules, however, for allowing the full 3-day layover so that the contents of this conference report could be reviewed in some reasonably adequate fashion. The staff of my committee has looked at the bill, and we find that it is considerably improved over what it has been in the past with regard to the issue which deeply concerns me. That issue is the earmarking of academic research facilities and programs.

It is my very strong opinion that earmarks for academic research and facilities deprive the American taxpayer of the best use of his dollars.

It is the essence of science that you want excellence, and there are ways in which you can get excellence. They are not perfect, but they are better than having it done by the senior members of the Committee on Appropriations.

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I make this remark with no disrespect intended to these very able gentleman who have done so well in bringing this bill to the floor.

In reviewing the bill we have learned from various sources that it has a substantially fewer number of earmarks in a number of areas of interest to us, such as defense conversion, the technology reinvestment program, and the manufacturing technology program. There are no earmarks in the university research grant account. However, there are $140 million in earmarks for academic facilities in other accounts. We will put a chart in the RECORD showing these.

Of those $140 million, 90 percent go to members of the Appropriations Committee. The argument that this is equitable, this serves the best interests of the small and deprived institutions around the country falls on its face. And I am not decrying the value of these particular earmarks. I am just saying 90 percent of them go to members of the Appropriations Committee, mostly those serving on the conference committee.

As an authorizing committee member, I would like to work with the appropriators to authorize these projects, but we have not been invited to participate at that level. I hope they will consider doing that in the future.

Mr. Speaker, as I said before, I have had trouble over the past few years with the way the appropriations process has worked, especially with the Defense appropriations bill. I have been concerned that appropriations bills have been excessively laden with earmarks; I have been concerned that they have had excessive legislative language that should properly be left to the authorizing committees; and I have been concerned that they have been considered under restrictive rules that allow the decisions of a small group of Members to go unchallenged, even if they are radically different from bill that the whole House voted on.

Finally, with respect to the Defense bill in particular, I have been outraged at the ways bill or conference reports have been brought up so quickly that Members have not had time to read, much less understand, their content. This is especially unacceptable when there are new provisions that have not appeared in either the House or the Senate bill or report.

Mr. Speaker, today I would like to acknowledge that some progress has been made on many of these fronts. I am still unhappy that we have to consider this conference report under a rule that waives all points of order. I hope that we can think seriously next year about how to reform the process to allow much more open debate of these important appropriations decisions.

Although I am not happy about the rule, I am gratified that Members have at least had time to look at the conference report between Tuesday and today. This is progress in light of the recent history of defense appropriations. But I must remind Members, Mr. Speaker, that this is the way it is supposed to be under the rules of the House. In the future, I hope we will not have to think of it as a remarkable achievement.

In addition to the progress we see in terms of the process for consideration of this important appropriations measure, we see some progress in the earmarking of funds for particular projects. I will discuss these earmarks in greater detail below.

Turning to the substance of this Defense appropriation, the conference report provides $243.6 billion for fiscal year 1995, an increase of just over $3.5 billion from fiscal year 1994, and a reduction of $822 million from the President's request. Defense R&D in the Research, Development, Test, and Evaluation account appears to be funded at $35.9 billion, but $370 million in reductions for federally funded research centers of various sorts are included in general provisions and should be subtracted from this total.

Mr. Speaker, funding for defense RDT&E is up slightly over fiscal year 1994, but is below the President's request. I wish I could say that this represents a rational decision by the Congress to reallocate R&D from defense to nondefense purposes in light of the end of the cold war and a renewed recognition of the importance of civilian R&D to this Nation's future economic growth and prosperity. But I fear that when we look at the overall results of the R&D decisions we have made in this year's appropriations bills we will find that civilian R&D is lagging behind the objectives set forth in Science and the National Interest—the administration's vision for the future of science policy.

One method of converting from defense R&D to civilian R&D is the encouragement of dual-use technologies, primarily through the Technology Reinvestment Program [TRP]. Unfortunately, the conference has reduced TRP funds from the request of $625 to $550 million, even though both the House and Senate recommendations supported the full request.

On the positive side, I am pleased to see that, again this year, the conference report reiterates the legal requirement that TRP funds be awarded on a competitive basis. I must express some concern, however, that this year's conference report contains extensive additional legislative language, added by the other body, specifying how the Department should award TRP funds, including a segregation of $75 million for projects in specially selected areas. This is just the kind of legislative language added to the bill by the other body that we should be able to debate openly when we vote on a conference report.

Mr. Speaker, I want to note that this year's Defense appropriations bill and the accompanying reports reduce university research funding by $200 million, including $181 million in general reductions in the various RDT&E accounts and $19 million in university-affiliated research centers. Estimates of how much university research fund by DOD vary between $1.5 and $1.8 billion, but even with the higher estimate, the reduction in this conference report is over 10 percent. Certainly, this is not as Draconian as the 50-percent cut proposed in the House bill, but we did not get to debate that cut and we do not get to debate this cut.

Moreover, there is immense confusion at the Department of Defense over the intentions of the conferees. For example, while defensewide university research is directed to take an $86 million cut, the university research initiative is increased in the conference report by $21 million over the President's request to $253 million. Was it the intention of the conferees that the University Research Initiative Program would be immune from absorbing any of this cut or does the Secretary have the discretion to distribute the cuts as he sees fit? This is just one example of where the conferees seem to be pointing in two directions at the same time.

The conferees do not really explain the $200 million cut, but they do express some concern about the overhead costs of university research. My committee has its own concerns about the indirect cost rate at American universities and I have offered to work with the distinguished gentleman from Pennsylvania on this issue. I remain open to working in a collaborative way to determine whether we are getting as much bang for our buck as we should be.

In case the conferees were unaware of it, I would like to point out that an earmarked grant is just as subject to indirect cost-rate charges as a competitively awarded grant. If you are concerned about indirect cost rates and use that as a rationale for cutting university research support, that same logic should apply to earmarks to support universities.

As I noted earlier, however, there are at least $140 million in earmarks to academic institutions. There is another handful of academic earmarks that do not have a dollar amount specified. Then there are another 8 projects worth almost $43 million that are probably going to academic institutions, though the report language is a little obscure. What I am suggesting is that the $200 million cut from university research programs is almost equal to the probable total of academic earmarks being made in this Defense appropriation report. The conferees advice—because that is the legal status of report language—is that $200 million be removed from the discretionary control of the Secretary of Defense and the priorities established by the Pentagon and to projects that members of the conference think are most needed in their home districts and States. This kind of self-serving reprioritization bothers me a great deal.

I want to call my colleagues' attention to one project in particular which was included in amendment 101. This project appeared at conference and transfers $15 million from our underfunded, hollow-force Department of Defense to the Department of Energy. Now, I assure you that DOE could use more funding as well, but I don't think robbing the Department of Defense is the way to provide support for the Department of Energy. In any case, neither House nor Senate Appropriations Committee staff was able to provide guidance on what this earmark is for beyond the language in the amendment that it is to support a center for bioenvironmental research. However, I will attach to this statement an article from the Times-Picayune of March 31, 1994 which seems to shed light on this unauthorized project.

Identifiable academic earmarks of approximately $140 million are well below last year's level of approximately $275 million. If these numbers hold up to further analysis, it will represent significant progress. Now, all of you know that I believe that the process by which earmarks are made undercuts the prioritization of executive departments and authorizers and it freezes the vast majority of Members of this House out in the cold. Proof that having a Member in the room is critical to the ability to get earmarks comes from the concentration of earmarks in just three States: Hawaii, 30 percent; California, 20 percent; and Louisiana, 12 percent. These three States account for 62 percent of the identifiable earmarks. And I note that of the 35 earmarks that can be tied to a particular State and school, only 3 were to States that did not have a representative on a Defense Appropriations Subcommittee or a conferee. I include in the RECORD a list of identifiable earmarks as well as an analysis of their distribution by State.

The final point I want to make on the issue of earmarks is to call my colleagues attention to very disturbing testimony that my committee received last week. We learned that a Federal agency had made three earmarks on the basis of nothing more than a phone call from Appropriations Committee staff. There was nothing in either the bill nor the report to suggest that a plus-up for a generic type of research was actually intended to go to a specific location.

There is no Member of this body—at least among authorizers—who can pick up the phone and instruct an agency to make a grant to an institution in our districts. Many is the time we have probably wished we could. However, I guess we have to seek out a second career as Appropriations Committee staff before we can get away with that. This is outrageous and I will be seeking the assurance of the distinguished gentleman from Pennsylvania that no such shenanigans go on surrounding the bill that he has responsibility for.

Mr. Speaker, I will vote for this rule and for this conference report. I commend the Appropriations Committee for the positive steps that have been taken so far that allow me to do this. But I am sure it is evident that my support comes with a number of qualifications. I hope that we can continue to build on the improvements that have been made so far and I will not have to speak to these concerns in the future.

ENVIRONMENTAL RESEARCH IS ON; BUILDING DEDICATED BY XAVIER, TULANE

(By John Pope)

The pollution of the Mississippi River and the lingering effects of the 1986 nuclear-reactor explosion at Chernobyl are two of dozens of topics researchers will explore in a $35 million building Tulane and Xavier universities dedicated Wednesday.

The J. Bennett Johnston Health and Environmental Research Building, a seven-story structure at 1324 Tulane Ave., contains the Tulane/Xavier Center for Bioenvironmental Research, which was established five years ago with $33 million from the Defense Department. Since then, the center has received $67 million more in public and private research grants, Tulane spokeswoman Kandace Power Graves said.

And more grants totaling nearly $7 million will be awarded this spring, said Susan Davis Allen, the center's interim director.

"I think this probably is the best-funded bioenvironmental research center in the United States," Tulane University Medical Center Chancellor Neal A. Vanselow said.

Its relative wealth and the scope of its work put the New Orleans center in a league with environmental-research programs at such universities as Johns Hopkins, Columbia, the California Institute of Technology and Texas A&M, said Gene D'Amour, Tulane's vice president for institutional program development and government agency affairs.

Grants already received include:

$25 million to study the effect of hazardous materials on aquatic environments.

$5 million to investigate risks associated with petrochemical waste-disposal sites.

$3 million to establish the South Central Regional Center of the National Institute for Global Environmental Change, which investigates such climate-changing phenomena as global warming.

$850,000 to look into concerns more prevalent in poor communities, such as lead poisoning and the effects that exposure to pollutants may have on children.

The building is named for Louisiana's senior senator, who helped get the grant to set up the center.

"With this center of research, Tulane and Xavier will claim their place among the best institutions in the world," Johnston said at the dedication ceremony in the building's atrium.

"Isn't it nice that a state that hasn't been known for the cleanliness of its environment will now stake a place in the cleaning of the environment?" he said.

Grants already awarded have underwritten research in such fields as the effect cigarette smoke has on the lungs of asthma sufferers, the combined effects of radiation injury and lung damage, and the prospect of getting water pollutants to cling together for easy, clean removal from industrial-waste water.

By working on such projects, Tulane and Xavier are involved "in something that is important and growing," Johnston said.

Besides the bioenvironmental center, the 200,000-square-foot structure contains a conference center, Tulane's cancer center and research office, and a department to get and maintain the equipment needed for sophisticated research.

Eventually, Vanselow said, all these activities should provide more jobs—and, perhaps, a lure to companies concerned with environmental issues.

DISTRIBUTION OF DOD EARMARKS BY STATE

State	No. of projects	Dollars	Percent of total
Alaska	1	5,000,000	3.56
Arizona	1	834,000	0.59
California *(1)	5	29,000,000	20.68
Florida	1	10,000,000	7.13
Georgia	2	4,400,000	3.14
Hawaii	6	42,325,000	30.18
Illinois	1	8,500,000	6.06
Louisiana	4.5	17,250,000	12.30
Massachusetts	1	4,000,000	2.85
Michigan	1	500,000	0.36
Mississippi	1	1,000,000	0.71
New Jersey	1	2,800,000	2.00
Pennsylvania *(2)	4	6,000,000	4.28
Tennessee *(1)	1	.....	.....
Texas *(1)	1.5	500,000	0.36
Washington	1	150,000	0.11
West Virginia	2	8,000,000	5.70
Totals	35	140,259,000	100.00

An asterisk (*) followed by a number in parentheses indicates the number of projects which were earmarked but for which no dollar amount was given.

ACADEMIC EARMARKS INCLUDED IN H.R. 4650, THE DEFENSE APPROPRIATIONS BILL

Section	School	Project	Amount	State
Bill/Title IV, Navy RDT&E (amend. 94)	University of Mississippi	National Center for Physical Acoustics	$1,000,000	MS.
Bill/Title IV, Air Force RDT&E (amend. 97)	Universities of New Mexico, Cornell, Carnegie Mellon	Maui Supercomputer	13,000,000	HI.
Bill/Title IV, Defensewide RDT&E (amend. 101)	Xavier and Tulane	Center for Bioenvironmental Research	15,000,000	LA.
Report	Louisiana State University	Nutrition research	250,000	LA.
Report	University of Washington	Trauma care	150,000	WA.
Report	University of Hawaii	Serum cholesterol research	425,000	HI.
Report	University of Hawaii	Agribusiness Devl. Corporation	4,500,000	HI.
Report	University of Pittsburgh	Facility Env. Management and Monitoring System	5,000,000	PA.
Report	University of Hawaii	Haw. Small Business Devl. Center	5,400,000	HI.
Report	West Virginia University	Laser Vibration Sensing System	4,000,000	WV.
Report	Illinois Institute of Tech	Instrumented factories for gears	8,500,000	IL.
Report	University of New Orleans & Lamar University	Center for Excellence in Ship Hull Design	1,000,000	LA, TX.

ACADEMIC EARMARKS INCLUDED IN H.R. 4650, THE DEFENSE APPROPRIATIONS BILL—Continued

Section	School	Project	Amount	State
Report	Pennsylvania State University	Coal based jet fuel	1,000,000	PA.
Report	University of Alaska	High altitude auroral research	5,000,000	AK.
Report	University of Arizona	Adaptive optics	834,000	AZ.
Report	University of New Mexico, Cornell, Carnegie Mellon	Maui Supercomputer	7,000,000	HI.
Report	University of Mass.	Large Millimeter Telescope	4,000,000	MA.
Report	Marshall University	Institute for Advance Flexible Manufacturing Systems	4,000,000	WV.
Report	Florida Int'l., Georgia Tech, University of SW Louisiana, Fashion Institute of Tech, N.C. State, Clemson.	Military sewn products	10,000,000	FL.
Report	Rutgers University	Combat rations	2,800,000	NJ.
Report	University of Tennessee	Electric vehicles		TN.
Report	University of Pittsburgh	CALS		PA.
Report	Lamar	CALS in Orange, TX		TX.
Report	University of Pittsburgh	National Defense Center for Environmental Excellence		PA.
Report	Georgetown and University of Hawaii	Akamai health project	12,000,000	HI.
Report	Louisiana State University	Nutrition research	750,000	LA.
Report	LSU	Nutrition research	750,000	LA.
Report	Loma Linda University	Prostate treatment study		CA.
Report	Georgia Inst. of Tech	Center for International Defense Conversion	400,000	GA.
Report	Monterey Inst. of International Studies	Non-Proliferation Institute	4,000,000	CA.
Report	San Diego State	Center on Defense Conversion	10,000,000	CA.
Report	Georgia Institute of Technology	Plasma arc remediation	4,000,000	GA.
Report	Cal State University	Fort Ord	14,000,000	CA.
Report	Michigan State University	Torque Converter Project	500,000	MI.
Report	University of California	Fort Ord Cleanup Technology	1,000,000	CA.
Total			140,259,000	

There are eight other projects worth $42.9 million that may be going to academic institutions, but there is insufficient information provided in the report to determine the recipients.

Mr. SOLOMON. Mr. Speaker, let me commend the Committee on Appropriations for the work that they have done under these circumstances.

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

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN] who is our last speaker.

Ms. HARMAN. Mr. Speaker, I rise in support of the rule and in support of the fiscal year 1995 Defense appropriations conference bill, and I must say that I salute the sense of bipartisanship that is exhibited here today in support of both of these.

As the member of the House Armed Services Committee who represents the aerospace center of California, I have fought hard for robust funding for critical defense priorities. This bill funds those priorities, and strikes a successful balance among the various accounts in the defense budget. Procurement funding provides for continued production of F/A–18's, C–17's, Milstar, and conventional bomber upgrades. Each of these projects is critical to maintaining our industrial base. Research and development funding provides for essential technology programs ranging from ballistic missile defense to law enforcement and technology. Over $3.3 billion is included for reinvestment and transition assistance, to help companies and their workforces diversify. Another vital program included in the bill is Nunn-Lugar—a necessary part of our nonproliferation strategy.

In any view, this is a much better defense appropriations bill than last year. More thought and better results are achieved.

Under the current budget constraints, this conference bill represents what Congress can do and I believe Congress has done very well. I would particularly like to commend the subcommittee chairman, the gentleman from Pennsylvania, Mr. MURTHA, and my colleagues from California, Mr. DIXON and Mr. LEWIS, for their excellent effort. The people of California—especially the people in my aerospace-based district in California—appreciate their efforts.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3222

Mr. PETRI. Mr. Speaker, I ask unanimous consent that my name be removed as a consponsor from the bill, H.R. 3222.

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

There was no objection.

CONFERENCE REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. MURTHA. Mr. Speaker, pursuant to House Resolution 554 just adopted, I call up the conference report 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.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1994, at page H9607.)

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

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

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 4650, making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes and that I may include extraneous and tabular matter.

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

There was no objection.

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

Mr. Speaker, I first want to commend the gentleman from Pennsylvania [Mr. MCDADE] and also offer our condolences to him. I know he is here at a time when his mother-in-law, who was 82 and was a very vivacious lady, has just died. All of us offer our condolences to the gentleman from Pennsylvania. We appreciate him being here.

Mr. Speaker, we are going to try to expedite the proceedings so Mr. MCDADE can attend the funeral.

Mr. Speaker, I bring to the floor the conference report for the fiscal year 1995 Defense appropriations bill. This conference report provides the vast amount for the funds provided for the Department of Defense. Some additional funds for the Defense Department are included in separate legislation—the military construction appropriations bill and the energy and water appropriation bill.

I would like to thank the distinguished ranking minority member of the committee, my friend, Congressman JOE MCDADE. He and all members of the committee have worked hard all year.

I also would like to extend my special thanks to two of the committee's

staff who are retiring—Mr. Donald Richbourg and Mr. J. David Willson. They have both worked for the appropriations for over a quarter of a century. Their expertise will be sorely missed.

This bill provides $243.6 billion for DOD. The total provided in the bill is: Basically at the budget request; at the ceiling set for the national security function in the budget resolution; and at the 602(b) allocation set for the Defense Subcommittee.

Mr. Speaker, I would like to place in the RECORD at this point a table listing the funding level for the major titles of the bill.

BUDGET AUTHORITY

	Fiscal year 1994 enacted	1995 estimates	Conference
Title I—Military Personnel	$70,624,044,000	$70,475,397,000	$70,389,202,000
Title II—Operation and Maintenance	76,616,787,000	81,926,891,000	80,925,585,000
Title III—Procurement	44,663,078,000	42,698,919,000	43,423,847,000
Title IV—Research, Development, Test and Evaluation	35,191,491,000	36,225,013,000	35,870,044,000
Title V—Revolving and Management Funds	2,643,095,000	1,777,638,000	1,669,638,000
Title VI—Other Department of Defense Programs	11,021,820,000	11,329,706,000	11,368,346,000
Title VII—Related agencies	403,588,000	305,384,000	349,184,000
Title VIII—General provisions	−618,958,000	7,131,000	−266,058,000
Title IX—FY 1994 Supplemental Appropriations		270,000,000	299,300,000
Procurement: General Provisions		−304,900,000	−304,900,000
(Additional transfer authority)	(2,500,000,000)	(2,000,000,000)	(2,000,000,000)
Total, Department of Defense	240,544,945,000	244,711,179,000	243,724,188,000
Scorekeeping adjustments	−465,300,000	−261,200,000	−96,061,000
Prior year (outlays only)			
Grand total	240,079,645,000	244,449,979,000	243,628,127,000

DEFENSE PERSPECTIVE

Mr. Speaker, before providing the House with some of the highlights of the bill in the separate accounts, I would like to make a few general comments about the overall status of defense spending. The DOD has proceeded with a dramatic force structure downsizing in the wake of the end of the cold war.

For example:

From fiscal year 1985 through fiscal year 1995 over 1,000,000 personnel have been reduced from the manpower levels of the Active Force, the Guard and Reserve, and civilians employed by the DOD.

Measured in constant fiscal year 1995 dollars the procurement account has declined from $132.7 billion in fiscal year 1985 to $43.4 billion fiscal year 1995.

A dramatic downsizing in the domestic and international base structure continues.

Despite the end of the cold war, our troops have been called on time and time again in recent years to support the foreign policy of America: The Persian Gulf war; Somalia; enforcing the no-fly zone in northern and southern Iraq; enforcing the no-fly zone and arms embargo in the former Yugoslavia; deploying to Haiti; and numerous other small operations.

This high tempo of operations has been taking place in the midst of a dramatic downsizing of our forces. Mr. Speaker, the bottom line is that our servicemen and servicewomen are spread very thin. Because of the nature of the military operations that some units conduct, these same units are called on time after time to be deployed to various global locations.

I remember inspecting a Marine unit in Somalia about 18 months ago. This unit had been deployed to the Persian Gulf during Christmas 1990, deployed to Okinawa for a rotational deployment during Christmas 1991, deployed to Somalia during Christmas 1992 and at the time of my inspection was scheduled to be overseas on a rotational deployment during Christmas 1993. The simple reality is that such a high tempo of deployment is eroding the morale of our troops and ultimately, if it continues, will erode the fabric of the quality of our forces.

While I believe the funding provided in this bill should be adequate to meet our military objectives for the upcoming fiscal year, I must admit our readiness is now on the razors edge and I am very concerned about the outyears. Deputy Secretary of Defense, John Deutch recently testified that the funding profile for the Department of Defense for the next 5 years has a $40 billion shortfall. Suffice it to say, we all face some very tough budget decisions during the next few years.

CONFEREES EMPHASIZE READINESS

The conferees fully funded the administration's 1995 readiness requests in the operation and maintenance account. The administration's budget request increases constant dollar operating resources by +14 percent per Army combat battalion, +11 percent per Navy ship, and +12 percent per Air Force aircraft between fiscal year 1993 and fiscal year 1995.

To further strengthen the administration's initiative, the conferees recommended major readiness enhancements totaling over $1,850,000,000 over the budget request. some of those increases are listed below.

	Millions
Depot Maintenance	$262
Real Property Maintenance	156
Military Pay Increase	186
Ammunition	336
Sealift	135
OPTEMPO, Training, Spares	360
Korean Patriot/Apache	51
Military family programs	85

HIGHLIGHTS BY TITLE

Mr. Speaker, I would like to briefly highlight some of the major issues and programs included in the bill in the first four titles.

Title I.—Military Personnel

The conferees recommend $70.4 billion for the military personnel account. The Active Force, Guard and Reserve and civilian employed by the DOD will be downsizing by 180,000 in fiscal year 1995—15,000 people a month or 500 per day. Fortunately, the pace of the personnel downsizing slows down significantly after fiscal year 1995. This stability should have a positive effect on morale, quality of life, and overall combat readiness.

The conferees included an increase of $186 million to provide a pay raise for the men and women of our armed forces.

Title II.—Operation and Maintenance

The conferees recommend $80.9 billion for the operation and maintenance account. As discussed earlier in my statement, numerous increases were made to improve readiness and the bulk of those funds were included in the operation and maintenance account.

The conferees also fully funded the request of $400 million to continue the demilitarization program for the former Soviet Union.

Title III.—Procurement

The conferees recommend $43.4 billion for the procurement account. Measured in constant fiscal year 1995 dollars, this is a reduction of $89.3 billion from the 1985 level of $132.7 billion. Funding highlights for fiscal year 1995 include the following:

Army.—Blackhawk helicopters: Provided $318.4 million for continued procurement of the Blackhawk helicopter.

AHIP: Provided $120 million for the AHIP helicopter program.

Navy.—F/A–18 Aircraft: Conferees provided $1 billion for the procurement of 24 F/A–18 aircraft.

Trident II Missiles: Provided $616 for 18 Trident II Missiles.

Carrier Replacement Program: Provided $2.2 billion to complete financing of the next aircraft carrier.

DDG–51 Destroyers: Provided $2.7 billion for the procurement of three DDG–51 destroyers.

Air Force.—C–17 Aircraft: Included $2.2 billion for six aircraft $189 million for advanced procurement.

E–8 JSTARS Aircraft: Included $441 million for procurement of two aircraft.

ABRAAM Missiles: Included $289 million for the procurement of 413 missiles.

TITLE IV.—RESEARCH, DEVELOPMENT, TEST AND EVALUATION [RDT&E]

Provides $35.9 billion for the research, development, test and evaluation account. Highlights include:

Army.—Medical Research: Provided $258 million for medical research, an increase of $217 million above the budget. This includes an increase of $150 million for breast cancer research.

Comanche Helicopters: Provided almost $500 million for the Army's next generation reconnaissance helicopter, the Comanche.

Armored System Modernization: Provides $175 million for the development of a tank to replace the Sheridan.

Navy.—New Attack Submarine: Provided $470 million development of the new attack submarine.

F/A–18 E/F: Provided $1.3 billion for continued development for the next generation of F–18 aircraft.

Air Force.—F–22: Provided $2.35 billion for the next generation tactical fighter.

Milstar: Provided $607.2 billion for the Milstar communications satellite.

GUARD AND RESERVE

Another high priority of the conferees was to provide increased funding for the Guard and Reserve. The valuable role of the Guard and Reserve within the total force concept was shown in the Persian Gulf war. The President has also authorized the call up of 1,600 reservists for the Haitian deployment.

The conferees added a total of $800 million for equipment for the Guard and Reserve. Within those funds, $505 million are for aircraft.

CLARIFYING LANGUAGE

Mr. Speaker, there are two minor matters which I would like to briefly address to clarify the conferees position.

The conferees direct the Department of the Air Force to initiate the process of transferring the Air Force Reserve 928th Tactical Airlift Group out of the O'Hare Air Reserve Forces facility in Illinois. The Department should make all funds necessary to accomplish the transfer available during the course of fiscal year 1995. Further, priority consideration should be given to relocating the unit to Scott Air Force Base, IL.

The following language clarifies the intent of the conferees concerning the William Langer Jewel Bearing Plant.

The conferees agreed to eliminate Senate bill language providing $2,500,000 only for "capital investment, operations, and such other expenditures as may be necessary to maintain the William Langer Plant as a going concern while it is being excessed under the provisions of the Federal Property and Administrative Services Act". The conferees felt that bill language was unnecessary to carry out the Senate's direction and agreed to provide the $2,500,000 required for this effort within the Statement of the Managers in the missile procurement, Air Force account. The conferees specifically provided an additional $2,500,000 within the industrial facilities line, P-1 line No. 10, only to carry out the Senate's directions as explained in Senate Report 103–321, page 129. It was further the intent of the conferees that the Air Force transfer the funds provided for the Langer plant to the manager of the National Defense Stockpile for execution.

CONCLUSION

In conclusion Mr. Speaker, this conference report: Provides $243.6 billion in budget authority for the fiscal year 1995 activities of the Department of Defense; is just below the budget request; is within ceiling for the national security function established in the budget resolution; is within the 602(b) allocation set for defense; emphasizes readiness by increasing funding for a number of programs and reduces funding for lower priority programs.

I urge support and passage of the fiscal year 1995 defense conference report.

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

Mr. McDADE. I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this conference report, and I begin my remarks by paying tribute to my dear friend from Pennsylvania, Mr. MURTHA, who, as chairman of the subcommittee, has set a standard for all other Members of the House to live up to as they do their work. He has brought to this committee great industry, great intellect, and great integrity.

The result is that this particular conference report we bring to you today is supported on both sides of the aisle by all members of the committee, as indicated by my colleagues, the gentleman from Florida [Mr. YOUNG] and the gentleman from Louisiana [Mr. LIVINGSTON], in a difficult environment and try to bring our resources to bear, making sure that our military preserves the quality of life for our people, preserve its readiness and continues, to the extent that we can, with the modernization program which enables our young people to be able to confront the problems of the world in a well-trained and equipped manner.

That is our goal, that is what this bill does, and that is what we believe it ought to do.

In closing, I know we have Mr. Don Richbourg, staff director of the Defense Subcommittee, on the floor here today, as well as Mr. David Willson. This is their last bill as both are retiring at the end of the session.

Mr. Speaker, between the two of these gentlemen they have over 50 years of service to this institution and to their country. It is a better country and a better institution because they were willing to devote that much of their lives to making it a better country. We appreciate their efforts.

Mr. Speaker, I rise in support of this conference report and urge its adoption.

Mr. Speaker, this is a good bill, supported by every member of the Defense Subcommittee, both sides of the aisle. We are not aware of any problems and I expect we will be able to bring it to a vote quickly.

Having said that, I want the record to show I support this conference report not because of its resemblance to the Defense budget submitted by the administration—to the contrary. I support it because we have done our best, within the limited dollars available, to correct the most serious flaws in that budget.

Exhibit A: Taking care of the troops. The budget proposed, for the second year in a row, to hold military pay below the level needed to keep pace with inflation. This at a time when we are asking our troops more than ever to "do more with less;" when we are sending them away from home with disturbing frequency; and when we are shamed by reports that a growing number of military families need Federal assistance such as food stamps. This bill says "we can do better * * * we must do better." It provides a full cost-of-living allowance for the military, and restores equity between the COLA's received by our military retirees and their civilian counterparts.

Another example: Readiness. I agree the Pentagon deserves credit for placing readiness at the top of its priorities—but the budget they sent us did not do enough. Problems abound—from an alarming growth in maintenance backlogs, to cuts in training resulting directly from the overseas deployments which have become a fixture of this administration's foreign policy. A situation which if left unaddressed takes us right back to a hollow force.

We can't fix all these problems today, but we're recommending a series of changes which collectively are a step in the right direction. We add nearly a billion over the budget for critical readiness areas, ranging from enhancing our posture in Korea to correcting dangerous shortages in spare parts and repair funds. And we've included a $300 million supplemental to pay for the added costs resulting from Rwanda and refugee relief in the Caribbean.

We also reverse what I consider a series of misguided budget proposals—be it the premature retirement of half the B–52 fleet, or the dismantling of the ammunition industrial base, and others. And we reject completely the administration's plan to siphon off $300 million from the Defense budget to pay U.N. assessments.

We do this while keeping what is left of the Pentagon's modernization program intact—we

fund the new aircraft carrier, the C–17 airlifter, and the continued development of new generation aircraft for the military services.

In all, we recommend a reordering of priorities, intended first and foremost to keep faith with the men and women in the service and to give them the training and equipment needed to carry out their missions.

Have we been able to do enough? Regrettably, in this Member's opinion, no, we have not. We can't do everything because we have to live under the confines of the overall budget, which until we can change it is without question taking our defense posture down too fast and too deep.

But that is a debate for another day. For now I would ask all Members to support this conference report which has the consensus support of the committee.

Mr. Speaker, at this point I want to express my appreciation to all the members of the conference committee on both sides of the Capitol for their contributions in what was our toughest Defense conference yet. In particular I wish to congratulate our chairman, my friend from Pennsylvania, whose tireless efforts brought our work to a successful conclusion. And I would be remiss if I didn't thank the committee staff who have once again lived up to their reputation as the best on the Hill.

In that regard I want to recognize two members of the staff who are with us here on the floor for the last time, who between them have served the committee and the House for over 50 years.

The first is David Willson, who has been with the committee since 1971. I've had the good fortune of working closely with Dave for over 20 years, starting on the Interior Subcommittee and then Defense, where for the past 17 years he has been the senior staffer responsible for the weapons procurement accounts, especially those for the U.S. Army. Those of us who have seen his work firsthand know his quiet professionalism has saved the taxpayer billions.

Mr. Speaker, perhaps the most dramatic way to see what Dave Willson has done for the country is to think back a few years to those vivid scenes from the desert. We all remember seeing APACHE helicopters, Bradley fighting vehicles, M–1 tanks—the tools our Army used to bring Desert Storm to a quick and decisive end. Each and every one of those systems were literally on the drawing board when Dave began his work with the subcommittee and his contributions have been instrumental in getting them to the troops in the field. We've had a good run together, David, and I thank you.

And then there's the staff director of the Defense Subcommittee, Ron Richbourg. Don has been with us for 28 years, over which time he has deservedly gained a reputation as one of the best staff members on the Hill. He has truly become an institution on the committee, and I can't say enough about the skill and judgment he's shown year after year in helping us handle one of the most complex and critically important bills before the Congress. He has been scrupulously nonpartisan, in the best traditions of the Appropriations Committee, and I speak for all the members on our side who have benefited from his steadiness and hard work. It's hard for me to imagine a hearing or a markup without you, Don. To both of you, the country is better off for your contributions and we wish you well in your future endeavors.

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

Mr. MURTHA. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the chairman of the full committee.

Mr. OBEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to take this opportunity to inform the House that the conference report we are now considering is the 13th and final conference report to come before the House for the fiscal year which begins on Saturday. Assuming that the Senate behaves responsibly, there should be no reason for a continuing resolution this year.

This is the first time the House will have completed action on all conference reports before the end of the fiscal year since 1988 and it is the first time the House will have cleared all appropriations matters before September 30 since that day was made the end of the fiscal year in 1977. I think that was made possible because of the extraordinary cooperation which the committee has received from almost all quarters.

Completion of all work on our appropriations bills prior to the beginning of the fiscal year did not happen without a lot of hard work and a great deal of cooperation, not only from those who serve on the committee but many who do not. I thank all members for their cooperation. The lead role was obviously played by the subcommittee chairmen of each of the 13 subcommittees, and without exception they did an excellent job.

Every member of the committee had to work long hours and demonstrate more flexibility than ever before, given the hard decisions that had to be made. A great portion of the credit for what was accomplished has to go to JOE MCDADE and the ranking Republican members on the 13 subcommittees. I think our committee did its work in a bipartisan manner, and without the cooperative efforts of JOE and the other ranking members, we would not have been able to achieve the results we did.

I want to thank the leadership of the House on both sides of the aisle and their staffs for their efforts in getting our bills to the floor. Also the Rules Committee ought to be mentioned for their important role in providing for the orderly consideration of our appropriation bills and conference reports. Many times, our bills require the Rules Committee to do its works on short notice. I appreciate the cooperation we received.

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Finally, Mr. Speaker, I want to thank the many support personnel of the House for the hard work that has led to the successful completion of appropriations legislation for the 103d Congress: the Parliamentarians, the reading clerks who expedite getting the papers to the Senate, the Reporters of Official Debates, the tally clerks who are personally affected when we get midnight filing consent, the enrolling clerks who have to adjust the bills to reflect conference action and then proofread all the changes, the Journal clerks, the bill clerks, the Cloakroom staff and the committee reporters who transcribe our committee hearings. In short, I want to thank the entire legislative operations support group. I think too often we forget about the extra effort these people make, and I want to personally thank them for all their hard work. It has meant a lot to our committee. Mr. Speaker, these are all people who, through their hard work, their care and pride in doing a quality job, can share my pleasure in getting our work done and doing a good job well.

Mr. Speaker, I also should say that the House should be proud, not only of the timeliness of these bills, but also the content. We are witnessing a major shift in the availability of resources away from the discretionary portion of the Federal budget, the portion that is under the jurisdiction of this committee. The outlays from the Federal Treasury in the coming fiscal year, occurring as a result of the passage of these 13 bills, will actually drop below the nominal levels of the current year. Spending on nonmandatory appropriated items will decline markedly as a percentage of the overall budget and as a percentage of the economy.

To find room to fund some new initiatives, Mr. Speaker, we needed to reduce, or terminate, hundreds of ongoing programs, and nearly three dozen existing programs have been eliminated in the course of considering these 13 bills. The reality of this has been painfully brought home to Members as the bills were considered because we did not have the money to fund all the programs that individual Members thought were important.

Mr. Speaker, to stay within our tight limits we brought difficult choices to the House. The House faced up to those choices. The deficit was not increased in order to support new programs. Instead we reduced and terminated other ongoing programs. By adopting these bills Members agreed to $4.4 billion in committee recommended reductions below the President's request. House action cut another $75 million. In the next few days I will be providing Members with more detailed information on program reductions, terminations and increases.

Mr. Speaker, again I thank all Members for their support. I urge adoption of the defense appropriation conference report so we can complete our job, and I also want to second the remarks

made by the gentleman from Pennsylvania [Mr. MCDADE] in saluting the staff members who have done such great work, and, as we know, are leaving. I say to the gentlemen, "We have come to count on you for a lot these years, and you're going to be missed. I appreciate the efforts that have been expended on behalf of the committee and the House."

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

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. If I may, I just want to take a few seconds to say to my friend from Wisconsin that we are very grateful for the leadership that he has provided as the new chairman of the Committee on Appropriations. He has done an excellent job. I want to say, as members of the minority side, we have never been more included in the decisionmaking process, and I think that is probably one reason that all these bills are here in such a timely way before the end of the fiscal year.

I say to the gentleman, you've done a great job, DAVE. We have enjoyed working with you. We look forward to working with you next year.

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

Mr. MURTHA. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, in the fiscal year 1995 Defense appropriations conference bill, H.R. 4650, the conferees agreed to include $25 million for the GPS-aided munitions [GAM's], in missile procurement, Air Force, at page 97 of the conference report.

I support this provision, and want to stress the importance of this program.

The $25 million is provided to support the acquisition of a limited stockpile of GPS-aided munitions [GAM's] as an interim near-precision conventional bomb capability on block 20 B–2 bombers in association with the GPS-aided targeting system [GATS].

In order to accomplish this effort, the Air Force is directed to implement an acquisition strategy and contract type which will provide the earliest possible near-precision conventional all-weather capability for the B–2. The conferees have determined that this procurement will ensure the lowest risk schedule, accordingly, the acquisition strategy may include noncompetitive procurement through the B–2 prime contractor for the initial limited stockpile.

Specifically, the funds were included to provide operational GAM capability on the first available block 20 aircraft, that will exist as of July 1996.

Mr. ROHRABACHER. Mr. Speaker, I rise today in support of the conference report.

Mr. Speaker, contained in this report are two extremely important provisions. The first may be found in section 8106. It sends money Congress appropriated in fiscal year 1994 to ARPA to NASA—and then it sends it from NASA back to the Air Force, to PE 63401F.

At first glance this would seem a silly thing to do, but we in Congress have been forced to do so by the actions and in-actions of the Advanced Research Projects Agency—[ARPA].

A year ago Congress appropriated $40 million for ARPA to begin work on a Single-Stage-To-Orbit [SSTO] X-vehicle; an experimental test vehicle meant to be the follow-on to the successful DC–X1 test vehicle. This money was also meant to be used to fund the remaining flight test program of the DC–X1. But here we are, only hours away from the end of fiscal year 1994, and ARPA has yet to take any steps toward fulfilling the law, other than to propose a program that has yet to be briefed to anyone in Congress; a program designed to waste and dissipate the money we had appropriated to it.

When the executive fails to observe the law, Congress must act. Section 8106 takes fiscal year 1994 money from ARPA and sends it to NASA for NASA to pursue the start of construction of the X–33 SSTO test vehicle. NASA is also obligated by section 8106 to spend this money as the Air Force's Phillips Laboratory in New Mexico, where the Air Force's SSTO expertise currently resides. These actions, Mr. Speaker, are consistent with President Clinton's space launch policy and his call for a supporting role for DOD in the NASA-led development of the X–33. Section 8106 also provides for this money to be available to be spent to fund the completion of the original flight test program of the DC–X1.

Mr. Speaker, the second important provision in this conference report that I'd like to highlight is the inclusion of $30 million in new, fiscal year 1995 money, also contained in PE 63401F, that is meant to be spent by the Air Force at Phillips Lab in support of their activities in helping to build and, soon, to fly, the X–33.

Mr. Speaker, these two provisions go a long way toward helping to start to implement the President's space launch policy mandates for DOD, and give DOD equity in the NASA-led program to build and fly the X–33 SSTO experimental vehicle. Flying the X–33 will give this Nation, in just a few years, revolutionary new space capabilities.

Mr. Speaker, I would like to commend Chairman MURTHA for his foresight and leadership on this issue, and for his service to this Nation's vital interests in assuring a robust future space launch capability. I would also like to commend in similar fashion my colleagues Mr. SKEEN of New Mexico, Mr. LIVINGSTON of Louisiana, Mr. MCDADE of Pennsylvania, and Mr. LEWIS of my own State of California, all of whom were critical to the inclusion of these provisions in the final conference report, as was also Mr. VISCLOSKY of Indiana on the majority side of the aisle. Finally, I'd like to also thank Mr. DOMENICI of New Mexico, a Member of the other body who was also a member of the conference committee, and without whose gracious help and understanding these two provisions would not be here in this conference report.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for the Defense Appropriations Act of 1995. This Member would commend the chairman of the subcommittee, the distinguished gentleman from Pennsylvania Mr. MURTHA, and the distinguished ranking member Mr. MCDADE, for their efforts to present a conference report with bipartisan support.

In particular, the conference report contains language that addresses the status of the military technicians for the National Guard and Reserves. As the chairman knows, these technicians are a vital component of maintaining the high readiness level of our Guard and Reserves. Section 8118 of the conference report prohibits funds from being used to reduce military—civilian—technicians of the Reserve components, and states that there should be no administratively imposed ceiling on the technicians unless those reductions are the direct result of a reduction in military force structure. Mr. Speaker, this is essential language that addresses the deep concern that has been voiced by our local Guard and Reserve components, and this Member thanks his colleagues for acting on this matter.

A second provision of particular interest to this Member of the inclusion of a reporting requirement on new membership in NATO. The issue of new members in NATO is fast upon us, with nations such as Poland, the Czech Republic, and Hungary eager to become full members of the Alliance. Indeed, just last month, United States and other NATO forces conducted exercises in Poland as part of the Partnership for Peace. It is time to start thinking seriously about specific criteria for membership. The reporting requirement included in the conference report calls for the Secretary of Defense to present specific military, economic, and political criteria for admission of new members. The report will also include the measures that NATO members need to undertake in order to establish full military cooperation and interoperability with aspiring members. This is a logical and a necessary step that will advance the Partnership for Peace, and will speed the day when Eastern and Central European nations can be full and contributing members of the Alliance. This Member appreciates the willingness of the conferees to include this provision.

Mr. Speaker, this Member would urge adoption of H.R. 4650.

Mr. FAWELL. Mr. Speaker, as cochairman of the bipartisan Porkbusters Coalition, I often rise to point out unauthorized projects in each of the 13 appropriations bills. Today we have before us the conference report for Defense appropriations for fiscal year 1995. I come not to point to a particular project, but a phrase included in the conference report. Included in amendment 13, which was reported in technical disagreement, is this phrase: "Deletes House language prohibiting obligation of $473 million until authorized." In other words, the House had originally prohibited spending an additional $473 million on operations and maintenance for the Army until it was authorized. The conference deleted the authorization requirement.

Mr. Speaker, I have been criticized for my strict scrutiny of appropriations bills. My colleagues ask why I would question unauthorized projects in appropriations bill when language specifically mandates that the project must be authorized before funds are obligated? Because sometimes these authorization provisions are dropped.

As we see in today's conference report, authorization language is deleted, enabling $473

million to slide by without authorization. This is why I fight unauthorized projects regardless of language which requires authorization at some point in the future. This is why the House of Representatives requires two steps before taxpayer's money can be spent. First the authorization, then the appropriation. First the horse, then the cart. This ensures that when the House proceeds to fund a project, we know what we are funding. We can have confidence that this expenditure has been approved by a committee of authorization, that congressional hearings have been held, that this expenditure is in the national interest of our country.

The Porkbusters and I will continue to fight unauthorized projects. We will continue to carefully analyze each of the appropriations bills for authorization language which may or may not be included in final versions of legislation. We will continue to insist on authorization, and then appropriation, as established by the rules of the House. And, we will fight again.

Mr. GLICKMAN. Mr. Speaker, while I am generally supportive of this conference report, I do take objection to the inclusion of a provision to reactivate the SR–71 *Blackbird* reconnaissance aircraft. A similar provision was included by the defense authorization conference, of which I was a member, and it was the reason I did not sign that conference report.

The SR–71 was an excellent intelligence platform—in its day. The trouble is that its day has long since passed. Nearly 5 years ago, Congress and the Department of Defense looked at the SR–71's limitations—it can effectively operate only in good weather and cannot transmit the images it collects directly to those who need them—and concluded that the aircraft should be retired. New systems with an ability to stay over a target for long periods of time, in any weather conditions and relay images instantly to military commanders on the ground were planned. The availability of those systems has been delayed, in part because of opposition from some of the same quarters now advocating the reactivation of the SR–71 as necessary to fill an intelligence collection gap.

Reactivating the SR–71 will only exacerbate those delays. The $100 million appropriated in this conference report will not solve the *Blackbird's* problems. The aircraft needs new sensors and it is extremely expensive to maintain. Meeting those costs will require hundreds of millions of dollars more, money which will be taken from the development of more modern and more capable systems. The realization that the SR–71 would be a drain on scarce resources is one of the reasons that the Department of Defense does not support bringing it out of retirement. The Intelligence Committee, which I chair, shares that judgment.

Mr. Speaker, if one precept should guide our expenditure of the taxpayer's dollars, it is that we should only invest in technologies which will be useful in the future. We are not doing that with the decision we will make today on the SR–71. Spending money to return to active service an aircraft now housed in museums across the country does not make sense. I hope that this issue will be given more thought next year and that this decision will be reversed.

Mr. MURTHA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. VISCLOSKY). The question is on the conference report.

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

Mr. McDADE. 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 327, nays 86, not voting 21, as follows:

[Roll No. 446]

YEAS—327

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (GA)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hyde
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Lipinski
Livingston
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McDade
McDermott
McHale
McHugh
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Mfume
Mica
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NAYS—86

Allard
Archer
Armey
Bachus (AL)
Barrett (WI)
Bartlett
Barton
Becerra
Bunning
Burton
Buyer
Clement
Coble
Collins (IL)
Combest
Conyers
Cox
Crane
Crapo
DeFazio
DeLay
Dellums
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Ehlers
Fawell
Fields (TX)
Frank (MA)
Franks (NJ)
Gekas
Goodling
Goss
Grams
Hancock
Hansen
Hefley
Herger
Hoekstra
Hoke
Huffington
Inglis
Johnson, Sam
Johnston
Klein
Klug
Knollenberg
Kyl
Linder
McInnis
Meyers
Miller (FL)
Minge
Myers
Nadler
Nussle
Paxon
Penny
Peterson (MN)
Petri
Ramstad
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Saxton
Schaefer
Sensenbrenner
Shays
Solomon
Stump
Thomas (WY)
Walker
Watt
Waxman
Woolsey
Wyden
Zeliff
Zimmer

NOT VOTING—21

Applegate
Bacchus (FL)
Baker (CA)
Fields (LA)
Gallo
Hayes
Hilliard
Hutto
Jefferson
Lloyd
McCrery
McCurdy
McNulty
Neal (NC)
Slattery
Smith (IA)
Sundquist
Thompson
Torkildsen
Washington
Wheat

□ 1138

The Clerk announced the following pair:

On this vote:

Mr. McCrery for, with Mr. Baker of California against.

Messrs. EDWARDS of California, SOLOMON, ZELIFF, DOOLITTLE, FIELDS of Texas, WATT, THOMAS of Wyoming, and BECERRA changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1140

THE JOURNAL

The SPEAKER pro tempore (Mr. McDERMOTT). Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal.

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

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 163, not voting 22, as follows:

[Roll No. 447]

YEAS—249

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Kopetski
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tanner
Tauzin
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—163

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

NOT VOTING—22

Applegate
Bacchus (FL)
Boehner
Fields (LA)
Gallo
Hayes
Hilliard
Hutto
Klink
Lloyd
McCrery
McCurdy
McNulty
Sabo
Slattery
Sundquist
Synar
Thompson
Torkildsen
Washington
Wheat
Williams

□ 1158

So the Journal was approved.

The result of the vote was announced as above recorded.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

Mr. FROST. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 550 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 550

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes. All points of order against the conference report and against its consideration are waived except for the provisions of clause 2 of rule XXVIII (the three-day availability requirement for conference reports). The conference report shall be considered as read.

□ 1200

The SPEAKER pro tempore (Mrs. MEEK of Florida). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. All time yielded during the debate on this resolution is for the purpose of debate only.

Madam Speaker, with the exception of House rule 28, clause 2(a) which requires a 3-day layover for conference reports, House Resolution 550 waives all points of order against the conference report to accompany S. 349, the Lobbying Disclosure Act of 1994. The Committee on Rules has recommended this rule in order to allow Members adequate time to study the provisions of this landmark bill while assuring that the conference report can be expeditiously considered prior to the adjournment of the 103d Congress.

The committee believes the waivers provided for in this rule will actually allow the House to consider legislation which is stronger than it was when it was passed by the House in March. This is because the conference report contains new provisions relating to gifts which are more restrictive than those passed by either the House or the Senate. The conference report bans lobbyists from offering, and Members from accepting, meals, entertainment, travel as well as contributions to charities, legal defense funds, or congressional retreats.

The imposition of these restrictions sends a clear message to the electorate:

that Members of this body represent the will of the people and not the will of monied special interests. It may be considered naive in some circles to believe that the men and women who serve in this body are decent and honorable and cannot be influenced by a meal or a golf game. But, I believe every Member of this body understands that to reject this legislation would call our intentions as legislators and representatives of the people into question. I call upon each and every Member of this House to send the message that we are responsive to our constituents, that we do understand their concerns about the integrity of this institution, and that we care enough about our Government and our country to impose these new, strict rules on ourselves.

Madam Speaker, this conference report is not just about meals and golf games. It seeks to completely revamp the rules governing the activities of those individuals who are hired to influence the outcome of the legislative process in Washington. This law will cover all professional lobbyists and requires them to reveal how much they are being paid to lobby whom and on what issues. The new rules imposed on lobbyists will be enforced by a new independent agency in the executive branch and the rules of the House and Senate will be amended to cover the requirements and restrictions of this legislation. Enforcement in Congress will be undertaken by the House and Senate Ethics Committees.

Madam Speaker, the American people sent the Congress a clear signal 2 years ago that business as usual was not acceptable. While it may seem to some that these new rules are a long time in coming, I should point out that this bill has been carefully crafted to protect first amendment rights while assuring that no one person or interest will have an undue influence on the Congress. This legislation represents a landmark in the evolution of the Congress as the body closest to the people: It provides the assurance that we, all of us, believe in the people, by the people and for the people.

I urge adoption of this resolution in order that the House may consider and pass this conference report.

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

Madam Speaker, today is the 259th legislative day of the so-called reform Congress with approximately six exciting, action-packed legislative days remaining before we adjourn sine die. If this rule is adopted, we will complete the final sad chapter on the reform Congress that was not.

This rule and the bill it makes in order, S. 349, are indicative of the Democrat leadership's penchant for undermining any attempts to change the status quo in this institution.

Take, for example, the work of our much heralded Joint Committee on the Organization of Congress. Unlike the legislation before us, the joint committee was created to reform the internal operations of Congress and alleviate an institutional crisis that breeds gridlock and undermines the ability of Members to effectively legislate.

Elements of this crisis include:

Closed rules that, as a Washington Post editorial pointed out this week, are used by the Democrat leadership to distort debate and gag Democrats and Republicans alike from offering popular amendments;

A lack of long-term planning by House and Senate leaders which has created erratic legislative schedules that place terrible pressures on family life and district work schedules;

A lack of confidence in the Federal budget process under which timetables are rarely followed, caps are evaded, budget cuts not what they appear, and programs are not evaluated to determine if they are accomplishing their intended purpose; and

An overstaffed and archaic committee system which has created abuses of power, fractured attention, interest group dominance and jurisdictional gridlock.

Madam Speaker, the leadership's sorry track record on reform issues is now on display today with this so-called lobbying reform and gift ban bill. The procedures that created this bad bill are exactly what reform would correct.

There was no committee deliberation in the House that would have alerted the American people back home that the Democrat version of lobby reform meant taking away their right to communicate with their Member of Congress. The problem with this bill is that when the American people call for lobby reform, they want to reform the way inside Washington, DC works. They do not want to reduce their ability to communicate from home to Washington. If anything, we need more influence from the grass roots to shake up the closed door influence peddling of inside Washington.

The legislation is disingenuous in other ways, Madam Speaker. For example, a group of lobbyists cannot buy a $10 lunch for a Member of Congress while discussing legislation because it would be perceived as an undue influence. Yet that same group of lobbyists can form Political Action Committees and have the same conversation while handing that Member up to $10,000 in campaign contributions. That is something that the Democrats do not want to change.

In addition, lobbyists who violate the rules will face stiff fines and other penalties while Members of Congress who violate those same rules will face at most a slap on the wrist from the Ethics Committee.

It is ironic, Madam Speaker, that we are being asked to consider a bill that imposes an array of onerous new rules on the American people under a procedure that violates all but one of the rules under which we are required to operate. And we wonder why the American people are so cynical toward the Congress.

Madam Speaker, bad bills and bad rules seem to go hand in hand in this institution, and this bill and rule are no exception.

Madam Speaker, I include for the RECORD the Washington Post editorial referred to earlier as well as the roll-call votes in the Committee on Rules on S. 349.

The material referred to follows:

[From the Washington Post, Sept. 27, 1994]

CLOSED RULES IN THE HOUSE

Senate Republicans have been denounced by indignant Democrats in recent days for using the filibuster rule to obstruct and thwart majority rule. The indignation is deserved, but the Democrats should cast their net more broadly. In the House, it's they who have been bending the rules for years to fend off what would otherwise be majority votes.

Twenty years ago, most legislation went to the House floor under an open rule. Almost any amendment was in order so long as it was germane. Today, in order to maintain control, the Democratic leadership has had to tile in the oppose director most major bills are considered under restrictive rules that either bar amendments entirely or list in advance and limit those that can be offered.

In the 95th Congress, Jimmy Carter's first, the Rules Committee, which is a creature of the leadership, granted 211 rules, 85 percent of them open. In Ronald Reagan's first Congress, the 97th, the figure was still 75 percent. By the 102d Congress, the last of the Bush Administration, it was 34 percent.

Nor is that the only example of a cracking down. Republicans complain that the Democrats have made it harder to offer floor amendments to appropriations bills saying no funds may be used for disputed purposes. They note that key committees (including Rules) are filled with more Democrats than the overall House party ratios would allow. They say the minority is denied a fair share of staff on some committees and is sometimes denied what would otherwise be committee victories by rubbery rules with regard to proxy voting and the existence of quorums. They object to the erratic enforcement of a rule meant to ensure that members have a chance to read legislation—particularly the work of House-Senate conference committees—before they have to vote on it. They are surely right about this practice. Members are sometimes forced to vote on bills they haven't read and into which provisions have been inserted that might not be able to stand the light of day; the crime bill was a recent example.

The Democratic leadership and its defenders don't so much deny that these things are done as say that the Republicans do them too—which is not exactly to address the charges. At any rate, they cheerfully acquiesce in these practices when it suits their interests. The Democrats also claim that they aren't thwarting majority rule in the same way filibusters do in that no rule for floor debate in the House can be adopted except by majority vote, and sometimes rules are defeated. But not even the stoutest Democrat denies that a principal purpose of the restrictive rules is protective. They're typically

used to bar amendments that would likely pass if offered and could sink the underlying bill passed.

Republicans like to say the Democrats, who have controlled the House since 1955, are acting out of arrogance. But in fact they're acting out of weakness. They have less control of the House than the nominal lineup of 256 Democrats and one independent to 178 Republicans would suggest. On many issues, enough conservative Democrats are prepared to vote with the Republicans to give them the majority unless the votes can be avoided. Avoidance has thus become the game. But in the House no more than in the Senate is that a defensible way to govern.

ROLLCALL VOTES IN THE RULES COMMITTEE ON THE RULE FOR S. 349, LOBBYING DISCLOSURE ACT

1. Dreier Motion on 3-day Layover Rule—Motion to exempt for the waiver of points of order the provisions of clause 2 of rule XXVIII, the three-day layover requirement for conference reports. Adopted: 5–4. Yeas: Beilenson, Solomon, Quillen, Dreier, Goss. Nays: Moakley, Bonior, Hall, Slaughter. Not Voting: Derrick, Frost, Wheat, Gordon.

AN AMENDMENT OFFERED BY MR. DREIER TO THE RULE FOR S. 349, LOBBYING DISCLOSURE ACT OF 1994

At line 4, insert the following before the period: "except for the provisions of clause 2 of rule XXVIII (the three-day availability requirement for conference reports)".

Explanation: This amendment to the rule would exempt from the blanket waiver of points of order the provisions of clause 2 of rule 28 which prohibit the consideration of a conference report until the third day on which it is available to Members.

Madam Speaker, I yield 4 minutes to our revered Republican leader, the gentleman from Peoria, IL [Mr. MICHEL].

Mr. MICHEL. Madam Speaker, I rise in opposition to the rule. Some say it is easy for BOB to oppose the rule; he is retiring. Yes, I am. Perhaps that fact allows me some freedom to say some things that ought to be said. But those who know me well realize I would speak my mind under any given set of circumstances.

For the past several Congresses I have been consistently and forcefully urging real reform of this House, first our ethic laws, then our campaign laws and congressional rules. We succeeded in 1989 in achieving significant reforms in House ethics. We eliminated honoraria, limited the gifts to Members and staff and called for full and complete disclosure, and that is always the key.

Back in March of this year we passed a lobbying bill that focused on the lobbyists banning gifts to Members and staff. We in effect put a "scarlet L" on their foreheads to clearly identify them, and there is nothing wrong with that. But in this measure before us today it is no longer just lobbyists we have banned, it is instead just about every other American. In our lust for public approval, we have lost sight of our true goal, which is to reform ourselves, not to create a whole new class of officially designated "usual suspects."

□ 1210

Given the fear and loathing with which Congress is held by the public, it is no surprise some of us have succumbed to panic and embraced this bill. But creating a new set of rules is no substitute for true reform.

And what about real reform, as the gentleman from California was talking about a few moments ago? Where is campaign reform? It is not in this bill. Where is the ban on campaign contributions from political action committee lobbyists? It is not in this bill.

Would you believe this bill approves a lobbyist giving you a $5,000 contribution at one instance, but it prohibits that very same lobbyist from taking you to McDonald's for a Big Mac? How ridiculous can we be?

And there will be others who will demonstrate with several anecdotes today of how this bill is just absolutely ridiculous.

Is there any wonder why, I guess, there is so much public cynicism out there.

We were elected to wrestle with the legislative issues of the day. Here we are today demeaning ourselves by saying, "Oh, please stop me before I accept another cup of coffee and a Danish. Lock me in the closet, bolt the door, lest I succumb to the blandishments of those unscrupulous demons who can buy my soul with a round of golf." This is not self-reform. It is self-flagellation, a practice which may have a fascinating attraction to some, but I consider it degrading and debasing, and what is more important, not really reform.

I think Members will recognize that I have deeply respected this institution over my tenure here, dedicated really my life's energies to it, but, my friends, you do not redeem yourselves by passing this conference report. It actually confirms everything negative, every suspicion people have about this House.

Contrary to popular myth, the trouble with this institution is not endemic moral corruption, but refusal to implement real reforms such as those I spoke of earlier. No amount of bills like the one before us today is going to cure us of that failure. Our faults, dear colleagues, lie not in our perks but in our posturing.

I would urge Members to vote against this rule or at least to recommit the conference report.

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 6 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker and Members, we today embark on the last step in an attempt to pass legislation which will restore public confidence that we are operating in a way that legislation that passes this institution is passed free of daily influence from lobbyists who, in the view of the public, should not be—in Washington, DC, or anywhere else—buying our meals, paying for golf, paying for tickets to the theater or the ball game, or flying us across the country to participate in some type of charitable or noncharitable golfing event.

I think that the speech just made by the gentleman from Illinois [Mr. MICHEL] was one that certainly was heartfelt, and I think it reflected a very high opinion of this institution which I completely share, but the bottom line of it is it was a speech in favor of continued free meals, continued free tickets to the ball game and to the theater, and continued free trips clear across the country to play golf at the expense of the very people who are paid to come here and influence us and try to obtain a specific outcome in a legislative activity.

What is before us at this moment is the rule. Members, when we passed the bill in March, many of you voted against it—and there were not very many, I might point out—many who voted against the rule said they did so because the bill was not tough enough. I think there are many of us that understood that what they really wanted to say was they did not want the bill to pass because they did not want to give up their freebies. They said the bill was not tough enough. Well, now it is. Many of those who voted against it cited the opposition to the bill of Common Cause and the New York Times. They now support this measure, as does Public Citizen, the Washington Post, and others who have editorialized in favor of the strong legislation.

We are here today requesting the rule to pass that would give us a waiver of points of order against the conference committee report for one reason: because several tough new gift provisions that are included in the report go beyond the scope of the conference. The vote on this rule is a vote on the provision to make this entire bill tougher. If you are in favor of making it tougher, as many of you said you were when the bill passed last March, this rule allows us to make it tougher. We have done exactly what many opponents to the bill said they wanted.

For example, while the Senate-passed lobbying bill covered gifts from lobbyists, and the House-passed bill covered gifts from lobbyists and others such as clients, the conference report which we want to bring to the floor pursuant to this rule contains rules covering all gifts given to Members or staff.

Second, both the Senate- and House-passed lobbying bills required only disclosure of charitable contributions given in lieu of honoraria, of contributions to congressionally affiliated retreats and contributions to legal defense funds, but the conference report which will be brought to the floor

today pursuant to this rule bans lobbyists from making these types of gifts.

Third, both the Senate- and House-passed bills allowed privately funded travel and lodging for recreational events such as charity golf tournaments, if the travel-related expenditures were disclosed. The conference report bans privately funded travel and lodging for substantially recreational events or for other charity events. The bill also requires staff to get approval from their supervising Members before traveling, and requires disclosure of travel expenses by Members and staff within 30 days after returning from a trip.

The conference report makes the legislation stronger, and what we are asking for when we ask you to vote for this rule is to give us permission to make this bill stronger.

Many of these new provisions are based on a separate gift reform bill that passed the Senate by a vote of 95 to 4 on May 11, and as Members know, the conference report was filed on Monday, and was laid over for 3 days. Everybody has had an opportunity to take a look at it.

We have been at this for over 18 months. Everybody has had an opportunity to have input into this legislation, both in the subcommittee and in the ad hoc committee that was appointed by the Republican leader and the Speaker.

They have had as much time to learn about this legislation as they possibly could.

I was astonished to learn last night for the first time in the entire 18-month history of this bill that the Republican whip stood on the House floor and attacked this bill and said that somehow or another it was going to limit the ability of grassroots organizations, in particular religious organizations, to lobby. Nothing could be further from the truth. That is a ruse to protect the desire of many Members of this Congress, and I am afraid to say some of them who may very well be engaged in this debate, to keep on playing free golf and keep on eating free meals and keep on getting free tickets to the baseball games and the football games. That is a ruse.

I will read to you a letter from the Baptist Joint Committee which we just received. We asked them to clarify their position on the conference report because they supported the bill, as well as the U.S. Catholic Conference and the Religious Action Center for Reform Judaism. I am hesitant to take the time to read the entire thing. I want to read this paragraph. It says:

> I am, therefore, puzzled by Mr. Gingrich's letter questioning this legislation on the basis of the effect that it would have on religious organizations. I think he is plainly wrong. We very much appreciate your willingness to accommodate religious liberty concerns in this legislation and appreciate the cooperation of your staff.—J. Brent Walker, General Counsel.

Let me just say if you are going to be against this bill, stand on the floor and say you are against it because you want to keep on getting free meals and free dinners and you want to keep playing free golf. Do not hide behind the skirts of legitimate public-interest organizations and churches. They are happy with the bill. This does not hurt them.

It is the same language we have had in the bill for 18 months. If you were concerned about it, where have you been the last 18 months?

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

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The Christian Coalition, amongst others, does oppose it.

But let me ask the gentleman, in which bill was the grassroots gag that the gentleman now brings to the floor in this particular legislation?

Mr. BRYANT. There is no grassroots gag. I would urge you to hew to the truth as you talk about this bill, because it is virtually the same language that passed the House back in March. We have not changed it. If you were concerned about it, I say to the gentleman from Pennsylvania [Mr. WALKER], where have you been the last 18 months?

Mr. WALKER. The point is under which the bills was the grassroots gag originally brought in that allows a Government bureaucrat to determine how it applies to religion?

Mr. BRYANT. There is no grassroots gag, and I am not going to give you time to allow you to say that. There is no grassroots gag. If you want to keep playing free golf, admit it.

Mr. WALKER. I do not play golf. Maybe the gentleman does.

Mr. DREIER. Madam Speaker, I yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS], my Committee on Rules companion.

Mr. GOSS. Madam Speaker, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, the gentleman from Texas was very sanctimonious and self-righteous just a few minutes ago. I know he is an honorable man, but one of the things that concerns me is he is putting a penalty in here if you have a Big Mac with somebody. I know nobody is going to buy his influence. But he got $10,000 this year from the United Steelworkers, $10,000 in PAC contributions; $10,000 in PAC contributions. He got $5,000 from the United Auto Workers PAC. Now, a Big Mac will not buy any influence from anybody. I am sure $15,000 will not buy influence from anybody. But there is some kind of a contradiction. Why is it that we can get $15,000 or $20,000 from a political action committee, like the gentleman from Texas has, but we cannot have lunch with someone? That makes no sense. This is an absolutely insane piece of legislation.

□ 1220

Mr. GOSS. Reclaiming my time, Madam Speaker, on Tuesday the Rules Committee actually did the right thing—and resisted the pressure by those who have labored over the intricacies of this bill for 18 months to rush blindly forward and pass it without reading it thoroughly. The Rules Committee protected Members' rights by voting to uphold House rules that allow Members who are not familiar with the minutiae of this conference report, the normal 3 days to review the details. The caption in the House newspaper, Roll Call, labeling this process "Bungling by the Rules Committee," says more about the bias of Roll Call as a tool of the power structure around here. I hope my colleagues availed themselves of that time and are prepared today to discuss and vote on this bill with full knowledge of what it contains.

As the debate unfolds, I expect some will say this bill contains good policy changes while others are just as sincere in their concern that this bill, with all its exceptions and vague definitions will establish rules that Members and ordinary citizens will have trouble adhering to.

I think it is appropriate that Members of Congress not accept expensive meals, gifts or travel from lobbyists. But this bill establishes new definitions for the rest of the world—the nonlobbyists—definitions that we can expect to be much more confusing in practice than they are in the legislative language.

The world is now defined in three categories: lobbyists, nonlobbyists, and family or personal relations. In many cases, the specifics of how this bill will apply to these three groups are left to the Ethics Committee to work out—a challenging mission, to say the least, for our Ethics Committee. For example, under this bill, a nonlobbyist still can buy a Member lunch in Washington as long as it costs less than $20, but that same nonlobbyist can spend more for a Member's lunch in the Member's home State. How much more? That is left to the Ethics Committee to decide. To add more confusion, a lobbyist can buy a Member lunch or football tickets, if that lobbyist has a personal relationship with that Member. How do we define personal relationship? Again, it is left up to the Ethics Committee to provide clarification and guidance on these changes—another enormous task of the committee. I say this not because the Ethics Committee is unwilling or unable to perform these functions, but because Members should understand that all the answers are not in this bill—in fact, in my view this bill raises almost as many questions as it answers and I expect Members will be fumbling around for many months trying to sort out all the distinctions.

Legislating morality is always difficult—but that is our task in considering this bill. The one thing we need to remember is that we are here to serve our constituents—not ourselves.

But I am puzzled why the Ethics Committee was not fully consulted in development of this legislation. I do not believe this matter is ripe for consideration and I believe the Ethics Committee should have had input in crafting this bill. I will vote "no" on this rule and urge other to do so because it is so vague and so ambiguous that it demands further work.

Mr. FROST. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I would urge my colleages on the other side to be a little more restrained in terms of the language that they use during this debate. No one is interested in asking that words be taken down, but I would urge my colleagues to debate this on the merits and to enjoin the issue on the merits.

Madam Speaker, this is a serious matter that deserves a serious discussion. There are strong feelings on both sides on this issue. Let us deal with the merits and let us not deal with individuals as this debate proceeds.

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

Mr. FROST. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Madam Speaker, I would hope the same thing would apply to the people on the other side of the aisle who have suggested anybody who opposes this is in favor of being corrupt. That kind of thing also should not be done.

Mr. FROST. Madam Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. I thank the gentleman for yielding this time to me.

I also would agree with the comments on both sides that we ought to discuss this issue on the merits.

Let me first begin by thanking the gentleman from Texas [Mr. BRYANT] for his hard work on this issue. He has indeed struggled over the last 18 months to bring together as many groups that have an interest in this issue, as many objections as have been heard; religious organizations, civic organizations, et cetera, to seek to reach a good and effective compromise.

Let me try in just my brief time to walk us through what it is that we are doing here today in this legislation.

It is absolutely clear that over the course of the last decade or so that practice of professional lobbying has grown to be an industry of some significance here in this Capital. It has gone beyond just having professionals come to our offices to make the case on particular pieces of legislation. It has grown to include the practice of developing so-called grassroots lobbying networks, phone banks, sophisticated targeting of Members, the practice of encouraging phone calls, et cetera. All of this has become part of a very sophisticated public relations industry, all of which is intended to influence the course of legislation here in Washington.

The current state of the law, however, is that only a very small percentage of those individuals who are engaged in that activity must register their activities with the Government so that the public can have that information, and only a very small part of those moneys that are spent by those interest groups to try to influence the legislation in this body is in fact known to the public.

So what this bill does is it does two things that are really very significant but also, I think, very straightforward, despite all of the debate we are going to hear.

The first thing is that it says that everyone one who is engaged as a profession in the business of trying to influence the course of legislation in the Congress or in the executive branch ought to register with the Government so that the public and the media can have access to that information.

Second, they ought to report for the public information, for the media information, that which they are spending to influence the course of activities of legislation in the Congress and of legislation in the Federal Government.

And, yes, that includes if they are using sophisticated network of phone banks and whatever else it is to try to generate so-called grassroots activities, they need to tell us how much money is being spent by that interest group so that the newspapers, the reporters, whoever it is in our districts can report to the public that that money is being spent, by whom it is being spent, and for what purpose. So the public can factor into their decisionmaking about our activities and about the activities of the legislative process that which they now know about the present situation.

Mr. DREIER. Madam Speaker, I yield 2 minutes to my good friend, the gentleman from Redlands, CA [Mr. LEWIS].

Mr. LEWIS of California. I thank my colleague very much for yielding.

Somehow it has become fashionable to attack lobbyists—individuals who are professionals paid to represent many diverse interests of people in America here in the Halls of Congress, in the people's House. There are lobbyists on every side of every issue: lobbyists who represent unions, lobbyists who represent small business, lobbyists who represent local governments. Somehow this bill depicts them as being corrupt.

I am reminded of the picture seen by the public not long ago of a former judge, who was later a Member of Congress, stuffing dollar bills in his back pocket. Our debate today operates on the pretext that one solves problems by saying one cannot have lunch or play golf with someone who represent an interest. We believe in some way we are improving ourselves. At the same time, we take thousands of dollars from these lobbyists, and like that judge, put them in our campaign coffers, and say we are pure.

Ladies and gentlemen, this is the most cynical piece of legislation I have ever seen. I have talked to my colleagues on the other side of the aisle and I have said to them, "You know this is a piece of garbage." They look at me and say, "We know it, but the Senate will take care of it."

This bill is for pure political purposes and reflects the worst of legislating in this body. It is unbelievable that this is a major cornerstone of the other side of the aisle's token effort to improving our Government.

Mr. FROST. Madam Speaker, I yield such time as she may consume to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Madam Speaker, I rise in strong support of both the rule and the bill.

Madam Speaker, Americans voted for change during the last election. As another election approaches, Americans are still dissatisfied with the pace and progress of that change.

Congress, especially, should take heed of the country's impatience. Correctly or not, the public perceives we are more concerned with our perks and privileges than we are with the public's business. And for too long, we have delayed acting on meaningful congressional reforms to correct that impression.

That is why the Congress needs to pass this thoughtful effort to reform gift rules—rules which currently still allow lobbyists to buy gifts, purchase an unlimited number of meals, and underwrite travel and entertainment for lawmakers.

That is also why it is unfortunate that some Members are opposing the rule today. Make no mistake about it, some Members do not want to vote on this legislation and that is why they do not support this rule.

While some Members do not want any bill to pass, there are others—such as myself—who would like to go even further. The conference report strikes a reasonable balance which combines important features of both the House and Senate bills. It is a measure which has the best chance of passing the Congress.

Two years ago, millions of voters were energized by the promise of economic and political change. Now it is time for Congress to delivery on that promise of change by enacting real reform. The House should do the right thing today and vote for the rule and for the lobbying reform and gift ban bill.

Mr. FROST. Madam Speaker, for the purpose of debate only, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

□ 1230

Ms. DELAURO. Madam Speaker, we stand here today faced with a critical

opportunity. An opportunity to help restore the credibility of this institution. To reduce the power of special interests. To renew the faith of the American people in our ability to govern in their interest.

Each of us know how angry people are with government. We have been home. We have heard the cynicism and distrust. And this bill shows that we recognize the problem and are moving toward a strong solution.

This bill bans gifts to Members. It bans meals, entertainment, and travel. It includes tough enforcement provisions. It requires full disclosure of who is lobbying whom and expands the list of those who have to register as lobbyists.

This bill is important in and of itself. But it carries a greater message than lobby reform. It says no more business as usual. That is what people are asking for and this is the people's House.

"Public confidence in the integrity of the Government is indispensable to democracy." Those words of Adlai Stevenson are a sharp reminder of what we must do today.

Pass the rule, and pass this bill.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4556), "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes."

CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

Mr. DREIER. Madam Speaker, I yield 2 minutes to my friend, the gentleman from Metairie, LA [Mr. LIVINGSTON].

Mr. LIVINGSTON. Madam Speaker, lacking any visible, significant reform in Congress, I rise in opposition to this complex, unworkable piece of bad legislation and against this heavy-handed rule which denies the right to any Member to offer constructive, well-intentioned and thoughtful amendments in order to make legitimate improvement to this bill.

Madam Speaker, I am one who believes that, contrary to the hysteria created by the modern media, the vast majority of Republicans and Democrats, conservatives and liberals, in this House of Representatives and in the other body across the way are at the very core decent, law-abiding, well-meaning, well-intentioned people who are repulsed by corrupt practices. But if this rule denies us the opportunity to improve this bill, and if this bill in turn passes, the most honest among us will risk being pilloried in the press and perhaps dragged through the mud by way of political indictment for some innocuous and incidental infraction.

Madam Speaker, this bill stifles honest exchange of views and opinions between good people, and, as such, the rule and the bill should be defeated.

Mr. FROST. Madam Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Madam Speaker, I am a newcomer to this body. I just came barely 2 years ago, and I have been working on this bill since I got here. I worked on it because when I was in my campaign I learned a startling thing. I learned that the general public, the ordinary Joe and Jane who live in every house in America, believe that they do not have the same access to their Members of this body as lobbyists have. That is what they believe, and they believe it thoroughly. They do not believe that they can get to us as easily, or as quickly, or as effectively as lobbyists can.

That is what this bill is about; that is all this bill is about. This bill stops the fancy recreational trips. This bill stops the fancy, expensive meals. This bill stops the unlimited access that lobbyists have to us because they are willing to pay for everything, and they do pay for everything.

The objections that this bill is not a campaign finance reform bill are really nonsense. This House already passed a campaign finance reform bill, and I hope that the conference report will come back to us very soon and we will be able to pass that as well.

The objection that the Members of this House do not understand this bill is utter nonsense. I have been working on this bill for 2 years. The gentleman from Texas [Mr. BRYANT] has been killing himself for over 8 months. He has held caucuses, he has gone to bipartisan caucuses, he has gone to Democrat caucuses, he has gone to Republican caucuses. Frankly not enough people have come to hearings, but he has done it again, and again, and again, and I submit to my colleagues and I beg them to be part of the solution to this problem, not part of the problem.

Madam Speaker, this is a good bill. This is a good bill, and it is not being submitted because any one of us think that any one of our colleagues are guilty of any wrongdoing. This bill is not being submitted because any Member of this House believes that lobbyists are guilty of wrongdoing. To characterize it in that way is to change the subject in order to defeat the bill.

This bill is being proposed because Americans do not believe that they have access to this body in the same way, and they do not. When somebody comes to Washington who is an ordinary citizen and walks in my office, they cannot take me to play golf. They cannot afford it, my colleagues. They do not make enough money. They cannot take me on to the ski lifts and buy my ski passes. They cannot afford it.

I urge this body to come to grips with this problem and pass this bill.

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

Madam Speaker, as I listened to the gentlewoman from Utah [Ms. SHEPHERD] describe all of the hoops that the gentleman from Texas [Mr. BRYANT] has gone through, she failed to mention the only thing that he ignored was the legislative process. There was never a full committee markup on this legislation.

Madam Speaker, I yield 2 minutes to my friend, the gentleman from Cape Girardeau, MO [Mr. EMERSON].

Mr. EMERSON. Madam Speaker, one of the problems here in Congress is that we are very often trying to fix problems by addressing perceptions rather than realities. If we would have a thorough debate and address the realities, I believe the perceptions would take care of themselves.

The measure before us is such an example.

There is a big difference between honest lobbying and influence peddling. Elements of the media and some special interest groups, whose very purpose it is to denigrate Congress, have conjured in such a way to try to obscure the differences between legitimate lobbying and influence peddling in the public's perceptions.

I submit that the realistic answer to regulating what the measure before us attempts to regulate is to simply have full public disclosure. Let us reveal our lobbying contacts and have stiff penalties for willful violation. In a time of budget austerity, do we really want to create a new bureaucracy at taxpayer expense as we do in the measure before us that will in effect become the meal police, surveilling whether or not a Member of Congress accepted at $19.75 meal and thus remained as clean as a hound's tooth, or accepted a meal that cost $20.25 and became a criminal? If we are going to regulate, let us at least do so in a commonsense way that will make it possible to live within the letter and the spirit of the law, rather than erect another scheme that will have the ultimate effect of further eroding the public's perception of the institution.

I am very often asked questions at home about special interests and lobbyists. The fact is they are a part of the system, and the public interest would be much more highly served if this issue was explained and if we used full disclosure as the appropriate remedy for perceived infractions than to take the route that we are taking. I am hard put, as I tell my constituents, to find someone who does not belong to a

special interest group that does in fact have lobbyists. Senior citizens may say, "not us," but then I must ask if they have ever heard of the National Committee to Preserve Social Security and Medicare or the AARP. Farmers may say, "not us," but then I must ask if they have ever heard of the Farm Bureau or the Cattlemen's Association or the Cotton Producers or the Rice Millers or the Corn Producers, and on and on. Teachers? I think the answers are obvious. Business? How about the Chamber of Commerce, the NAM, and the very effective champion of small business, the National Federation of Independent Business? Labor unions; how many are there? Yes, even religious groups have lobbyists; so, make no mistake about that.

I am concerned that the measure is antihuman nature, antireal world. I think it is an effort to cut off Congress from different elements of our society and force us to legislate in a vacuum—pursuing to an illogical extension and conclusion the idea that if someone knows something about the subject about which they are speaking they obviously have biases. The Traditional Values Coalition sent a message to me this morning arguing that the bill "creates a chilling effect on individuals who simply want to petition their elected officials on issues being considered by Congress." They say that citizens already discouraged by the political process and the workings of government will be made to further feel that Congress is unresponsive and out of touch. They argue that the measure before us is unconstitutional because it adds impediments to the constitutionally protected right to redress grievances.

□ 1240

Mr. BRYANT. Madam Speaker, for the purposes of debate only, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Madam Speaker, across America they say that there is no such thing as a free lunch.

Now that will be as true inside the beltway as it is outside the beltway, thanks to passage of the Lobbyist Disclosure Act.

Let me be clear: No meal or no turkey sandwich ever persuaded a member of Congress to vote one way or another.

But I am tired of seeing Members of Congress look like turkeys on the evening news for enjoying free meals, free gifts, and free vacations, all courtesy of powerful lobbying interests.

Those privileges reinforce the perception held by too many Americans that they have no influence with their elected Representative.

This bill will also shed sunshine on who is wooing whom, how much lobbyists are being paid, what issues are being pressed, and how much is being spent to advance those causes by requiring full disclosure and full registration by all lobbyists.

Madam Speaker, the loss of a few lunches or trips is a small price to pay for restoring the people's trust.

Coupled with a meaningful campaign finance reform bill, which I hope will pass this session.

The Lobbyist Disclosure Act, which I hope will likewise pass this session, will put the people back into the People's House.

Mr. DREIER. Madam Speaker, I yield 2 minutes to my friend and classmate, the gentleman from Findlay, OH [Mr. OXLEY].

Mr. OXLEY. Madam Speaker, I rise in opposition to this exercise in self-flagellation. We are pretty good at these kinds of things. We have managed to deny ourselves for 2 years in a row a worthwhile cost-of-living allowance that most Americans get. So now we are going to somehow try to fool the American public with this phony reform package.

Let me just read to the Members a partial list of major legislation that this Congress has failed to pass: health care, Superfund, GATT, A to Z spending cuts, clean air, immigration reform, welfare reform, telecommunications legislation, campaign finance reform, middle-class tax cuts, a debate and a vote on Haiti, capital gains cut, congressional reform, a balanced budget, and a line-item veto, and on and on and on. And we stand before the American public and say we are going to flog ourselves in public and somehow they are going to forgive us and reelect us. What absolute nonsense.

I want to give the Members an example of what this bill does, what it really does. We had a discussion with the sponsor of the bill when he was briefing us. I asked him about the congressional baseball game that is traditionally played here. For 40 years we played that game. I played it for 14 years. We get out at 7 o'clock in the morning and practice for about 3 weeks, and then we have this game, and we sell tickets. And guess what? Some lobbyists buy tickets to that game, and then we give the proceeds to charity. There was $30,000 this year given to the Washington Literacy Council that we raised because we were able to do so in the congressional baseball game.

We have a great time. A lot of staffers come out, and people enjoy it. I did not enjoy it so much this year as in other years, but it is a lot of fun. We raise the money for charity.

I asked the sponsor of the bill, under the legislation currently pending, if we could do that. The answer was that we could not do that. We cannot sell tickets to lobbyists; we cannot have the Rawlings Co. provide the equipment for the baseball game.

I asked, what if MARTY SABO, the manager of the Democratic team, and DAN SCHAEFER, the manager of the Republican team, had a joint fund-raiser for the baseball game; could they in fact do that and the money would go, of course, to their campaigns? And the gentleman from Texas said, "Well, as long as the money wouldn't go to charity."

I ask the Members, have we lost our minds? Are we in a situation where we could have a congressional baseball game as a fund-raiser for our campaigns in the political sense and we cannot raise $30,000 for a worthwhile charity?

Madam Speaker, I suggest to the Members that this is a fraud, and I suggest that we vote against the rule.

Mr. BRYANT. Madam Speaker, will the gentleman yield so I may ask a question about the baseball game?

The SPEAKER pro tempore (Mrs. MEEK of Florida). The time of the gentleman from Ohio [Mr. OXLEY] has expired.

Mr. FROST. Madam Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT] so he may propound a question.

Mr. BRYANT. Madam Speaker, this bill does not affect the congressional baseball game, topside or bottom.

I yield back the balance of my time.

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

Mr. BRYANT. The gentleman did not yield to me, so I am not going to yield to the gentleman.

Mr. OXLEY. I did not have any time. Has the gentleman changed his mind since we had that discussion.

Mr. BRYANT. You have misquoted me pretty grossly, Mr. OXLEY. You are one of the Members for whom I have a great deal of respect and admire very much in this institution, . . .

Mr. BURTON of Indiana. A point of order, Madam Speaker.

Mr. WALKER. Madam Speaker, I demand that the words be taken down.

□ 1310

The SPEAKER pro tempore (Mrs. MEEK of Florida). The Clerk will report the gentleman's words.

The Clerk read as follows:

> You have misquoted me pretty grossly, Mr. OXLEY. You are one of the Members for whom I have a great deal of respect and admire very much in this institution, but I find it very hard to understand why you would simply not come forward and say, as those of you who are speaking on that side, or thinking—We want to play free golf, we want free meals. You are not concerned about charity, you are not concerned about congressional baseball, you are just concerned about more freebies, and this bill says no to the freebies-seeking Members of Congress, who I regret to say are a small minority of this House, yet you create a bad impression for the rest of us. This bill says no.

The SPEAKER pro tempore. For what purpose does the gentleman from Texas [Mr. BRYANT] rise?

Mr. BRYANT. Madam Speaker, I ask unanimous consent that any reference to any individual Member and to the

motivations of any individual Member be withdrawn.

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

Mr. WALKER. Madam Speaker, reserving the right to object, I do not intend to object, but I am concerned that this has become a pattern, and it seems to me it would be helpful if the Chair would police any kind of personal references so we do not have to go through this process in order to protect Members from having personal motivations questioned.

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

Mr. WALKER. I am happy to yield to the gentleman from Illinois, under my reservation of objection.

Mr. DURBIN. Madam Speaker, the gentleman, of course, is referring to speeches on both sides of the aisle; is that correct?

Mr. WALKER. Absolutely. All I am asking is that the Chair begin the process of enforcing the rules of the House with regard to personal motives. It seems to me that we could then move outside this.

I would hope, also, that in the withdrawal of the words, that that would be an apology for the words that were done here earlier.

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

Mr. WALKER. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, this gentleman is prepared to object, unless the gentleman who issued those offending words apologizes personally to this Member who was offended. There is a reason for the rule. The reason for the rule is that this body expects gentlemanly conduct. When a Member violates that rule by using personally attacking, offensive words, the House expects the Member to apologize, so unless the Member apologizes for those words, I am going to object to their being withdrawn.

Mr. WALKER. Madam Speaker, reserving the right to object, I would certainly be happy to yield to the gentleman from Texas [Mr. BRYANT]. I would certainly be happy to yield to the gentleman from Texas, if we could have something here that would avoid an objection. As I say, I do not intend to object.

Mr. BRYANT. Madam Speaker, will the gentleman yield to me?

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

Mr. BRYANT. Madam Speaker, I would just say to the gentleman from Pennsylvania [Mr. WALKER] that if he heard my words correctly, the first words I spoke to the gentleman from Ohio [Mr. OXLEY] were that I have the highest regard for him. I went forward to say, however, that it was my view that the reasons being offered for opposition to this bill were not the real reasons.

The ruling of the Chair apparently was, there was no ruling. The ruling, obviously, that I do not want to receive is that somehow that was a personal reference. I did not intend any personal reference to the gentleman from Ohio [Mr. OXLEY] at all. I have a very high regard for him. I did intend a reference, however, to the opponents of this legislation; or rather, the outcome.

Madam Speaker, to the extent that I would, in any respect, suggest that any type of a personal prejudice or personal suggestion of motivation of the gentleman from Ohio for that, of course, I would quickly apologize. He is my friend and I have a high regard for him.

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

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

Mr. CUNNINGHAM. Madam Speaker, I would disagree with the gentleman in the fact that he used direct reference and repeated the words that said, "You don't want to just play baseball, you want to do these things," so he was directly talking to the gentleman from Ohio [Mr. OXLEY], because of the statements that he made before.

Madam Speaker, I think it is just like when the gentleman from Wisconsin [Mr. OBEY] and I got into it the other day; that, you know, we apologized to each other and we separated happy. I think that when you directly attack someone personally, which, in the words, you did, then I think at a minimum you could apologize to the gentleman from Ohio and there would be no objection, because whether you meant to or not, you attacked him.

Mr. BRYANT. Madam Speaker, if the gentleman will continue to yield, all I can say is what I have just said a moment ago. It was my intent to use the general "you," not to speak to him specifically. He knows my relationship with him. I have prefaced my remarks by stating what high regard I had for him. I was making clear my feeling about the purposes of the opponents of this legislation, not the gentleman from Ohio [Mr. OXLEY] personally. I have already said exactly what the gentleman wanted me to say with regard to the gentleman from Ohio.

Mr. CUNNINGHAM. If the gentleman will yield further, then the gentleman should say it, "I'm sorry," and we will press on with it.

Mr. WALKER. Madam Speaker, continuing my reservation of objection, the gentleman from Kentucky [Mr. ROGERS] had asked me to yield. I will yield to him, and then I will come to the gentleman from Virginia [Mr. BATEMAN].

Mr. ROGERS. Madam Speaker, I thank the gentleman for yielding. I have yet to hear the personal apology to the gentleman from Ohio [Mr. OXLEY].

No. 2, if the reference was to, when you say "you," if it was not to the gentleman from Ohio [Mr. OXLEY], but to the rest of us, then I am personally offended for the same reason.

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

Mr. WALKER. I yield to the gentleman from Virginia, under my reservation of objection.

Mr. BATEMAN. Madam Speaker, I would repeat the point. The offhanded, backhanded apology to one Member, if that indeed is what it was, is certainly aggravated, if anything, by the fact that the gentleman has generalized the aspersion on everyone else who happens to oppose his point of view. That is totally unacceptable.

Mr. BRYANT. Madam Speaker, if the gentleman will continue to yield, if I may respond to the gentleman, let me just say that what was requested was an apology to the gentleman from Ohio [Mr. OXLEY]. I do not feel like my words call for an apology, but I would quickly give it, because of my high regard for him.

Madam Speaker, if I might just finish, the gentleman that just spoke a moment ago took offense to the fact that I said that I was speaking with a general "you" referring to the opponents of the bill in general. I do not wish to ascribe a motivation to those who are——

Mr. BATEMAN. If the gentleman will yield further, but you have done so.

Mr. BRYANT. If in fact you feel that way, I would quickly apologize to you, as well, but I want to emphasize that under no circumstances would I ever ascribe an unworthy motivation to the gentleman from Ohio [Mr. OXLEY], and I did not do so. I do not think that I sounded as though I did so. However, in the event that the Parliamentarian disagrees, I wish to withdraw those.

Madam Speaker, I have offered the apology to the gentleman from Ohio [Mr. OXLEY] which the gentleman from Kentucky [Mr. ROGERS] asked for.

Mr. BATEMAN. Madam Speaker, if the gentleman will yield further, it is absolutely amazing and mind-boggling to me that you do not think you gave offense, but if you did, to the gentleman from Ohio [Mr. OXLEY], you will apologize. That is hardly an apology.

Then to go on to suggest that everyone who does not share your view on what I regard as one of the shoddiest pieces of legislation that has come before this House is guilty of improper motives, and that is exactly what you attributed to everyone who opposes your point of view, you owe an apology to more than the gentleman from Ohio [Mr. OXLEY], and an unequivocal one.

Mr. WALKER. Madam Speaker, continuing my reservation of objection, I would ask if the gentleman from Texas [Mr. BRYANT] wishes me to yield to him.

Mr. BRYANT. If the gentleman will yield, I have said about as much as can

be said. I think the gentleman from Ohio [Mr. OXLEY] would have to be the one to judge whether or not he feels like it is adequate, but I have been as clear as I can possibly be. I do not intend to ascribe motivations to anyone, nor do I intend to in any way personalize my comments with regard to the gentleman from Ohio [Mr. OXLEY]. I did not intend it at the time, and in the event anyone thinks I did, I certainly would apologize to the gentleman from Ohio [Mr. OXLEY].

Mr. WALKER. Madam Speaker, further reserving the right to object, I think that the question on our side is does the gentleman apologize to the gentleman from Ohio [Mr. OXLEY].

Mr. BRYANT. If the gentleman will yield, yes.

Mr. WALKER. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the words are withdrawn.

There was no objection.

Mr. DREIER. Madam Speaker, may I inquire of the Chair how much time remains on both sides for this stimulating debate?

The SPEAKER pro tempore. That time was not extracted from anyone's time. The gentleman from California [Mr. DREIER] has 10½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 10 minutes remaining.

Mr. FROST. Madam Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Minnesota [Mr. MINGE].

□ 1320

Mr. MINGE. Madam Speaker, this acrimonious debate this afternoon in my opinion is a thinly disguised attempt to return us to gridlock in the House of Representatives. What I see happening here this afternoon is a bill that we have worked on for months and months being challenged for reasons that are being attributed to the chief architect of the bill that are not accurate. I feel this criticism is not well-taken. We have engaged in an extensive debate, and an extensive effort to craft legislation to give the American people reason to believe that this institution is not governed by the whims of lobbyists.

We must continue to hold the course, or I know what will happen next week. We will be told that the House of Representatives was unable to pass lobby reform. It will simply be added to the list that was recited earlier, of pieces of legislation which have been attacked and attacked for one reason on the floor of the House before the vote and then after the vote for a very different reason.

I think at this point in time, it is important that we recognize that there are thousands of employees in the executive branch of Government who have held themselves to a very high standard, there are hundreds in the legislative branch of Government who have held themselves to a high standard, and it is time that we memorialize this standard in the form of legislation so that we all know what the standard is so that the American people know what the standard is, and so that we can lay to rest the concern and the suspicion that lobbyists buy legislation in this institution, which is not the case, should not be the case, and will not be the case.

Mr. FROST. Madam Speaker, if I may, with the forbearance of the other side, I have one speaker who needs to leave the floor shortly and would like to recognize for 1 minute, please.

Madam Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Speaker, I have been involved in reform issues in this House for a long time. I simply would make one statement: However Members feel on the bill. I would beg you not to vote against the rule that allows the bill to be debated. If Members have legitimate objections to the bill, do not hide behind the fact that we have to pass a rule to debate the bill. If Members think that there is something wrong with this proposal, then have guts enough to debate it fully. But allow it to come to the floor by voting for this rule. It would be an absolute hit on the reputation of this House, unfair, but it would be a hit none the same if we use the fact that the rule has to be passed in order to prevent the bill from even being considered by this House. This House deserves better than that from all of us.

Mr. BURTON of Indiana. Madam, Speaker, will the gentleman yield for a real quick question? Is this a closed rule or an open rule?

Mr. OBEY. This is a totally legitimate rule meant to bring a bill to the House which the public is demanding and it is about time we pass it.

Mr. BURTON of Indiana. Is it a closed rule?

The SPEAKER pro tempore (Mrs. MEEK of Florida). The gentleman's time has expired.

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

Madam Speaker, I would observe that this legislation never went through a full committee process and it was passed under suspension of the rules, not allowing a free flow of debate.

Madam Speaker, I yield 1½ minutes to my dear friend, the gentleman from Long Beach, CA [Mr. HORN] the former president of Long Beach State University.

Mr. HORN. Madam Speaker, the gentleman from California is absolutely correct. If there was a way to amend this bill, we could clean it up. I will vote for the bill, but I feel just as the gentleman from Virginia earlier felt, that we have got some shoddiness. I am for the ban on the $20 lunch, but I am going to vote against the rule, because I would like to see happen to this bill what happened to the first crime bill. The first crime bill was a mess. When we turned that rule down, they had to go back to conference, they had to clean it up so enough of us on the Republican side could vote for it, and we can take pride in what was accomplished.

What is not being accomplished here is we are worrying about a $20 lunch when we permit $10,000 in PAC money to come to every member that wants to take PAC money. It is getting so that easily the Congressman can afford to take the lobbyist to lunch. We need to face up to PAC's. Maybe that conference would do it.

People are upset about the Congress and the House in particular, but it is the $10,000 in PAC money that causes them to be upset. So let us vote "no" on the rule, let us send back and get a positive product out of conference, and maybe we can also get a rule out of conference that says when a Member speaks, he will disclose with his speech the PAC money related to those remarks. I think that would be a real advancement in terms of full disclosure, and let the people know. Let us get some decent reform and banning PAC's is it.

Mr. DREIER. Madam Speaker, I yield 1 minute and 10 seconds to my good friend, the gentleman from Indianapolis, IN [Mr. BURTON].

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

Madam Speaker, I just want to make 2 points. On page 10 of the conference committee report, it says that the name, address, and principal place of business of any person or entity other than the client who paid the registrant to lobby on behalf of the client has to be reported. That means that people who give $10 to many of these organizations like the Christian Coalition and others are going to have their names on a Government list. I do not think the people of this country really want that kind of Government interference in their lives.

In addition to that, I just want to say, and I am not impugning anybody's integrity or questioning their motives, but the fact of the matter is many, many, many people who have gone to the well of this House today and spoken in favor of eliminating a Big Mac sandwich being purchased by a lobbyist so that they can talk about a bill before the Congress are taking thousands and thousands and thousands of dollars from those same lobbyists through PAC's. I am not questioning their integrity, but I am pointing out that there is a bigger question, a bigger question of possible influence-buying by PAC's giving money to Congressmen in the amount of $10,000.

I think there is a much bigger question among the public about getting

$10,000 from a labor PAC instead of a $1 or a $1.50 Big Mac at the corner restaurant.

Mr. DREIER. Madam Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN], our fighter from Garden Grove.

Mr. DORNAN. Madam Speaker, after that little scene a few minutes ago, I have to weigh my words carefully because I want to talk about one of the Members on the other side. At a press conference this Member had at the National Press Club, he talked about religious conservatives, the religious right. Into this group he put not only every fringe, fever-swamped group of America, but also mainstream groups such as those promoting term limits. I know his motivations were nothing but pure. I know VICTOR was only talking about snake charmers and people who march at skinhead rallies. But others aren't. I went up to the Vice President of the United States in the back of this Chamber and pointed out to AL GORE that Mother Teresa was part of the religious right and so was Pope John II, and so were most observant Jews, Christians, and Moslems. We have all used this term "the devil is in the details" and here literally is the demonic detail in this bill relating to all religious groups in this country. If they see a moral issue before the country, they must hire a lobbyist who must divulge lots of things about the religious group involved in our political discourse. Shame, shame.

□ 1330

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Madam Speaker, I rise in support of the Lobbying Disclosure Act conference report. We have to change the way Congress does business, and one step we can take today is eliminating the freebie culture that helps people in Washington hold themselves to a different standard than the American people.

It is time to have the same rules in Washington as we already have in Arizona. We have in my State what Common Cause calls the toughest lobbyist registration law in the country. We need that kind of disclosure here in Congress, and we need it now.

This bill ends the free gifts and perks and travel that must be intended to influence Members of Congress. It does not affect grassroots religious organizations. The U.S. Catholic Conference, the Baptist Joint Committee, and the Religious Action Center of Reform Judaism all say the bill protects the free exercise of rights of religious groups. But the bill does end a culture of entitlement that afflicts many Washington insiders who somehow believe that they never should pick up a check at a restaurant or pay greens fees at a golf course. Most importantly, it shines a long overdue light of disclosure on the lobbying industry.

If we are serious about restoring the people's trust in the Government, first we must put the people's House in order, and this vote is one step toward that goal.

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Madam Speaker, a couple of years ago I was walking across the street from the Longworth Building to the Capitol to handle a bill, and along the way I was offered a free cruise on a foreign cruise ship by representatives of the foreign cruise ship lobby. One of the reasons this really sticks out in my mind is I was on the way to handle a bill that would take away the loopholes that allow them to have foreign-made, foreign crews, and foreign-owned ships and still operate out of our ports and avoid all of the responsibilities that their American competitors have to live by and still get all of the breaks.

That really gripped me, and this body passed that bill. But strangely it keeps dying in the other body.

I was so upset that I asked for a list of Members who had had free cruises, and they did not want to supply it, and only after a threat of actually subpoenaing the records did they release a partial list. We know how it works in the other body. It only takes one Member to keep something from becoming law.

I come from a shipbuilding district. I come from a district of seafarers. I am trying to do good things for my constituents, trying to see to it that those people who benefit from our society at least pay the dues of our society and not get tax breaks like the foreigners do, and not get away from all of the regulations like foreigners do.

I cannot give away free cruises. The welders and pipefitters at Ingals and Trinity cannot give away free cruises, but those guys can.

This is not a perfect bill, but I am sick and tired of those guys buying influence with free cruises, and if this measure will help us stop that practice, then I am going to vote for it, and I wish I could vote for it 10 times.

Mr. DREIER. Madam Speaker, I yield 1 minute and 50 seconds to my distinguished friend, the gentleman from East Petersburg, PA [Mr. WALKER], our chief deputy whip.

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

Madam Speaker, we have heard reference to a number of groups that are supporting this bill. Let me talk about some groups that have some problem with the bill, beginning with the Christian coalition who has written and said: "This legislation serves the interest of some in Congress who have targeted religious people for direct and virulent attacks over the past several months * * * this legislation represents a new 'gag rule' on democratic participation."

Americans for Tax Reform say: "The 'chilling effect' of such a vague, broad piece of legislation is unimaginable * * * the power concentrated in an unaccountable 'directorate' is frightening."

The Small Business Survival Committee says: "There is no benefit to the Nation in stifling the kind of communications outlined in the bill."

The National Committee of Catholic Laymen say: "The American people who belong to organizations such as ours will be intimidated."

The problem with this bill is not the question of gifts from lobbyists. Across the board here I think all of us suggest that gifts from lobbyists are a bad thing. But to take a bill about gifts from lobbyists and turn grassroots America into a lobbying community that then is gagged is absolutely wrong.

The problem with this bill is that we have made a lobbying bill into a grassroots gag that religious America is beginning to understand is aimed directly at them.

The problem is that there have been meetings held in the Capitol Building that have indicated that legislation of this type was about to come down the pike. Today we see the first fruits of this kind of legislation.

Many in this body are concerned about the wave of phone calls that they get every time a controversial piece of legislation comes up. They want to stop it, and in this bill they are attempting to stop it by gagging the grassroots. And the grassroots have found out about it and they are upset, and so group after group is coming forward yet today saying that they will no longer permit Congress to hide behind fancy titles in bills that gag grassroots America.

CALL OF THE HOUSE

Mr. DREIER. Madam Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 448]

ANSWERED "PRESENT"—408

Abercrombie	Barca	Bevill
Ackerman	Barcia	Bilbray
Allard	Barlow	Bilirakis
Andrews (ME)	Barrett (NE)	Bishop
Andrews (NJ)	Barrett (WI)	Blackwell
Andrews (TX)	Bartlett	Bliley
Armey	Barton	Blute
Bachus (AL)	Bateman	Boehlert
Baesler	Becerra	Boehner
Baker (CA)	Beilenson	Bonilla
Baker (LA)	Bentley	Bonior
Ballenger	Bereuter	Borski

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

□ 1401

The SPEAKER pro tempore (Mr. HASTINGS). On this rollcall, 408 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

The SPEAKER pro tempore. The Chair will announce that 9 minutes of debate time remain on the pending resolution.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I want to speak specifically to the allegations that were made earlier in debate and in 1-minutes about some sort of effort here to gag religious communities and their legitimate right to address government, Congress, et cetera. I would never be, nor would anyone, I believe, on this floor be part of any effort to gag any group of people, particularly people speaking from a religious perspective.

Mr. Speaker, this bill specifically exempts churches, their auxiliaries, their conventions or associates of churches and religious orders from any reports of grassroots lobbying activities. That is clear. It also specifically excludes any communication which constitutes the free exercise of religion from the definition of lobbying.

Now I am in receipt of three letters, one from the Jewish community which says, and this is the Religious Action Center of Reform Judaism:

> It is therefore with astonishment that I read today Representative Newt Gingrich's letter attacking the lobby disclosure bill on the basis that religious organizations would have to register and report their expenditures.

Mr. speaker, I have also a letter from the Baptist Joint Committee which is made up of 12 subgroups of the Baptist faith. It says:

> I am, therefore, puzzled by Mr. Gingrich's letter questioning this legislation on the basis of the effect that it would have on religious organizations. I think he is plainly wrong.

Now here is one from the Catholic Conference. It says:

> It is our understanding that those church organizations which fit the definition contained in the bill will be exempt from registering and reporting any legislative activities involving communications with their own membership.

So, Mr. Speaker, there is no question here that, if one wants to oppose this bill, they can do so, but they ought not to do it under the cloak of religion, implying that it is impossible for people of faith to communicate with us without falling under the provisions of this bill. That is totally antithetical to the Constitution, to the traditions of this body and, I think, to everyone's understanding of what this bill is really about.

Mr. FROST. Mr. Speaker, for purpose of debate only, I yield 1 minute to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, many of us in the freshman class promised our constituents throughout our first term that we would reform the way Congress does business. Yesterday most of our Republican colleagues made representations about changing this body if they were to be the majority party. Today all of us have the opportunity to deliver on our promises.

Mr. Speaker, this conference report represents real reform that would change the way Washington does business and would do it in an immediate and dramatic fashion by banning all the lobbyists' freebies that have kept the playing field unlevel.

Earlier, one of our colleagues seemed to bemoan the loss of lobbyist-purchased hamburgers. Surely with what we earn we can pay for our own hamburgers.

If this bill goes down, we break faith with the American people. Let us stop the empty promises and starting delivering. Let us pass the rule, let us pass the bill, and begin the process of restoring faith.

Mr. DREIER. Mr. Speaker, I yield the balance of our time, which I believe is 5 minutes, to the distinguished Republican whip, the gentleman from Marietta, GA [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me start out by saying what these next two votes are not about. They are not about the gift rule, and they are not about lobbyists' lunches. The motion to instruct conferees, which will be offered if the rule goes down, will not in any way touch the gift rule or lunches, so all the speeches about that are irrelevant to the next two votes.

Mr. Speaker, the vote coming up is an opportunity to do exactly what the

House did on the crime bill to defeat a rule and reopen the conference. Now why would we want to do that?

Let me start out by saying I think there are four reasons we want to return this bill to conference to change four key provisions that threaten the American people's right to be active citizens. There are four:

First, the worst single thing, which I doubt if many Members even looked at yet, is that, if you're a citizen, you can pay a $200,000 fine under this bill. If you're a Member, you might not even be named in the incident in which a citizen pays a $200,000 fine, and I will return to that.

Second, there is, in the judgment of those of us who are active in the grassroots, a grassroots gag rule here, and I will cite from grassroots Catholic organizations their fear of being intimidated.

Third, there is an issue of who defines "religious freedom" and whether or not you truly want one person appointed by the Clinton administration to define "religious freedom."

And fourth, the concept of that one person having virtually dictatorial powers, powers over lobbying groups, powers over every filing, file powers over every penalty, and for those of you on the left who think it is going to be fine if it is a Clinton appointee, how would you have felt during the Bork nomination if that person had been a Reagan appointee? And you might say, "We're going to get a paragon of virtue and they'll always be just," and I suggest to you that is a long way from how the real world works.

Now let me expand.

First, we recently voted overwhelmingly to require the Congress to be under the same laws as the rest of the country. Everywhere I go in America, when I describe the Shays Act and say, "Every Member of Congress will obey the same law," this bill sets one standard of criminal and civil penalties for citizens and then exempts the Member of Congress from exactly the same activities.

I say to my colleagues, "Now you can't vote for this bill, you can't vote yes on the rule, and go home and say you want to cover Congress because this bill has two very different standards, and I know that Members have been reassured on both sides of the aisle."

□ 1410

"Oh, you won't be covered. The lobbyist might go to jail, the citizen might pay $200,000, but you'll be OK. Don't be afraid of this."

That is wrong.

Second, when you read the provisions that define what the time of a Lobbyist is, 10 percent of their time paid as a lobbyist, over 2,500 hours in 6 months is for a lobbyist. One trip from California to visit your Member of Congress and two nights in a Washington hotel, and you may have passed the limit, and then you are a citizen and you did not know you were supposed to file; you would have to pay 10 percent because you belong to the California Desert Association, something many of our friends on the left might be concerned about. They say, "Oh, I want them to call and visit me." But now they have got to fill out a form; now they have to start registering because with 10 percent of their paid time in a State-level organization, they are visiting the 52 members of the California organization, and believe me, if you visit all the members of the California delegation, that is 10 percent of your time.

Now they are subject to a Federal law with Federal penalties under a Federal involvement at the local grassroots. And by the way, this includes reporting when they are communicating with their own constituents. It says specifically in here, "communicating with your own members of your own group." That is covered, and you have to report in aggregate on what you do.

That is not lobbying the U.S. Congress; that is crippling the citizen's right to be involved.

Third, on page 13 this bill describes "religious freedom." The exemption the gentleman from California referred to says they are exempted, the church or religious institution is exempted—and this is page 13—"if the communication constitutes the free exercise of religion."

I will say to my friends on the left that maybe from your standpoint an administration which appoints Roberta Achtenberg or an administration which appoints Joycelyn Elders might be fine for a single person appointed by this administration to define what constitutes "religious freedom." But I am not sure I want a papal message on abortion, a papal message on homosexuality, or a papal message on any other issue such as school prayer interpreted by a secular, antireligious liberal as to whether or not that is a political message or a religious freedom message.

And finally, there is the question of allowing one person to make these kinds of decisions. You can vote yes today and you can say, "Well, I had to do it." But let me say that someplace down the road some grotesque injustice is going to be enacted by a single person who has a bias, whether it is right or left or just personal, but a single person who is given virtually dictatorial powers under this to punish—and by the way, for the same action they have a different penalty for different groups based on their interpretation of motive.

This is a dangerous bill. All we are asking is this: We are not asking to beat the bill. We are asking Members to vote no on the rule, as they did on the crime bill, send it back to conference, and let them fix those parts. This has nothing to do with lunches; this has nothing to do with gifts; this has to do with fixing some very dangerous provisions, and then we can bring it back next week and we can debate any other provisions. But for today, I say, do not accept the flawed document from the conferees; do not threaten the rights of our fellow citizens; do not threaten religious freedom; and do not turn over dictatorial powers of government; and finally, do not vote for a $200,000 fine on citizens and nothing to punish Members of Congress. That is wrong.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield our 1 remaining minute to the gentleman from Missouri [Mr. GEPHARDT].

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

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

Mr. BRYANT. Mr. Speaker, I will only take a few seconds to say that the characterization of the bill just made by the gentleman from Georgia [Mr. GINGRICH] is inaccurate. It is inaccurate with respect to grassroots lobbying, and it is inaccurate with respect to lobbying registration. It is wholly inaccurate, and we never heard about these concerns until right now after 18 months of considering this bill.

Mr. GEPHARDT. Mr. Speaker, let me just say to the Members what I think this bill is about and what the American people are concerned about. They are concerned about undue influence of lobbyists.

I think the House of Representatives is a wonderful organization of wonderful, dedicated, committed people, and I resent the implication that sometimes is made that lobbyists run Washington and not Members representing their constituents. By the passage of this bill, we make it clear to everyone that if someone comes here to lobby, they have to register. These are lobbyists who are here actively to lobby, not grassroots organizations, and they have to tell what they are doing and how they are doing it.

The public deserves that kind of explanation.

Mr. Speaker, let us make the record of this Congress what it ought to be—good, committed people doing the right thing by their constituents, with Government not run by lobbyists, but run by the American people. I ask the Members to vote for the rule and to vote for the bill.

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

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 205, not voting 14, as follows:

[Roll No. 449]

YEAS—216

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Canady
Cantwell
Cardin
Carr
Clayton
Clyburn
Coleman
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—205

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brown (FL)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Castle
Chapman
Clay
Clement
Clinger
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Meek
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murtha
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Applegate
Fields (LA)
Gallo
Hayes
Hutto
Lloyd
McCrery
McCurdy
McDade
McNulty
Slattery
Thompson
Washington
Wheat

□ 1438

Mr. BARTLETT of Maryland and Mr. DEAL changed their vote from "yea" to "nay."

Messrs. LAFALCE, MFUME, PAYNE of New Jersey, HILLIARD, FLAKE, TUCKER, BISHOP, and TOWNS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1440

Mr. BRYANT. Madam Speaker, I call up the conference report on the Senate bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Ms. PELOSI). Pursuant to House Resolution 550, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1994, at page 25733.)

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

The Chair recognizes the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Madam Speaker, I yield myself 6 minutes.

Madam Speaker, the Lobbying Disclosure Act of 1994 is easily one of the most important bills and sweeping changes we will consider as this session comes to a close. It is the product of more than 18 months of hard work. It was in the beginning a bipartisan product. To some extent I think it still will be, notwithstanding the developments of the last 24 hours. It is needed to help restore the confidence of the American people, both in the lawmaking process and in the men and women who serve them in this institution.

I want to say at the outset that, as is the case with every law we pass, and perhaps with every rule in our society, it is written to affect the behavior of a small minority of people; in this case, a small minority of those who lobby to influence the Members of this House. We must deal with the perception of the public. This bill takes head-on the concern that the public has about the lawmaking process and the extent to which those who are paid to influence it succeed.

Simply put, this bill will ensure that our constituents know how much is being spent to influence the decisions that we were sent here to make on their behalf. It will close the loopholes in the existing lobbying disclosure laws. It will also streamline disclosure requirements and establish a more effective and equitable system for administering and enforcing disclosure rules. The bill's registration requirement applies to each organization that is a separate legal entity, whether related to another organization or not.

Madam Speaker, this bill will also permanently bar lobbyists from gaining access to Members by picking up tabs for meals and entertainment, and it will end subsidies for what is essentially private recreational travel.

Madam Speaker, this bill passed the House last March by a 3-to-1 margin, after having been reported unanimously—all Members, Republican and Democrat—by our subcommittee, and the Senate lobbying bill passed by a vote of 95 to 2. Given the wide margins of passage in both the House and the Senate and the broad public support for

what this bill is attempting to do, it is hard to believe that there remains any suspense about whether or not we can succeed in getting the bill enacted.

The bill has been mischaracterized and parts of the bill that have been settled for months are, only in the last 36 hours, coming under attack. Madam Speaker, I must ask the question, about the questions that were asked earlier, why were those questions not asked at some point during the last 18 or 20 months? Never once did we hear a concern expressed about the provisions for grassroots lobbying until last night at 7:30, when the Republican leader made a speech about it.

I submit to the Members that had there been any significant problem with the grassroots lobbying portion of this bill, we would have heard about it from the Catholic Conference. Instead, they wrote a letter saying the provisions were quite all right. We heard from the Baptist Joint Committee. They said the provisions in the bill with regard to lobbying for them were quite all right. We would have heard from the spokesman for the Jewish community. We heard from the Religious Action Center, which represents Reform Judaism. They said the provisions of the bill are quite all right.

The conference report does absolutely nothing to hamper or to require disclosure of churches' communications with their members, clergymen's sermons from their pulpits, or the activities of church volunteers who contact Members of Congress. Such activities are all exempted under the bill. The provisions relating to church groups were discussed at great length with all the affected groups.

Questions have also been raised about whether reports will be required on expenditures to organize a grassroots lobbying campaign. Estimates of grassroots expenditures will not be required unless the organization conducting the campaign has a paid lobbyist who otherwise meets the requirements of the act. Members of organizations who contact Members in response to such an effort do not have to register or report their expenditures and are not affected by this bill in any way, and never have been.

Madam Speaker, do not be fooled by the arguments that will be made either against the bill or in favor of the minority's anticipated motion to recommit. This debate is only about one issue: Whether we will continue to allow Members and their staffs to be wined and dined and flown around the country at lobbyists' expense, or whether we are going to put a stop to it by voting for this legislation.

As my colleagues know, and as I said at the beginning, I believe the stereotypes of the vast majority of the Members of this House, as well as those in the private sector that work with this House, are wrong. This institution is not filled with Members who are, in my view, influenced by meals, travel, entertainment, or other gifts, but the fact of the matter is that a minority of this body has managed to make the public believe that something is wrong here.

Far more important than any of the perks of this office is the importance of underscoring and reinforcing public confidence in the lawmaking process. That is what we are doing with this bill today.

Based upon the statements that are repeatedly made, some by Members of this body, based upon the behavior of a tiny minority of this body, past, present, and no doubt future, as well, the American people can be forgiven for concluding that these gifts affect the process and that there is something wrong. Regardless of whether there is or there is not, we have the obligation to reinforce public confidence in this lawmaking institution, and that is what this legislation would do.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Madam Speaker, I rise in opposition to the bill, and in favor of the motion to recommit.

Madam Speaker, I rise to oppose the conference report on lobbying regulation just as I opposed the bill when it first passed the House.

This legislation does not represent reform in any sense of the word. Instead it constitutes more big brother central control and orwellian denial of freedom in the name of reform and good government. Moreover the bill will not result in a more honest special-interest-free Congress, but rather it will encourage some otherwise well-intentioned Members to engage in subterfuge and obfuscation, thereby increasing the public's distrust of elected leaders, rather than alleviating their existing alienation.

I intend to scrupulously obey the law, whatever it may be. But I am concerned that in this new effort to legislate morality, we may be setting traps for Members to run afoul of technical barriers, thereby opening themselves to picayune charges of ethical lapse and even criminal violation.

Far better than this atrocity is to impose rigid and enforceable mandates of disclosure on Members and lobbyists, so that Members will know in advance that all activities in which they engage will be reported and made known to their constituents. Such procedure would more simply and straightforwardly put the onus on a Member's discretion and judgement, rather than binding him in a strait-jacket of rigid prohibition and inducing him to refrain from innocent contact with legitimate advocates of American interest.

I urge an "aye" vote on this motion to recommit and a "no" on the bill.

Mr. GEKAS. Madam Speaker, when we began this long journey that brought us to this very controversial day, we began with the idea of addressing the very serious problems that we had with lobbying and lobbying registration, particularly as it applied to foreign agents. The Foreign Agents Registration Act, FARA, and other lobbying requirements were arcane, were unenforceable, gave much heartache and heartburn to Members of Congress, to the proper exercise of governmental functions across the board.

□ 1450

That was our original purpose. Through a convolution of events that happened since then, this whole bill now has been wracked with attacks from the left and from the right on a various number of considerations where we now have to deal with gift bans. There is not a Member of the House, as far as I have been able to discern, who is not willing to put in writing and to keep in place a gift ban. That is good. But then when that is applied to other situations where campaign contributions are specifically exempted from this, we have the anomaly which has been touched upon by so many Members, that on one hand you cannot accept a Big Mac but on the other you can accept, specifically exempted in this language, you can exempt a big PAC. You receive a campaign contribution from the very lobbyist who cannot buy you a Big Mac to try to influence your responses on the floor of the House of Representatives. That is bad. It is good that we prohibit gifts, but it is bad that we then allow a tremendous loophole through which the biggest gift of all, money, can still be placed at the doorstep of the Member of Congress to influence him if the Member of Congress is influenceable by that. Is he influenceable by the Big Mac? That is a judgment we have to make. That is bad. The very fact that we have exempted campaign contributions, the biggest gift of all, makes the gift ban to some people laughable.

What am I going to do about it? I want to exempt gifts, to ban gifts, and I have voted that way. But also at the conference, I offered an amendment that would make campaign contributions, the biggest gift of all, as one of the banned gifts that lobbyists cannot approach Members of Congress with that big PAC, that big gift. But I was rebuffed at the conference.

What am I going to do? I am going to include that into a motion to recommit this bill with instructions to consider those kinds of gaping loopholes. The big PAC has got to be included in the next session of this conference. Where we have not specifically exempted it, we want to include it.

It is good that we have brought into this bill certain tightening up of registration and reporting requirements for the lobbyists. That is good. We have done that. And for foreign agents. That

is really good. But it is bad when you lump into that what happens to be a grassroots lobbying activity. That is bad.

We are not here to tell Members that under the explanations that were given to us that the proponents of the bill at conference feel that grassroots activities who do not have a registered lobbyist are exempt from all of the requirements of this bill. That may be correct, but at best it is ambiguous.

We have heard today from various Members of Congress about how that can militate, at least to have the appearance of militating against and chilling the effect of citizen efforts to lobby Members of Congress on their neighborhood projects. Citizens against the bomb, citizens against an incinerator, citizens against whatever are included in this prohibition, in this set of regulations, if they have a registered lobbyist. If they do not, then they are in some ambiguous, cloudy areas in which they may or may not be, depending upon how much money, time they spend, et cetera.

My motion to recommit, later after this debate, to recommit to the conference with instructions will cover that situation. We want to make clear at the behest of all the Members who are interested not in gagging the grassroots activities, we want to have an opportunity in the conference to straighten that out, to remove the ambiguities. It is good that we have tightened up lobbying and registration and money situations and all of that for lobbyists, but it is bad if we lump into that, by inadvertence or misinterpretation, the grassroots activities that are so near and dear to the hearts of the American public and to which we have been responsive ever since the founding of the republic. That is good.

It is good that we have in the legislation some reference, some exemption, some adherence to religious organizations and organizations with religious purposes. The proponents of the bill and in conference, we think that we have covered that. But it is bad that it is not less ambiguous. We have got to straighten out that language.

So here we are. A great bona fide effort to ban gifts, and we may be banning religious organizations from proper activities at the doorstep of the Congress of the United States. We want to clean it up.

My motion to recommit, I repeat, and this is the whole essence of the debate, will include a plank in which we will try to undo the ambiguities that are circling around the religious section of this legislation.

We want to return to the conference for a whole host of reasons. These 2 primarily are the engine that forces us to take this position and ask the Members of Congress to help us ban gifts but to help us clear up the language on grassroots lobbyists. To ban the lunch but do not ban the hunch of lobbyists that they can still give Members a campaign contribution. We are for banning those gifts, but let us straighten out the language of campaign contributions, should they belong.

We ought to make a judgment, should we have made this bill a companion bill to campaign reform and bring both together? Why did we isolate this gift ban from campaign contributions, the biggest gift of all?

Madam Speaker, we have a situation where it is good that we have within the purview of these lobbying requirements the staff of legislators, the staff of Members of Congress. They are included in the overall language on prohibition on gifts and all the other prohibitions that are in this bill, legislative staff. Yet when I offered at the committee an amendment to include executive assistants and executive Cabinet officials like from the GS–14 and above who are decisionmakers and who have more power and influence than any 20 lobbyists sometimes and could be the subject of importuning on the part of a lobbyist, I was rebuffed at the conference. I want the opportunity to do something that is good. It is good that we have staff of the Members of Congress included as covered officials. It is bad that we do not have GS–14 and above in the various agencies and bureaus of our government not included as covered officials.

The good, the bad and the ugly are all in this bill. I want to separate the bad and not even look at the ugly and keep the good after the conference reassembles and takes into consideration what this House will say on the motion to recommit, namely, that the good is good, we can make it even better, we will excise the bad and not even have a chance to look at the ugly.

We have got to recommit this bill, because those of us who want the ban on gifts to remain pure and proper cannot in the same hand in which we offer that to the American public say, "We are going to hold on to campaign contributions." There you are. "I will not have lunch with a lobbyist. I will accept a contribution, a financial contribution to make sure that I am reelected to this Congress. You can keep your hors d'oeuvres, keep your lunch, just give me the campaign contribution."

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

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

Mr. BRYANT. Madam Speaker, I assume the gentleman would acknowledge that first we did not hear about this concern about the campaign contributions in subcommittee in November, on the floor in March.

Mr. GEKAS. Madam Speaker, I seize back the balance of my time. I tell the gentleman from Texas that this last week was the first time that we were able to even discuss as a conference. We failed, somebody failed to call a conference, and we had only 1 day in which to bring these concerns which had been fomenting for a long time. The full committee never considered it, the subcommittee never considered the prefaces to these matters. Then we went straight to conference without the full committee having the light of day in this thing.

I will continue. On the gentleman's own time, he can castigate my inability to bring this up 18 months ago, when the chairman of the subcommittee well knows that the original purpose was lobby registration, not a gift ban and not all the other considerations that have surfaced since.

□ 1500

Mr. BRYANT. The gentleman voted for it.

Mr. GEKAS. On the gentleman's own time he may cross examine me and I will speak if he yields to me then.

So, the whole issue revolves about and down to and through the motion to recommit with instructions. If Members feel that this is unambiguous about religious organizations, that it is unambiguous about campaign contributions, that it is unambiguous about grassroots activities, then they should vote against the motion to recommit that is to follow and vote their own conscience on final passage.

I for one will present with as much fervor as I can the motion to recommit with the hope that the gift ban will survive and the lobbying registration requirements will survive while we make sure that the grass roots are not hurt, that religious organizations are not found in a cloudy area, and where campaign contributions can be visited as the real, big gift that we ought to be addressing, not the Big Mac, which cannot, I hope, influence actions of Members of Congress.

Madam Speaker, I reserve the balance of my time.

Mr. BRYANT. Madam Speaker, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Madam Speaker, I strongly support this lobbying reform and gift ban bill, and commend—above all other Members—Mr. BRYANT, the chairman of the subcommittee for his steadfast leadership on this important legislation. Today is the time to do the right thing and pass this legislation.

Current law still allows Members to accept gifts worth up to $250 from any one source, and an unlimited number of gifts worth $100 or less. Last year, I introduced the first gift ban bill in the House. That legislation mirrors—to a great extent—the conference report before us today. Some of my colleagues believe current rules are tough enough. but many of our constituents see these gifts, trips, and meals as a way for lobbyists to gain a level of access and influence that is not available to the average citizen back home.

Our constituents are right. While it is extremely unlikely that any Member of Congress would ever cast a vote on the basis of a meal or a gift purchased by a lobbyist, gifts from lobbyists do alter the nature of the relationship. The truth is that gift giving is an integral part of a money-driven Washington way of life which helps explain why voters are so angry at politicians today.

The House should do the right thing and pass the conference report today.

Again, Madam Speaker, I want to commend the gentleman from Texas [Mr. BRYANT] for his tireless work on behalf of this legislation.

Mr. BRYANT. Madam Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Madam Speaker, I come from a State where we have had a law prohibiting gifts from lobbyists for many years. I want to report to those Members, particularly those on the other side of the aisle, there has not been a single legislator in the State of Wisconsin who has starved to death since this law went into effect. It is a good law, a law we should pass here.

The issue is very plain. If Members think legislators should accept gifts from lobbyists then they should not vote for this bill. But if they think, as the American people do, that legislators should not accept gifts, trips or lunches from lobbyists, they should vote for this very good bill.

Mr. BRYANT. Madam Speaker, I yield 2 minutes to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Madam Speaker, on August 3 of last year I introduced H.R. 2835, the Congressional Ethics Reform Act, which called for a ban on any gift valued at more than $20 to Members of Congress and their staffs. Some Members at that time criticized that effort, saying the proposed restrictions were too stringent. But Madam Speaker, we are now on the verge of adopting legislation that contains virtually all of the provisions and I sought I proposed in that legislation.

For more than a year now, I have been happy to work with Chairman JOHN BRYANT as he has crafted an extraordinary bill that will fundamentally change the way business is conducted in Washington.

The current hodge-podge of existing lobbyist registration statutes, some of which are half a century old, will be replaced by a comprehensive law that consolidates registration and reporting requirements so that the public will finally know who is spending how much to influence whom.

Equally important, in my view, are the gift ban provisions added to this bill. The tough new curbs on gifts will help assure the public that their voices are not being drowned out by the free flow of perks being bestowed by special interests.

Last spring, when the House first considered this legislation on the floor, I spoke in favor of its passage. But I added, "I have argued—and I will continue to argue—for strengthening amendments when this legislation goes to conference." Madam Speaker, I want to assure my colleagues today that we were successful in making this an even better bill in conference. We have before us today a bill that combines the best provisions of three different bills, including restrictions on gifts that no one in this Chamber dreamed possible when this Congress convened last year.

I rise in happy support of the conference report, and I encourage all of my colleagues to join me in voting for this landmark legislation.

Mr. BRYANT. Madam Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Madam Speaker, I rise here really to try and clarify some things that I have heard on the floor. As chairman of the Ethics Committee I am not sure whether it is from ignorance or from an attempt to mislead, but there has been an issue raised about whether or not Members of the House of Representatives can be fined as though this bill sets up a fine for people in the public but nothing for us.

Under the theory of separation of powers, we have set up an agency of the Federal Government to deal with the lobby registration and deal with their problems, but the House is still covered by the Ethics Committee. I would just remind Members that in the manual we pass out to all Members, under rule 20(e) Members of the House can be expelled, they can be censured, they can be reprimanded, they can be fined, they can be denied or limited any privilege including voting by this House if the Ethics Committee recommends it to the House and the House votes such a penalty. So the ability to fine a Member is defined in our rules. Everybody ought to know that. When Members vote for this bill they are simply saying they accept that the House can fine Members at any point.

Let me finish with a couple of other things. There has been a question raised out here, Members have used the illustration that we can take $10,000 from a PAC. That would lead anyone watching this or listening to this to believe that Members can go around and accept from a PAC $10,000, and a Member actually indicated "Put it in my pocket" as though it were their personal money to spend. I would remind the Members that under the rules of the House under which all of us live, rule 45.6 it says a Member of the House shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use.

So the idea that Members can use money from a PAC, a Member can take $10,000 for personal use is absolutely fallacious. That same rule in almost exactly the same words is in the Federal Election Commission prohibition against the use of campaign funds for private funds.

So all of us in the House are subject not only to House rules, but also to the Federal Election Commission, and it is absolutely prohibited to use campaign funds for private use. If Members do it, they are subject to fine and go to prison, and there are all sorts of things that can happen, and everybody here knows that no one can take $10,000.

I would like to say one other thing. The reason I support this bill is that it is stricter than current law, it is stricter than current rules in the House, and we have looked at it, there has been consultation with the staff of the Ethics Committee and with Members, and it is workable.

□ 1510

We did not want any surprises for Members. In fact, that is the reason the bill has as its effective date May 31, 1995, so there will be time for the rules to be drawn and issued so that Members will know.

I urge your support of this bill.

Mr. GEKAS. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, the gentleman from Washington has touched upon a subject that has to be cleared up. This statute which we are creating by this conference report is one that visits criminal penalties against lobbyists and not against Members of Congress unless there is complicity or conspiracy or that kind of thing. And it leaves, most of it, to the Ethics Committee. It reestablishes that principle that on the receipt of a gratuity or a gift, those kinds of things that are already part of the ethics community that a Member of Congress is not chargeable like a lobbyist is for violation of the statute, but would be, in effect, referred to the Ethics Committee for any kind of reprimand that might come out of that situation.

That has been affirmed and reaffirmed in recent arguments on this very floor. I remember in the act of 1989, et cetera, that officials receiving gratuities come under their own ethics groupings both in the executive and in the House of Representatives in the Congress.

Madam Speaker, I reserve the balance of my time.

Mr. BRYANT. Madam Speaker, I yield 1 minute to the gentleman from Washington.

Mr. MCDERMOTT. Madam Speaker, I would take a minute to point out to the gentleman from Pennsylvania that on page 44 of the bill it says, "Assessing a civil monetary penalty." We are not talking criminal, and there is no criminal penalty in this. This is civil monetary penalties only.

We can do the very same to the Members in the House under the House rules. So there is a balance.

The House rules allow us to fine the Members, and this allows us to fine a lobbyist who breaks the rules.

Mr. GEKAS. Madam Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding this time to me.

Madam Speaker, I rise in opposition to this bill, this conference report. I do so because to my mind it is a product in which zeal has overcome judgment. You can try and fudge around the edges of it, but there is something terribly unappealing to the notion that to someone who has made a gift that violates some technical standard in this bill about which they are unaware is subject to the imposition of a $200,000 fine, whereas the person who ought to be charged with superior knowledge of whether something can or cannot be accepted is very unlikely to be disciplined in anything such as that magnitude.

It is to me passing very, very strange to say that those who cannot buy you lunch, bearing in mind that it is not a personal contribution but a campaign contribution, can visit you in your office and on two occasions leave behind $5,000 contributions.

This bill, I think, is terribly ill-conceived. It proceeds from the premise that those who lobby are somehow shady, bad characters who are despoiling the legislative process. Yet everyone who rises says they really do not see anything wrong with what people are doing; they are worried about a perception. I think we are creating a perception. I think it is indeed a false perception. I think this bill is born more and more of political desperation than it is its merits. I shall vote against it.

Mr. BRYANT. Madam Speaker, I yield myself 30 seconds to just simply say I am not clear whether the last gentleman who spoke is in favor of $5,000 campaign contributions or against them.

Let me make something very clear. Mr. GEKAS, at the last minute in the conference, brought to us a notion that we ought to put a provision in this bill, a provision which says that a lobbyist cannot make a campaign contribution. That might be a very good idea if we are taking up campaign finance legislation. But Mr. GEKAS' proposal and what he intends to put in his motion to recommit says a lobbyist cannot make a campaign contribution to an incumbent but can make one to a challenger, which is unconstitutional. At the behest of Senator COHEN, one of the members of the conference, he then withdrew the unconstitutional proposal. It cannot be made constitutional. This is a bill that regulates the way in which lobbyists relate to Members of the House and of the Senate. We can regulate their behavior with regard to that, but we cannot regulate their behavior with regard to non-Members. Accordingly, this is not the vehicle to deal with the campaign finance question. That is not in the bill.

The other reason perhaps it is not in the bill is because we never heard a single thing about it. Mr. GEKAS never said a single word about this until the last 36 or 48 hours. All I can say is, if you are genuinely concerned about it, get involved in the campaign finance reform debate.

Madam Speaker, I reserve the balance of my time.

Mr. GEKAS. I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding this time to me.

Madam Speaker, there is more to this bill than prohibiting gifts from lobbyists. In my opinion, this bill is "Big Brotherism" from Washington at its worst, disguised as an ethics reform for Congress. Why do I say this? I say it because there are a number of provisions in the bill that put so much control over private groups in the hands of the Federal Government, and not the Federal Government but one person who is going to decide whether or not they violated the law. And the penalties for individuals is up to $10,000 and could be as much as $200,000.

Now, the gentleman there said the ethics rules in this House would penalize a Member of this House in the event that they broke the law that is in this bill. I would like to ask anybody here when was the last time you heard of any Member being penalized to the tune of $10,000 or $200,000? It just does not happen. For you to say it happens is erroneous. It simply is not going to happen.

You might chastise them or censure them here in this body, but they are not going to be penalized like the average citizen who is going to get hit with a $10,000 or $200,000 fine.

Now, we talk about the PAC contributions. The gentleman from Texas, the sponsor of this bill, from April 9 of this year to June 30 got 76 percent of his campaign contributions from PAC's, $42,500. Now, I am not saying that influences him, but I would say that it would probably have more of an impact on him than a Big Mac that he is getting from the same people who are giving him this money.

From January 1 to February 16 of this year he got 45 percent of the money from PAC's, or $26,357.11. Now, I am not saying that influences him, but I would say it would have more of an impact on him or anybody else than a Big Mac. Yet if somebody takes a Member of Congress out and buys him a sandwich, he is guilty of breaking the law and can be penalized $10,000, but he cannot be if he gives him $45,000.

Where is the logic in that? It makes absolutely no sense whatsoever.

This bill will stop, kill, in my opinion, many philanthropic organizations that give millions of dollars to cancer research projects, child and wife abuse centers, Ronald McDonald Houses, and others because it, in effect, prohibits any Congressman from participating in those charitable events. You are not going to be able to do it anymore. Believe it or not, folks, some people like us to go to these events and raise money for these charities. That is prohibited. So who is going to pick up the tab? It is going to be the taxpayers because those philanthropic organizations are not going to get that money in the future.

My question to my colleagues is why not make all lunches or all dinners or any event reportable on the reports that we file? We have to report about 9 reports this year alone. Why not report all of that?

If we did that, the public would know, our constituents would know, who we are having lunch with and who is taking us out to play golf or something, and the media would know. Make no mistake about it, the media watches every single thing we do around here. So they would know if we were grossly violating or even remotely violating any kind of ethics rules of this House.

□ 1520

By doing that, Mr. Speaker, we would not create a new bureaucracy costing millions of dollars to the American taxpayer and infringing on their rights to contact their Congressman under the threat of a $100,000 fine.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4650) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes."

CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

Mr. BRYANT. Mr. Speaker, I yield 1½ minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, there is clearly a need for campaign finance reform. I personally believe there is a need for limits on special interests or PAC contributions. I support that. But that need does not obviate or destroy the need for passage of Federal lobbying reform bills, and I think this is a sensible bill that puts Federal legislators essentially on a similar plane that

most State legislators are already on in this country. They are subject to the restrictions and the amount that lobbyists can provide in terms of gifts and related things, and they seem to operate very nicely in those confines, and all we are asking is that Members of this body and the other body should be treated similar to what most State legislators are treated in this country.

I also believe this issue of grassroots lobbying that has come up in the last 24 to 48 hours is a bit of a red herring. The fact of the matter is we heard nothing about this during the time the bill was going through the legislative process. Most of the major large national religious organizations like the U.S. Catholic Conference and others support the provisions of this bill, do not believe in any way that this bill is going to infringe on legitimate grassroots lobbying nor impede or restrict people's rights to lobby or right to call on their Congressmen in any way whatsoever.

There is an extraordinary cynicism in this country about public life, about Washington, about the things that we do up here. I do not know if this bill is going to be any miraculous cure or try to be an antidote to that. I doubt it, but I do think it is important for us, if we want to preserve the democracy that we live in, this wonderful country of representative form of government, and we have to show the people that we are independent from those who want to influence government, that we are independent of the lobbyists, and therefore, Mr. Speaker, I urge support for this bill.

Mr. GEKAS. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong opposition to this bill.

Folks, the idea that a Member of Congress can be bought with a fancy meal, a round of golf, or even a ticket to a baseball game, is a slap in the face to the integrity of this Chamber. I cannot conceive the type of political deception that would create a measure of this kind.

When I cast my first vote in this Chamber, I was struck by the truly awesome responsibility given me by the people of the 11th District of Michigan. I would certainly like to know which of my colleagues would forsake this responsibility and sell their votes for a hamburger and a coke.

Second, this bill is riddled with inconsistencies. It would impose $200,000 fines and harsh criminal penalties on our constituents, while doling out mere slaps-on-the-wrists to Members of Congress who violate its provisions.

How can anyone suggest that all the blame belongs to one side is beyond me.

Furthermore, why is it that, under this bill, it is OK for a constituent to take me to a Tiger-Orioles game in Detroit but it is a criminal offense for that same constituent to take me to a Tiger-Orioles game at Camden Yards.

I think everybody knows what's going on here. This piece of legislation is designed for one reason and one reason alone—politics. It seems that there are a number of Members who are willing to malign the integrity of this Chamber for their own personal political gain. And it is this kind of behavior, not the issues addressed in the bill, that has undermined the public's trust in Congress.

My constituents did not send me here to pass shoddy, half-way measures designed to pull the wool over the eyes of the American public.

I encourage my colleagues: do what you know in your heart is right—vote against this bill and vote for a motion to recommit.

Mr. BRYANT. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Speaker, I rise in strong support of this conference report, and I would like to thank the gentleman from Texas [Mr. BRYANT] and the people who have worked on this legislation from both sides of the aisle.

Mr. Speaker, this is an important piece of legislation. I have got friends on both sides. Some of my friends are concerned because they see possible problems in this legislation. But, Mr. Speaker, the problems that they are going to encounter if we pass this legislation are small. They are greatly outweighed by the benefits of this legislation.

I urge strong support for this legislation among my colleagues and also from those who think that this is just for public perception that we are doing this. I think this legislation acknowledges that the vast majority of this body intends to conduct its business in a reasonable way that the people of this country expect.

I rise in strong support and urge my colleagues to vote for this legislation.

Mr. BRYANT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman from Texas [Mr. BRYANT] for yielding this time to me as well as for his long, hard work on this subject. As someone who has been somewhat involved in this piece of legislation, Mr. Speaker, I can tell all those who are listening to this debate today that it is no picnic to be the person carrying the bill that is seeking to change the basic way that we do business in this body. The gentleman from Texas deserves our gratitude, and he has mine.

The arguments against this bill, as usual, come down both to what it does do and what it does not do, and let me just briefly respond, taking the latter first. It is always possible to argue against any bill on this floor about what it does not do. The principal argument here about what it does not do is it does not solve the problem of campaign finance reform, how we raise and spend money on our campaigns. I, like many others on this floor today, wish to reform the subject of campaign spending, and I am working on that legislation, as are many on the other side. But that does not mean that we should not take up this legislation today.

The second argument, about what it does do, I think is also not well taken today. One is that somehow we should not enact a gift ban because there is no specific allegation that anyone's vote has been bought or sold. We are dealing, regrettably but honestly and seriously, with perceptions that exist in this country about how this body operates in light of the tremendous growth in the practice of professional lobbying over the last decade. To do something about that by drawing a line between ourselves and those who are professionally engaged in the practice of lobbying is appropriate, is correct and will do a lot of good.

The second thing is to argue that somehow this has a chilling effect on the practice of grassroots lobbying. In fact it has been called on this floor today a gag rule. Nothing could be further from the truth. I believe the public has the right to know that there are organizations who have invested considerably in professional public relations firms in Washington who specialize in reaching out and generating phone calls and letters. If with that information they then continue to respond to those appeals, then they will at least be doing so fully informed. We are informing them today.

I urge support of the bill.

Mr. Speaker, there are few things I have worked as long or as hard for as the Lobbying Disclosure Act. As you know, in March 1993, the freshman Democrats released a comprehensive, 27-point reform package which included a section on limiting the influence of well-financed lobbyists. We expressed our strong support for legislation that would close loopholes in the current lobbying registration laws, and we supported efforts to force the itemized disclosure of lobbying expenses.

Mr. Speaker, the Lobbying Disclosure Act accomplishes these goals and more. It will require the registration of thousands of lobbyists who have never been registered. Anyone who spends more than 10 percent of his or her time lobbying senior executive branch officials, legislative branch officials, and congressional employees will have to register with the Federal Government as a lobbyist.

The legislation also requires the registration of people who do grassroots style lobbying.

As recommended in the freshman Democratic task force report, lobbyists will also be required to itemize their expenditures in detail which will include the identity of their employers or clients, issues on which the lobbyist is lobbying, and an estimate of the total amount

of all income from the client or expenses incurred in connection with lobbying activities.

Mr. Speaker, I commend my colleagues, Representative JOHN BRYANT in the House and Senator CARL LEVIN in the Senate for their hard work on developing this underlying registration bill. In the controversy about the gift provisions of this conference report, the important registration requirements are often overlooked. Long before I took office, Representative BRYANT and Senator LEVIN were working hard to craft effective lobbyist registration legislation.

An outgrowth of my work on the reform package was an interest on my part in somehow further limiting the influence of lobbyists by restricting any financial benefits they give to members and their staffs. In August 1993, Representative KAREN SHEPHERD and I introduced the Sunshine for Lobbyists Act and the Congressional Ethics Reform Act which essentially prohibited Members of Congress from receiving any but the most nominal gifts and to disclose those that they do receive. Our legislation was patterned after legislation introduced as an amendment by Senator PAUL WELLSTONE and after a sense of the Senate resolution introduced by Senator FRANK LAUTENBERG. Both of these measures were added to Senator LEVIN's underlying registration bill.

Over the course of the past year and a half, Representative SHEPHERD and I have worked with Representative BRYANT and his staff on the inclusion of our legislation in his registration bill. We gathered support from a number of our freshman colleagues who cosponsored our bills and from more senior members like Representative JILL LONG and Representative DAN GLICKMAN who had introduced gift limitation legislation of their own. I appreciate their input throughout the process.

On March 24, 1994, by an overwhelming vote of 315 to 110, the House passed S. 349, Senator LEVIN's underlying registration bill with Representative BRYANT's gift limit language that paralleled our legislation. On May 6, the Senate passed similar legislation and a week later a separate gift ban bill introduced by Senator WELLSTONE. We in the House realized that our legislation would have to be strengthened in order to compare favorably with that of the Senate, and many of us vowed in March on the House floor to bring back a bill that was even stronger after the conference with the Senate.

This brings us to the conference report that we have before us today. This is a good piece of legislation. It is not perfect, but it is an excellent step towards addressing the concerns of our constituents about the way that business is done here in Washington. There is a very real perception outside the beltway that we members of Congress are treated like kings and queens and that we are wined and dined every night of our existence. Obviously, for most of us, this is not the case. However, the people in Ohio and in Utah and in Indiana, see us portrayed by the media as privileged people who never have to lift a finger for ourselves. They see lobbyists who have special access and influence, and they feel that their input is somehow less important.

The public's trust in Congress is at an historic low, and it is deepening. Let's act to address this problem by changing the way that things work around here. Let's restore the faith of our constituents in this body by passing the final version of this legislation to bring sunshine to our system of governing.

Mr. BRYANT. Mr. Speaker, I yield 1 minute to the gentlewoman from Georgia.

Ms. MCKINNEY. Mr. Speaker, I rise in support of the Lobbying Disclosure Act and gift ban.

My constituents are the little people, not the high rollers. When I lunch with constituents in my district, we eat fried chicken in a little cafe without tablecloths, and I am happy to pick up my own check. Really, there aren't too many places in my district where you can spend $20 on lunch for one person.

The average American doesn't eat lunch or dinner in a fancy restaurant with clean white table cloths. My constituents don't take vacations at fancy golf resorts—they pile the kids in the van and go to grandma's. So, when the people's servants are seen at fancy resorts and upscale restaurants spending time with lobbyists, it just doesn't look right.

I urge my colleagues to support strong lobbying reform. Support this conference report.

□ 1530

Mr. BRYANT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I support the Lobbying Disclosure Act because it is a step toward a more open Government, responsive to the people, not special interests. It will be good for this institution, closing loopholes in existing lobbying registration and disclosure laws, and includes the toughest restrictions on gifts to Members and staff in the history of this institution.

The tactics of the opposition are diversionary. Unwilling to face the music, opponents try to change the subject. For example, in campaign finance reform, we do need to enact it, but the deadlock to date on that subject is no excuse for gridlock on lobbying reform.

The reference to Big Mac is a big smoke screen. The opponents have tried to politicize this issue. For example, on the subject of grass roots lobbying. This bill will not inhibit efforts by religious and other grass roots organizations to express their views.

The opponents have gone too far, overpoliticizing this issue. They are standing in the way of the very kind of change they sometimes proclaim that they favor. Those proclamations now have a very hollow ring.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, the problem with this place is they pass legislation that has fancy sounding titles, like this bill, the Lobbying Disclosure Act of 1994. What a bunch of bunk. Look at what this piece of legislation does. And I made this same speech when it was before us before. Now, does this bill disclose more to the public and to the press and to people who need to know?

Right now you must disclose four times a year. This bill says twice a year. Now, do you get to know more of what they are spending money on to defeat or pass legislation, I ask you?

The current law has criminal penalties. This law does not. Is that tougher enforcement? Is that going to ensure disclosure?

Do not give me this stuff about free trips going to end. With trips, this bill just limits the confines of the trip, and the same thing will go on, and the public will be dismayed.

You know what the title of this bill should be? This bill should be entitled the "Big D.C. Law Firm Relief Act," because what it does in fact is it really requires you to use one of the 23,000 attorneys in this town to present your case before this Congress.

This is a sham. This is a disgrace, that we should allow thresholds created by this bill. Are you 10 percent lobbying, are you 10 percent pregnant? Come on. You are fooling the American people. Why not, if you have got it even a dime report it. Report it, who gave it, who got it.

Now, I know who wrote this bill, and it is a sham. I support the gift provisions, but you have weakened the system, and you are going to force the American people to again to be dismayed by your actions here. And yet we can take, as they have said here, a $20 meal and reject, not today, a $10,000 PAC contribution. What a sham.

Mr. BRYANT. Mr. Speaker, I yield myself 30 seconds, in which I would like to say that the gentleman from Florida who just spoke indeed did make those points in debate last March. He was dead wrong then, and he is dead wrong now.

At this time, I yield 1 minute to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Speaker, we are here today to follow through on a commitment that many of the freshmen made this place work in congressional reform legislation. This bill before us is that commitment, signed, sealed, and delivered. Our message is clear: Instead of empty rhetoric, we have chosen to act. The Lobbying Disclosure Act that was originally proposed by the freshmen Democratic task force in 1993 is what is before us today, and is that commitment to the American people. It moves us one step closer.

Those same people want to see campaign lobbying reform. They wanted to see other improvements, and we hope that we will get bipartisan efforts to bring those bills before Congress and continue to have them voted on before we adjourn.

But, specifically, what we are voting on today, this legislation includes the

broadcast and strictest lobbying disclosure requirements ever enacted. It provides a total ban on entertainment and other gifts from lobbyists to Members of Congress and their staffs, and it permanently limits the influence of lobbyists and special interests on Capitol Hill.

This, I think, is the most important lobbying disclosure act that we can pass. Let us move a step closer to the American people. Let us move a step closer to Government that makes sure that these interests are registered.

Mr. BRYANT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Texas for yielding, and I thank the gentleman from Texas for listening to all of this. There is no one that should have gotten abuse on this, because he has worked so hard to tighten up these loopholes.

If people want to know what a sham was, a sham was the prior laws on lobbyists, and that is why we have such an incredible culture growing here, where we have tens of thousands of lobbyists blooming all over this city, along with many lawyers who can also be lobbyists. Now they are going to have to register and tell and disclose a lot more, and now they are going to have to sell us on the facts. And that is what it is all about.

Actually, that is what it has really been about for a lot of people for a very long time. I am always amazed, and it always reminds me of how much this law and this reform is needed, whenever I have a constituent following me around during the day. Because at the end of the day, they always say. "Wow, that is not what I thought your life was like."

When you ask them what they thought your life was like, they thought it was about getting gifts and fancy meals, playing athletic games, and doing all sorts of things. They had no idea that we really worked here. And that has been the media image, and that has been the unfortunate image many people picked up.

Well, that is not the image for most Members of Congress. This is a very hard-working group. But for those who have abused it, this is the way we bring those abuses under control. Let us be perfectly clear what this is about. The Committee on the Judiciary that I have sat on has done long, long hearings on this, has looked at this. It is very similar to what they have done in many State legislatures.

It does not do anything about cutting off grass roots. For heaven's sake, anybody can phone, anybody can write, and this means their phone call and their letter is going to mean a whole lot more. Because those who weigh more heavily on the sides of others will now have to listen to everybody more equally.

I say support this reform. It is long overdue. I thank the gentleman from Texas [Mr. BRYANT] for bringing it to the floor.

Mr. GEKAS. Mr. Speaker, I have a list of speakers yet to appear, and would ask the gentleman from Texas if he would proceed until they appear on the floor. I had the gentleman from Georgia [Mr. ROWLAND] down as a speaker. The speakers yet to come to the podium are not present, so I ask the indulgence of the Chair and indulgence of the gentleman from Texas to proceed on your side until they appear.

Mr. BRYANT. The difficulty, of course, is we have now expended more time than you have.

Mr. GEKAS. Mr. Speaker, than I move that we recess.

The SPEAKER pro tempore. The Chair does not entertain that motion. We should proceed in regular order. Does the gentleman from Pennsylvania seek time, or does the gentleman reserve the balance of his time?

□ 1540

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAROCCO). The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Speaker, a motion to adjourn is in order, is it not? And there will be a vote taken on it, will there not?

The SPEAKER pro tempore. Did the gentleman say a motion to adjourn?

Mr. YOUNG of Alaska. Yes. Mr. Speaker, is in order, is it not? Is it not?

The SPEAKER pro tempore. As long as it does not take a Member from his feet, it is in order, between speakers. Does the gentleman wish to enter a motion?

Mr. YOUNG of Alaska. Mr. Speaker, I asked a parliamentary inquiry. This is going to be worked out, or I will make a motion to adjourn.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, I rise in opposition to this legislation in its present form.

Mr. Speaker, while I support many of the provisions of the Lobbying Disclosure Act and appreciate the efforts of those involved in developing the conference report, I am opposed to S. 349 for a number of reasons. Specifically, I am distressed that the conference report does not include a provision pertaining to charity functions. While I will not be affected personally as I will not be returning next Congress, I remain concerned about the impact on charities.

In March of this year, the House of Representatives approved a lobbying reform bill that also banned lobbyists from giving Members gifts, meals or entertainment; however, it would permit Members to travel to charity events. I supported the House version of the bill as it does not adversely impact the endeavors of those who raise money for worthy causes. An excellent illustration is the Danny Thompson Memorial Golf Tournament which has raised approximately $2.5 million for the University of Minnesota Leukemia Research Fund and the Mountain States Tumor Institute.

In addition, it is unclear how S. 349 will impact the efforts of grassroots groups from our districts that come to Capitol Hill to inform us of their views. For example, a local chamber of commerce that has a military base in their community on the closure list would likely meet the threshold of spending 10 percent of its budget or $5,000 to plead their case in Washington. Such a group would then be subject to the reporting and registration requirements under this bill or face liability of $200,000 for failure to comply. Groups like our local Farm Bureaus who travel to Washington for brief periods of grassroots activity could be similarly affected.

As a result of these concerns, I must oppose this legislation despite its good intentions.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOEKSTRA].

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

Two years ago I did not think I would be coming to the floor of the House of Representatives speaking against a reform effort, but the bill that we have in front of us today is a sham. In many ways it is once again a Washington solution to a very serious problem, but once again, the Washington solution falls far short of what we need to do. It really goes in the wrong direction.

How do we solve a perceived ethics problem in the House of Representatives or our relationships with lobbyists? We are going to create a new bureaucracy. We are going to muzzle the grassroots, and we are going to provide preferential treatment for Members of Congress.

I do not believe that is what the American people sent us to Washington for, and I do not believe that that is what the American people will identify as reform.

In many ways the legislation in front of us is the height of hypocrisy. Let me just outline some of the things that is going to be in front of the grassroots organizations, the people that we want to open up the process to, the types of things that they are going to have to go through.

They are going to have to have and meet pages and pages of new requirements that probably will ensure that they will spend more on reporting their contacts with Congress rather than the actual dollars that they will spend on any exercises. They will have to maintain a list and an inventory of all their contacts with committees, with committee members, contacts with Members of the House of Representatives, contacts with Federal agencies. They will have to go into a whole new series of accounting techniques independent

of what they do for the IRS; good faith estimates of the total expense of the registrant; good faith estimate of total expenses of the registrant and its employer in connection with the lobbying activities; a list of the employees of the registrant who acted as lobbyists; a list of all the people who may have contributed to support the lobbying activities.

What we have is a typical Washington solution, a new bureaucracy and more paperwork, and the problem will still be with us.

Mr. GEKAS. Madam Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARMEY].

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

Madam Speaker, I oppose this bill, and I will vote against the bill.

Every time Congress passes a so-called reform, you must ask yourself, "What is being taken away from the American people?" Are we taking away from ordinary Americans their precious right to pick up the telephone and petition their elected representatives in Congress? It seems that we are. I oppose this bill because it would further isolate this institution from the American people—hard as that may be to imagine.

The more you read this bill, the more questions arise—questions for which we have, as yet, received no satisfactory answers. Let me just pose a few of those questions.

Will this bill stop secret, 500 member health care task forces from working with special interest groups, be they corporate lobbyists or nonprofit advocacy groups, to overhaul our Nation's health system?

Will this bill require advocacy groups and labor unions to report their specific contacts and agendas within such groups as the secret, 500-member health task force?

What if Lane Kirkland, president of the AFL–CIO, talked to President or Mrs. Clinton to specifically ask that the President's health bill be revised to exempt union-negotiated health plans? Would the AFL–CIO have to report the contact and the specific favor it sought?

Would the Children's Defense Fund, the Robert Woods Johnson Foundation, or the Sierra Club, or any other such group, have to disclose their lobbying of the administration for special contracts, grants, or regulatory changes?

Will the bill permit the American people to scrutinize the pervasive behind-the-scenes influence of the incredible network of congressional committees, nonprofit groups, and advocacy organizations that the Wall Street Journal has dubbed the Clinton "adhocracy"?

Will the bill disclose the activities of high-paid lobbyists and consultants, such as James Carville, Paul Begala, Mandy Grunwald, Stan Greenberg, Betsy Wright, Susan Thomases, and Tony Coehlo when they obtain White House passes to enter into high level decision making on Presidential initiatives and decisions?

Will the bill prevent a friend of the President, for example, Hollywood producer Harry Thomasson, from directing the hiring and firing of career White House staff at the White House travel office in order to ensure that the Government air charter business works through a company owned partially by himself?

Will the bill treat as a gift a $600,000 mortgage loan for a plush apartment at remarkably favorable interest rates when the recipient of the loan is a high-level White House staffer on a $125,000 a year salary?

Will the bill prevent a Cabinet Secretary, say, the Agriculture Secretary, from conducting his official business at the Super Bowl, courtesy of a chicken company? Will it prevent the Cabinet member from accepting free trips, cheap jeep rentals, and who knows what else until an independent counsel completes an investigation?

Will the bill prevent a Cabinet member, say, the Commerce Secretary, from soliciting contributions from big business special interests during the Presidential inaugural festivities?

Will the bill force someone who works on the President's election campaign and hopes to be rewarded with a plumb post after the election, say, the job of U.S. trade representative, to brief such clients and potential clients as General Electric, Bell Atlantic, and U.S. West?

The authors of this bill owe us answers to these questions.

Madam Speaker, I will submit in the RECORD selected newspaper articles and other material relating to the questions I have just asked.

Finally, I will also submit in the RECORD a sample of the disclosure form that the House Judiciary Subcommittee has advised would be an acceptable disclosure form under the terms of this bill. I think the American people may be disappointed with how little the bill would actually reveal about the contacts occurring between paid lobbyists and their Government in Washington.

When Congress says it wants to protect your right to petition Congress, read the fine print.

I urge my colleagues to oppose the rule, support the motion to recommit, and oppose this bad piece of legislation.

Madam Speaker, I include for the RECORD the articles to which I referred.

[From the Washington Times]

DWINDLING VITAL SIGNS OF HEALTH CARE REFORM

(By Paul Greenberg)

No wonder Hillary Rodham Clinton didn't want to reveal the working papers of her Task Force on National Health Care Reform. She successfully stonewalled for some 18 months before releasing 234 boxes of documents, each containing about 2,500 pages of material. Her task force was able to maintain its secrecy much longer than the one amassed around Haiti, but of course Miss Hillary's outfit had a more determined commander in chief.

And what do the first, cursory dips into this library of healthspeak show? That almost from the first, officials within the administration were making the kind of devastating criticisms that, in the end, sank this Task Force. The criticisms were ignored, but nobody can say Ira Magaziner, who was supposed to coordinate this uncoordinated effort, wasn't warned. Hillary Clinton should have been able to detect the torpedoes, too. They started coming early:

On Feb. 17, 1993, a senior economist at Treasury—James R. Ukockis, described the administration's health-care planners as having gone "from frenetic to frantic" in trying to answer unanswerable criticisms of its work. It was clear to Mr. Ukockis even then that the White House "was not interested in a balanced evaluation" of its plan, but just looking for "someone to make the best possible case for a specific price control program."

Somehow this does not surprise. Rather than conducting an objective study to find the best solution to the problems of American health care, the organizers of the task force seemed out to confirm their own preconceptions. True Believers are like that; they hold onto their cognitive dissonance as if it were an article of faith, confident that sheer will power can make 2 plus 2 equal 5. Or at least 4½ as a compromise. Can this be what Bill Clinton, in his 1992 presidential campaign, used to deride as "brain-dead politics"?

A month later (March 23, 1993) Mr. Ukockis surveyed the jury rigged plan being assembled and warned: "Every option has fatal flaws, which, although passed off as problems 'still under examination,' are actually major roadblocks to successful implementation." It would take more than a year for the administration to tacitly admit as much when it agreed to scuttle the task force's plan. The challenge now is to make a strategic rout sound like a great victory.

The big problem with the Clinton Plan was that, instead of making only incremental changes, or beginning anew, it attempted to make coherent changes—well, changes that seemed coherent to its theorists—in a health-care system that isn't a coherent whole to begin with. How did health insurance in America ever get tied to employment in the first place? Because war industries during the First World War set up their own medical systems to care for their workers, and everything else just grew from the quirk. If the American (non)system of health care had a name, it would be Topsy.

Eventually the country would develop an arrangement under which insurance companies make medical decisions, lawyers' fees determine insurance rates, competition has less effect on price than do government dictates, coverage tends to end when the job does, employees have an HMO instead of a doctor, taxes are called "mandates" * * * and the whole, ramshackle system continues to grow in all directions, or maybe shrink.

One cannot make changes, however rational in theory, to selected parts of this clanking, uneven machine without throwing off all the other parts. The economist at Treasury had identified the big problem with the Clinton Plan early in the game: "Every option

has fatal flaws" that could be disguised as "problems still under examination" only for so long. Eventually the American people, to judge by the polls, caught on, Congress followed suit, and ClintonCare was undone.

Here's a memo from Treasury that affords a glimpse into how things worked on Planet Clinton: On April 1, 1993, when the administration was asked to provide some reliable figures on how much its health plan would cost, the health planners "sat around the table making guesstimates of the savings to be realized" by their ever-changing plan. Conclusion: "It was an appropriate exercise for April Fool's Day."

What we have here is the familiar triumph of theory over mere reality: First concoct a program or a policy, and then find the numbers to justify it. The administration's health-care plan, like Dr. Johnson's description of second marriages, was a triumph of hope over experience.

The administration was able to pursue this complex mirage for more than a year, but inevitably it fell apart. What reason cannot teach, time must. And now Congress is considering only incremental reforms that could have been passed in President Clinton's first year in the White House, or maybe even President Bush's last.

The True Believers are in retreat for the moment. What is remarkable is not that they had to retreat, but that they held out against the facts for so long. Ira Magaziner's leadership style, which might best be described as extraterrestrial, lost touch with reality early, while Hillary Clinton did not give up the struggle till late, apparently under the impression that arithmetic was but another sneaky Republican plot that must be foiled at all costs.

Whatever all this says about the health plan, it demonstrates once again that the Clintons make a perfectly balanced political couple: If the president seems to have no convictions he won't sacrifice for political advantage, Mrs. Clinton has entirely too many.

[From the Washington Post, April 15, 1994]

CARVILLE'S ARTFUL DODGE

(By Jack Anderson and Michael Binstein)

In politics, sometimes appearance is everything. Nobody understands that better than James Carville, the "Ragin' Cajun" whose political prowess helped transform the governor of Arkansas into the president of the United States. Today, Carville's celebrity has crowned him with two highly desirable hats: presidential confidant and a top draw on the speaking circuit.

Although no official numbers were available, each appearance nets him more than $15,000, according to several sources, including one whose group recently hired Carville to speak. Recent engagements were before organizations the White House might label "special interests": the American Hospital Association, the American Trucking Associations, the National Association of Home Builders and the New Mexico Oil and Gas Association.

Because Carville is not a government employee, he is in an ethical no man's land—allowed to float from the private to the public sector without being subjected to the stringent new ethics rules of the Clinton administration or those already in place proscribing acceptance of speaking income.

The arrangement suits both President Clinton and Carville. Clinton can capitalize on Carville's trouble-shooting skills, and Carville, a member of Clinton's "Kitchen Cabinet," can pursue a private-sector career while maintaining White House ties.

Although Carville's road show breaks no laws or regulations, some believe it's an artful dodge, particularly given the cleaner-than-Caesar's-wife standard set by the Clinton administration.

"Carville can say that he's not in government. But if you're at the White House every day, you're in government," says Charles Lewis, executive director of the nonpartisan Center for Public Integrity. "Perception and reality are not the same thing, though they become the same thing here."

Carville makes no apologies for his role, and defends actions of the consulting firm he runs with partner Paul Begala. "Let me make this perfectly clear. We have never taken corporate clients—ever," Carville told our associate Jan Moller. Carville confines his consulting to working to elect Democrats to office.

"Every candidate I've worked for has asked me to stay on in some way or another," Carville said, adding that he has turned down offers of "millions" to lobby on behalf of corporate interests.

Last year, corporate lobbying became a major issue after conservative Patrick J. Buchanan scolded President Bush for taking advice from Charles Black and James Lake, both of whom worked for firms with extensive corporate and foreign clients.

Carville is not the first White House adviser to confront ethical questions related to public speaking. Former national drug policy director William J. Bennett and Clinton health care adviser Paul Starr, for example, have wrestled with similar questions but arrived at different conclusions than Carville has.

Bennett turned down an offer to head the Republican National Committee in 1990, fearing in part that his extensive speaking schedule could be seen as conflicting with his role as a White House adviser. His speech-making technically would have fit within the rules.

More recently, Starr, a top adviser to Hillary Rodham Clinton's health care task force, has put his own lucrative public speaking career on hold while he serves the country. Starr, a professor at Princeton, is considered one of the grandfathers of health care reform, having developed one of the models for "managed competition" that has gained wide notice among Clinton's reformers. But sources tell us that when Starr was tapped as an adviser to the task force, he voluntarily gave up all speaking engagements until that work is finished.

The Senate discussed honoraria from speeches as part of ethics reform in 1989. After much deliberation, it banned the acceptance of honoraria in exchange for a hefty salary increase. Today, senators are required to give proceeds from speeches to charity.

"If we think honoraria is a potentially corrosive thing for congressmen, then why would it not be a problem for a daily, de facto employee?" Lewis says. Of Carville and his firm, Lewis adds: "I do admire and commend them [for rejecting corporate clients]. But if they're going to be that diligent, then they should be the same way about their honoraria."

There is no evidence to suggest Carville has let the agendas of his speaking circuit hosts filter into his discussions with Clinton. Carville says all of his engagements are booked by a speakers bureau and he plays no role in choosing his audiences. Yet there is always the problem of appearance.

[From Business Week, Nov. 15, 1993]

IT'S THE MONEY, STUPID

FOUR CAMPAIGN AIDES ARE MAKING POTS OF CASH AS CONSULTANTS—WHILE STILL ADVISING THE PRESIDENT

It was a few weeks after Inauguration Day, and delirious Democrats were still celebrating. But not James Carville, Paul E. Begala, Mandy Grunwald, and Stanley B. Greenberg. The four Clinton campaign veterans sat in a Chicago hotel room, looking through a one-way mirror while voters in an adjoining room talked about their frustrations with the nation's health system.

When the focus group ended, the four were convinced that the cautious approach some Democrats were taking on health reform was off base. Voters knew plenty about the intricacies of the health system and wanted radical change. "That knocked my socks off," recalls Begala. "It led us to understand that the President was right in wanting to move more forcefully." Back in Washington, Greenberg conveyed the message directly to the Oval Office. And that helped persuade Bill Clinton to seek the most sweeping social reform since the New Deal.

"NETHERWORLD"

Nearly a year later, the four still exert enormous clout at the White House. Like full-time White House staffers, each carries the special security pass that grants entry to 1600 Pennsylvania Ave. But none, by choice, is on the White House staff, where top aides earn $125,000. Instead, group members earn far more as consultants to the Democratic National Committee. This arrangement permits them to act as troubleshooters while working for other candidates, corporations, even foreign political parties. Never before have so many key political advisers plied their trade as free-lancers—freed from the restrictive conflict-of-interest rules that govern Administration appointees.

This dual role worries government-watchdog groups. The four "are operating in an ethical netherworld," contends Ellen S. Miller, director of the Center for Responsive Politics. "The fact that they have a close relationship with the White House while maintaining outside clients raises the specter of conflict of interest." Adds Charles Lewis, head of the Center for Public Integrity: "The DNC and its advisers have become an adjunct wing of government—with no accountability to government."

The doubts haven't stopped Carville, Begala, Grunwald, and Greenberg from becoming the hottest hired guns in politics. "Every Democrat running for high office next year will call one of these people," says Republican consultant Jay Severin III. "Hire someone with their track record, and you look more like a winner than you did the day before." But their popularity raises a tantalizing question: Are the Fab Four's services being sought because they're good or because they're close to Clinton? Says one Democratic activist: "People are buying a name and a connection."

One person who isn't complaining is Bill Clinton. He constantly enlists the inside-outsiders in his "permanent campaign." The four helped direct the fight for the President's economic plan, mopped up after early stumbles over Cabinet appointments, and provided brilliant image counseling for Hillary Rodham Clinton. More recently, they developed the marketing strategy for health reform, with its alluring emphasis on lifetime security. The four are "conceptual thinkers, each with a piece of the whole," says Samuel L. Popkin, a University of California-San Diego political scientist who

worked on the campaign. "Stanley knows how to think about an issue, Paul knows how to talk about it, Mandy knows how to picture it. And James just nails it."

Obviously, each one of the four could have had top White House posts. Although Campaign Manager David C. Wilhelm was sent to head the DNC, most war-room commandos, such as George R. Stephanopoulos, went to the White House.

ROCKY RELATIONS

Critics feel that by staying outside, the four deprived Clinton of a heavyweight staff. Indeed, while Carville, Begala, Grunwald, and Greenberg ply their private interests. White House operations have been left in the hands of such relatively inexperienced aides as Chief of Staff Thomas F. "Mack" McLarty III, a former Arkansas utility executive, and Stephanopoulos and his fellow thirty-somethings. Even with the arrival of image counselor David R. Gergen, who has improved operations, few think the setup works well.

Group members dismiss the notion that Clinton needs them 'round the clock. But they fret possible conflicts. To insulate themselves, the quartet made a pact: No corporate lobbying and no deals with foreign governments. "We asked for information from the White House and DNC counsel about laws that governed us," says Grunwald. "We found out there were very few. So we decided to make our own rules." The Clintonites see no problem with self-policing. Says Wilhelm: "They come to me when there are questions. These are folks with good judgment."

YANKED PASS

Still, there are doubts. For starters, the fact that group members have White House passes troubles some—especially because a few Friends of Bill have been controversial. New York attorney Harold C. Ickes had his pass yanked after he was hired by companies to lobby against expanding a tax break for investment in Puerto Rico. New York lawyer Susan P. Thomases, a Hillary chum, surrendered her pass after McLarty raised questions about her corporate clients.

By past standards, Carville, Begala, Grunwald, and Greenberg merit passing grades for handling potential conflicts. Pollsters have traditionally worked part-time for Presidents, and Greenberg—unlike Carter guru Patrick Caddell and Reagan pollster Richard Wirthlin—has refrained from rapid expansion fueled by corporate work. Carville and Begala advise just a handful of campaigns, though that's likely to change in 1994. Grunwald's firm is growing fast but still concentrates on politics. "The President," insists Carville, "is happy for our success."

* * * * *

Carville seems intent on grasping the fleeting brass ring of celebrity. "I've never made any money in my life. If I don't make it now, I'm never going to." says Carville and his fiancee.

* * * * *

In his guise as the Ragin Cajun. Carville is a defender of the downtrodden. But now, his typical audience is a business group, which Carville describes as "150 rich white guys who quote Rush Limbaugh to me." Past clients include the American Hospital Assn., the National Restaurant Assn., and McGraw-Hill, publisher of Business Week. Isn't he taking corporate cash? Carville concedes "most of these companies are not riddled with Democrats," but denies that he's peddling access. "Reports of my influence are exaggerated."

That didn't stop the restaurateurs from making a pitch to him. Last April, the group invited Carville to speak. At the time, the White House was proposing further limits on the deductibility of business meals. Upset members buttonholed Carville. Says spokeswoman Wendy Webster: "They hope he would bring back a message to the President." Carville portrays himself as an entertainer, but not everyone agrees. Carvell & Co. "are very powerful people" says one Democratic activist. "What do they think people are buying?"

Except for lectures, Carville & Begala don't accept business clients. "When I advise the President that a tax on beer is a bad idea, he doesn't have to worry that I work for Budweiser," says Begala. Carville claims the policy "has cost us $10 million." The bids come from companies, bond houses, interest groups, even foreign governments.

As for C&B's political candidates, Begala insists that "we can't do anything to help clients at the White House." As evidence, he cites the six-week stretch he served as a White House temp during the budget fight. "When New Jersey, Georgia, and Pennsylvania [states where C&B has clients] came up, I left the room." Moreover, Carville adds, by aiding endangered Democrats such as New Jersey Governor James J. Florio, the pair is also helping Clinton.

C&B won't represent foreign governments in the U.S. But they see dollar signs in campaigns abroad. The duo recently handled the reelection bid of Greek Prime Minister Constantine Mitsotakis—badly, as it turned out. Mitsotakis was trounced by Socialist Andreas Papandreou, and C&B left Greece shaken by the death threats they received.

DRIVING MISS MANDY

Of all the inside-outsiders, Grunwald has the most complicated task—juggling White House demands and her media firm. Business is booming for Grunwald, Eskew & Donilon, which makes ads for state and congressional candidates. Recent business clients include cable giant Tele-Communications Inc. GED made ads for local cable operators battling TV stations over programming rights. Meanwhile, Grunwald has become a key player in selling health reform and the North American Free Trade Agreement.

Grunwald has a talent vital to Clinton: She can translate the most convoluted wonkisms into terms Joe Sixpack can understand. "On health reform, Mandy spent hours refining the language, fine-tuning the names of things, so people would get it," says White House Communications Director Mark D. Gearan.

Of the Fab Four, Grunwald is the most plugged in to the *zeitgeist*. She convinced Clinton to appear on MTV and *Arsenio*. "Mandy's immersed in popular culture," says partner Carter Eskew. "A lot of people in our business think in words. She thinks in pictures."

Grunwald's firm has become a magnet for politicians—so much so that some contests pose potential problems for Clinton. For instance, GED is committed to handle Alabama educator Paul R. Hubbert's expected primary challenge to Governor Jim Folsom Jr. next year.

The White House fears that when Pennsylvania Senator Harris Wofford runs for reelection next year, he may trumpet his opposition to NAFTA. In New Jersey, Senator Frank Lautenberg may boast of his vote against Clinton's tax-heavy budget. Would Grunwald produce such ads? "I don't consider that a problem," she says. Still, she adds: "I don't think it's good politics to spend a lot of time attacking this President—ask what's-his-name in Texas." The reference is to ousted Senator Bob Krueger, whose Clinton-bashing campaign flopped despite help from—guess who?—Carville & Begala.

Although Grunwald insists that DNC work is a small part of her business, it's lucrative. The party pays her $15,000 a month. In addition, the DNC compensates her firm at the standard rate—around 15%—for its media purchases. In May and June, she got more than $113,000 in DNC consulting fees, according to the Federal Election Commission.

Grunwald also handles media for the DNC's national health-care blitz. The campaign has an ad budget of $3 million, most of it raised from the pesky corporations the inside-outsiders say they try to avoid.

Some competitors think that's fine. "To the victor go the spoils," says one GOP adman. Others disagree, noting that Grunwald was among the Clinton pols who urged delaying the trade pact for fear it would clash with health reform. "Everyone knows she's against NAFTA," grouses a Democratic consultant.

Is Grunwald selling something she doesn't believe in? "I have absolutely no personal views on NAFTA," she replies. "My job is to make sure my client has his views accurately described. I understand the President's views. And I understand why Senator Wofford and others oppose it."

BEARER OF THE SCROLLS

To meet pollster Stan Greenberg is to meet a truly happy man. Ever since his college activist days, Greenberg has only wanted to work for reformist Democrats. When he met Clinton, who inhales polls like Big Macs, the two clicked instantly. Now Greenberg zips in and out of the White House with his latest readings of the President's job performance. "Clinton is remaking the country," the pollster says approvingly, "I organized my DNC contract so I can spend all my time working for him."

Actually, Greenberg Research still polls for long-standing clients: Senators Jeff Bingaman (N.M.) and Joseph Lieberman (Conn.), plus Michigan Representatives Bob Carr and David Bonior. Working for Bonior is another jarring bit of inside-outism, since he's leading anti-NAFTA forces. Greenberg says an associate is handling Bonior. Nor is he concerned about the free work he does for the African National Congress.

Despite his firm's demands, Greenberg meets White House aides nearly every day and gives Clinton a weekly briefing on his standing with voters. "Stan's the one who has to go in and say 'Mr. President, you're dropping like a hot rock,'" say Begala.

Although their circumstances differ, Clinton's inside-outsiders insist they are trying to keep their private pursuits from entangling with Clinton's. "Judge them by what their counterparts did in the past, and you see a higher standard," says party activist Mark Siegel.

Perhaps. But given their boss's vow to rid Washington of influence-peddling, even some CBGG admirers wonder whether they shouldn't take an extra step. "They should disclose their clients and their fees," says a top Democratic consultant. "That's a commonsense way to avoid potential problems in the '90s."

[From the Washington Times, Sept. 22, 1994]

ESPY "DEAD" AS REPORTS OF IMPROPER CONDUCT CONTINUE

Support for embattled Agriculture Secretary Mike Espy is quickly eroding as speculation heightens that he will resign soon.

Reports that he was paying back thousands of dollars to correct the appearance of past improprieties have not helped his cause.

Senior sources on Capitol Hill yesterday were dismayed at the increasing flow of negative reports on Mr. Espy, including details of personal trips to his home state, Mississippi, at taxpayer expense.

"Espy is dead. He has lost any moral credibility," a senior Capitol Hill official said.

An influential agricultural lobbyist agreed, saying, "All the financial stuff and the travel—it just looks horrible."

A refusal by the White House to say whether Mr. Espy had offered his resignation fueled speculation that he will quit soon, but a senior aide to the secretary denied such plans.

"The rumors are completely unfounded," said Ali Webb, director of communications at the Agriculture Department. "The secretary has not offered his resignation and has no plans to do so."

White House spokeswoman Dee Dee Myers said President Clinton will not prejudge the secretary. "The president has confidence in the job Mike Espy's done. He thinks he's served ably and well as agriculture secretary," she said. "I think the president is going to make a judgment based on the facts, not on a call for rush to judgment."

Asked whether Mr. Espy had offered to resign, Miss Myers said, "I'm not going to open that door."

Pressed on the matter, she said, "I don't want to [answer]. I do know, and I choose not to comment, and I wouldn't read anything into that."

But sources on Capitol Hill and around the city said the continual bad publicity on Mr. Espy had pushed him past the point of redemption. They said he is an embarrassment to a White House already worried about losing congressional seats in the Nov. 8 general election.

"If you were the president and were in striking distance of losing the House and the Senate, and one guy could drag you down, then what would you do?" a congressional source said.

"Espy's exercised some very bad judgment. A lot of people don't think he'll last past the election," a well-placed Senate source said.

REGISTRATION FOR LOBBYING

PURSUANT TO PROPOSED LOBBYING DISCLOSURE ACT OF 1993

A. Organization or individual filing: (if total income or expenses are $1,000 or more in semiannual period), National Association of Manufacturers, 1331 Pennsylvania Avenue, NW, #1500—North Tower, Washington, DC 20004-1703, (202) 637-3000.

Principal place of business: same as above.

Client address & principal place of business: same.

General description of client's business or activities: The NAM is a voluntary trade association principally involved in protecting & furthering the competitive free enterprise system.

B. Name of any organization that contributes more than $5,000 in a semiannual period, significantly participates in the supervision or control of the lobbying activities, and has a direct financial interest in the outcome of the lobbying activities: None.[1]

C. Name, address and approx. percentage of equitable ownership in the client [of] any foreign entity that holds at least 20% equitable ownership in the client; directly or indirectly, in whole or in major part, supervises, controls, directs, finances, or subsidizes the activities of the client; or is an affiliate of the client that has a direct interest in the outcome of the lobbying activity: None.

D. The general issue areas in which the registrant expects to engage in lobbying, and a list of specific issues that have already been addressed or are likely to be addressed: See attachment.

E. The name of each employee of the registrant expected to act as a lobbyist on behalf of the client. If any such employee has served as a covered legislative or executive branch official in the 2 years prior to the date of registration, list the position in which such employee served. See attachment.

SEMIANNUAL REPORT

PURSUANT TO PROPOSED LOBBYING DISCL. ACT OF 1993

(due July 30 and January 30)

A. Name of Registrant: National Ass'n of Manufacturers.

B. Name of Client: Same.

C. List any changes in above from initial registration: None.

D. For each general issue area in which the registrant engaged in lobbying activities during the past 6 months (use additional pages if needed):

1. A list of the specific issues upon which the registrant engaged in significant lobbying activities, including a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans: See Attachment 1.

2. A statement of the Houses and committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client: See Attachment 1.

3. A list of employees who acted as lobbyists for each issue area: See Attachment 1.

4. A description of the interest in the issue of any foreign entity listed in the registration: None.

E. Estimate of total income from the client (or for organizations lobbying on their own behalf, estimate of total expenses incurred in connection with lobbying activities):

At least $1,000 but not more than $10,000.

More than $10,000 but not more than $20,000.

More than $20,000 but not more than $50,000.

More than $50,000 but not more than $100,000.

More than $100,000 but not more than $200,000.

More than $200,000 rounded to the nearest $100,000: $900,000.

Houses and committees of Congress and the Federal agencies contacted:

Senate Committee on Appropriations.

Senate Committee on Energy and Natural Resources.

Senate Committee on Finance.

Senate Committee on Small Business.

House Committee on Appropriations.

House Committee on Energy and Commerce.

House Committee on Interior and Insular Affairs.

House Committee on Science, Space & Technology.

U.S. Environmental Protection Agency.

U.S. Department of the Interior.

Office of Management and Budget.

A list of employees who acted as lobbyists: Michael E. Baroody, Jerry J. Jasinowski, Jan Amundson, John Cohen, Susan R. Hogg, Mary C. Pigott, H. Richard Seibert

Issue area: Labor relations and product liability.

Specific Issues:

Consumer Product Safety Comm'n Reauthorization, H.R. 4706.

Medical Malpractice Reform, S. 489, H.R. 1004.

Family and Medical Leave Legislation, H.R. 2, S. 5.

Product Liability Reform, S. 640, H.R. 3030.

Drug Testing bill, H.R. 33, S. 2008.

Civil Rights Damages, S. 2062, H.R. 3975.

ERISA Preemption, S. 794, H.R. 1602, H.R. 2782.

Replacement of Strikers, H.R. 5, S. 55.

Whistleblower Protection.

OSHA Reform, H.R. 3160, S. 1622.

OSHA Criminal Penalties, S. 445, H.R. 1192, H.R. 549.

Pension Simplification.

Health System Reform, S. 1227, H.R.5502, S. 1872, S. 1936, S. 2731, S. 2732.

Unemployment Compensation Amendments of 1992, H.R. 5260.

Houses and committees of Congress and the Federal agencies contacted: [similar to listings above].

A list of employees who acted as lobbyists: [similar to listings above].

Issue area: [Others omitted—sample only].

ATTACHMENT 1 (ITEM D1 AND D2)

NAM ISSUE AREAS AND SPECIFIC ISSUES

NAM LOBBYING REPORT—JULY THROUGH DECEMBER 1992

Issue area: International Economic Affairs

Specific Issues:

Trade Import Restrictions, H.R. 5100.

Foreign Direct Investment Reporting, H.R. 2624, H.R. 2631.

Export Administration Act Reauthorization, H.R. 3489.

Export-Import Bank Reauthorization, S. 2864, H.R. 5739.

U.S.-Mexico Free Trade Negotiations.

Manufacturing Strategy Act, S. 1330.

Industrial Design Protection, H.R. 1790.

Denial of Most-Favored-Nation Status to China, H.R. 5318, H.J. Res. 502.

Trade with former Soviet Union, S. 2532.

Overseas Private Investment Corporation Reauthorization, H.R. 4996, S. 2338.

Houses and committees of Congress and the Federal agencies contacted:

Senate Committee on Banking, Housing, and Urban Affairs.

Senate Committee on Finance.

Senate Committee on Foreign Relations.

Senate Committee on the Judiciary.

House Committee on Banking, Finance and Urban Affairs.

House Committee on Energy and Commerce.

House Committee on Foreign Affairs.

House Committee on the Judiciary.

U.S. Department of Commerce.

U.S. Trade Representative.

A list of employees who acted as lobbyists: Michael E. Baroody, J. Lee Hamilton, Jerry J. Jasinowski, Howard Lewis III, William G. Morin.

Issue area: Resources and Environment.

Specific Issues:

Arctic National Wildlife Refuge, S. 1220.

Global Climate Change, H.R. 4750.

National Energy Strategy, H.R. 776.

Environmental Crimes.

Superfund Reauthorization.

Superfund Lender Liability.

Resource Conservation and Recovery Act, S. 976, H.R. 3865.

□ 1550

Mr. GEKAS. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

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[1] Questions or suggestions are discussed in NAM testimony. All entries are fictional and for demonstration purposes only.

Mr. CRANE. Madam Speaker, I rise in strong opposition to this conference report. I would simply remind the members that the British Colonial Government cut off the freedom of speech and the right of petition to our Founding Fathers, too.

Madam Speaker, I rise to oppose the conference report to accompany S. 349, the Lobbying Disclosure Act of 1994.

Madam Speaker, there are perhaps many reasons to oppose this legislation; however, I want to focus on a few of my reservations.

Man's right to free speech is an inalienable one. Thankfully, our Constitution and its Bill of Rights recognizes and preserves that right. Included in that right to free speech is freedom to petition the Government. This right was not guaranteed to the Founding Fathers by the British Colonial Government and led to their fight for independence. The conference report, as currently written, is a direct attack on that right.

Particularly onerous is the requirement that grassroots lobbying organizations release the names of their contributors. If this conference report is passed, the Federal Big Brother will be given authority to barge into the living rooms of Americans demanding to know their political views. In addition, this legislation denies an exemption to people who lobby on behalf of religious organizations, forcing them to register and report their business.

Because of the new rules created by this legislation, a businessman who flies from my home State of Illinois and spends several days in Washington to visit members of the Illinois congressional delegation could easily fall within the new definition of a lobbyist. I resent the attempt by the majority party to prohibit my constituents from expressing their legislative concerns to me.

Furthermore, the bill will create another bureaucratic agency, the Office of Lobbying Registration and Public Disclosure. The position of Director in this office will be politically appointed by President Clinton, and responsible for governing lobbying organizations. I shudder to think of the retribution that could be wielded against individuals who oppose the President's policies.

Madam Speaker, for these reasons, I urge my colleagues to vote against this conference report.

Mr. BRYANT. Madam Speaker, I yield 2½ minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Madam Speaker, as so often in life, there comes a moment where it is either put up or shut up. I am comfortable that history and the American public, in reviewing today's debate, will see through the hyperbole and the reinvention of facts which we have been hearing about.

What this lobbying disclosure bill is not about is impinging upon one's religious freedom. It is not about stopping or gagging a citizen's grass roots participation in this democracy. What it is about is cleaning up and defining an outdated gift rule, and modernizing lobbying rules which reflect the new dynamics of pressure politics.

Most of all, however, it is about ensuring our ability to govern ourselves as a nation. No country, no democratic government, can function without the confidence and trust by those who we serve, for right or wrong, whether we admit it or not, even in this the cleanest democracy on the face of the Earth, we are challenged each year, each day, to constantly and regularly strengthen that bond and trust.

Passage of this lobbying disclosure bill continues to build that faith. I encourage my colleagues to keep that faith and to make it better.

Mr. BRYANT. Madam Speaker, I yield myself the remainder of my time.

Madam Speaker, I thank all of the Members for their patience throughout this long debate, and throughout the last 18 months. I will have to say that while I am glad to be finished with it, I think it is going to cause a very significant improvement in the public's perception of this institution and the way in which we do business. I think one thing has been lost in the process, and that has been the realization that it seems to be almost virtually impossible to succeed with a bill like this on a bipartisan basis as we would like to have done.

Madam Speaker, the only issue that Members have mentioned to me today that they are concerned about has been this issue of grass roots lobbying. Yet less than 24 hours ago, no one had asked me about that question for 18 months, 20 months. All this time has passed and not one time did we see anybody come forward and say, "We are worried about it." Not one time did the Republican leader come forward and say, "We want to change it." Not one time did we have anybody from these organizations want to contact us.

In fact, the religious organizations we have worked with support the language and have reaffirmed their support of it, even in the last 12 hours. The fact of the matter is, the bill does not contain anything that would limit or inhibit in any way the ability of religious organizations or other grass roots organizations to petition this Congress or to lobby with regard to their objectives, not in any way whatsoever.

Madam Speaker, the facts are very, very clear. The grass roots provisions have been in the bill since last November when it passed out of subcommittee unanimously, with the support of the gentleman from Pennsylvania [Mr. GEKAS] and the Republicans. They were in the bill in March when the bill passed this House with only 110 people voting no. Nobody said a word about grass roots lobbying at the time. We checked the record today. The words "grass roots lobbying" were never uttered during that debate.

Madam Speaker, the fact of the matter is that at the very last minute, for purposes that are, I think, not too hard to figure out, we have watched many people in this country, probably people who are idealistic, who are deeply religious, be used by the leadership of the other side in an effort to stop a bill for reasons that do not have anything to do with grass roots lobbying, but have a whole lot to do with maintaining the status quo.

What is the status quo? Free meals, free tickets, free trips. That is what the status quo is. This bill is about one thing and one thing only: Changing the way we do business in Washington, DC, and reinforcing public confidence in the House of Representatives and the U.S. Senate. I strongly urge the Members to show the courage today and the foresight to reject this last-minute lobbying effort, this last-minute telephone effort, this last-minute radio show effort that is going on right now and has begun only in the last few hours, to say no to that and to say yes to a new policy that will reinforce the public's understanding that this legislative body makes it decisions based upon the public interest; that no one will have the opportunity, whether it would have that effect or not, no one will have the opportunity to wine or dine or pay for travel for Members of this Congress in order to influence the outcome of legislation.

Madam Speaker, that is the sum total of this bill. That is the sum total of the meaning of the Members' vote. Vote against the motion to recommit, vote for this bill.

Madam Speaker, I thank all the Members who have participated in this debate for their courage and their long months of work.

Mr. DOOLITTLE. Mr. Speaker, I rise in strong opposition to S. 349, the Lobby Reform and Disclosure Act. I voted for this measure when it originally came before the House only because it arose under suspension. There was no way to amend it, and Members were not aware of the more pernicious provisions in the bill.

Like the crime bill, Mr. Speaker, this legislation has noble goals that all Members of Congress share. Unfortunately, this bill, like the crime bill, is a sham. It is full of loopholes that protect the Washington special interests but infringe on the right of ordinary Americans to contribute to the national debates that affect their daily lives.

The first amendment to the U.S. Constitution states that "Congress shall make no law * * * abridging the freedom of speech * * * or the right of people * * * to petition the Government for a redress of grievances."

The bill before us today will have a chilling effect on free speech and will make it more difficult for American citizens to have their voices heard in Washington.

What's in the bill? First, it puts more restrictions on private individuals and grassroots organizations than it does on Members of Congress. For instance, the bill authorizes fines up to $200,000 against private citizens for failing to register with the new lobbying bureaucracy created by the act. Yet a Member of Congress will not even have his or her name disclosed if he or she breaks this law. This is justice, Washington-style.

Even worse, Mr. Speaker, this bill forces grassroots groups, such as churches, to register and report to the Federal Government all expenditures and list every individual who lobbies on their behalf, including volunteers. And while the Government keeps records on all individuals that lobby—a move certain to have a chilling effect on free expression—the bill addresses only appearances of impropriety for big money lobbyists.

Under the new law, lobbyists will be prohibited from taking a Member of Congress to lunch at McDonald's but will be allowed to dump $10,000 from a single PAC into the coffers of a beholden Member. This discrepancy is unjustified, Mr. Speaker, for it is big PAC's, not Big Mac's that cause the problem in Washington.

Amongst the many diverse groups opposed to this legislation are the American Civil Liberties Union, U.S. Chamber of Commerce, Defenders of Property Rights, and the Christian Coalition.

Mr. Speaker, this bill is a grassroots gag rule and deserves to be defeated. We cannot afford to tarnish the worthy cause of lobby reform with such a sham measure. Let us kill this bill, and vote for real reform that eliminates PAC's but protects first amendment freedoms.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of reforming the laws that govern Washington lobbyists. In the end, I am going to vote for the Lobby Reform and Disclosure Act conference report because it makes important changes in the way lobbyists interact with Congress.

But I am concerned about one aspect of this legislation as it is now written. In our zeal to make some important changes affecting special interest lobbyists, we may be unfairly hindering individual citizens that want to express their views through grassroots organizations.

For that reason, I will support a motion to recommit the bill back to conference so that we can make some adjustments and if that is unsuccessful I will support legislative initiatives to make this bill a better law. We must ensure that this legislation does not have the unintended effect of discouraging citizens from becoming part of the political process.

Make no mistake, the Lobby Disclosure Act makes many important changes and that is why I am going to vote for it today. Quite frankly, we need to limit the role of influence peddlers in Washington. There should be no free lunch from lobbyists, no free trips, no free golf games, for Members of Congress. This bill rightly stops this practice.

Unfortunately, the conference report language raises some issues that need to be addressed regarding the reporting requirements of activist citizens. We should not create a situation in which citizens who want to petition their elected officials on issues being considered by the Congress are afraid to do so because of concern about the complicated laws that apply to registered lobbyists.

For example, it appears that this bill would require a representative of a grassroots organization sent to Washington to speak with an official covered by the Lobby Disclosure Act to register and then in certain instances disclose all subsequent expenditures of the organization. This may very well give an advantage to Washington based lobbyists over those who come to Washington from our districts.

The bill may also require that any organization that attempts to influence Federal decisions with the help of a grassroots operation reveal the specific names, possibly including volunteers, addresses and principal places of business retained in grassroots lobbying.

Moreover, the bill potentially sets up a double standard, imposing dramatic penalties on citizens who violate its provisions while protecting Members of Congress from exposure.

For these reasons, I support the motion to recommit so that we can make this bill even better. And if we choose not to do that, I will work tirelessly with my colleagues to amend this law and correct any problems that arise with the provisions that impact the grassroots community.

Mr. WHEAT. Mr. Speaker, I rise to express my continued support for the Lobbying Disclosure Act—legislation I was proud to vote for when it was first passed by the House of Representatives this March.

Although I was unavoidably detained during the vote on the conference report today, the Lobbying Disclosure Act has my full support. This measure is the most significant reform of our Nation's lobbying disclosure laws in decades. It builds on legislation many of us cosponsored in recent years to prohibit tax breaks for lobbying, and which was passed into law last year.

The Lobbying Disclosure Act bans Members of Congress or their staffs from receiving free meals, entertainment, travel, or gifts from professional lobbyists. It closes current loopholes without undermining grassroots lobbying, or the activities of religious organizations. It expands lobbyist registration requirements for those who lobby for a living.

In short, it opens the door, and lets the American people see exactly who is seeking to influence legislation affecting their lives and how much is being spent for that purpose. And, in the process, the measure will restore a greater measure of public confidence in the institution of Congress.

Mr. Speaker, in recent years, we have taken important steps in reforming the way Congress does the people's business. In 1989, I supported the Ethics Reform Act, the most sweeping overhaul of House ethics rules and governmentwide conflict of interest laws in over a decade.

That measure banned Members of Congress from accepting money for speeches to organizations and special interests. It restricted the ability of former high government officials to turn around and lobby Congress. And it put an end to the conversion of campaign funds by ex-Members of Congress for personal use.

In 1990, I supported the Franking Reform Act which has placed strict limits on congressional mailings and required the disclosure of how much each Member spends on mail.

Last year, Congress enacted legislation to reduce the number of legislative branch employees by 4 percent and cut the congressional budget $500 million over the next 5 years. Congressional pay has been frozen for the second year in a row, and I have voted on three separate occasions to freeze salaries. In addition, I was a cosponsor of legislation to ban pay raises for Members of Congress.

I have also supported a crucial measure approved by the House to reform our campaign finance laws and create a more level playing field for candidates, legislation which I have cosponsored since my first term in Congress.

Taken together, these measures—along with today's passage of the Lobbying Disclosure Act—are steps to move us forward toward the goal of a more responsive, more accountable government for the American people.

But while Congress tends to the business of the Nation, there is more that can and must be done to change how Washington conducts its own business.

In particular, we must pass the Congressional Accountability Act to make sure that Congress lives under the same workplace laws as everyone else. As a cosponsor of the Congressional Accountability Act, I was proud to join my colleagues in the House last month to pass this measure by an overwhelming margin, 427 to 4.

Congress will make wiser policies when it lives under the same rules and regulations others must live by. But time is running short, and the other body has yet to pass the Congressional Accountability Act.

The American people have heard enough talk, they want action on a tough, strong bill on congressional compliance and enforcement. They want campaign finance reform. And they want lobbying reform. It's time to deliver these bills to the American people and help renew public faith and trust in the institution of Congress.

Mr. CALVERT. Mr. Speaker, in 1992 the voters sent Washington a clear message: They are tired of the Government being controlled by a power elite—a small political class comprised of politicians and fat-cat lobbyists, and during these last 2 years, the people have begun to mobilize at the grassroots level to take back their Government.

They have mobilized in churches. They have mobilized under the banner of citizens' movements such as United We Stand America. They have even mobilized via informal computer networks, and quite frankly, seeing the people mobilize scares the hell out of the party that has run this place for 40 years, and, it scares the hell out of the big unions and other special interests who support and control them.

Mr. Speaker, this legislation is a sham.

It is not a lobbying reform bill.

It is a protect the power brokers bill.

The provisions of this legislation will reduce public input into Congress, rather than increase it. It will have a chilling effect on religious groups, independent political parties, Chambers of Commerce and other local individuals who want their message to be heard in Washington. It won't hurt the AFL–CIO and it won't hurt the foreign governments who hire big time lobbying firms; but, it will hurt grassroots organizations like small-town religious, business or civic groups.

The registration and reporting requirements proposed in this bill threaten to jeopardize the basic right of all Americans to communicate with and lobby their Government. Apparently, that is what the majority party and their allies want, but, that is not what the American people want

Mr. Speaker, if a small church congregation from Corona, CA can't send a representative two or three times a year to tell me their views about legislation without being hassled by a Federal Bureaucracy, there is something wrong.

I urge my colleagues to send this bill back to committee.

Mr. BAKER of California. Mr. Speaker, I rise today to register my support for true lobbying reform and opposition to the Lobby Reform and Disclosure Act.

This bill has laudatory goals—to put a stop to special interest manipulation and perks paid for by lobbyists. I support these goals. However, the bill is riddled with loopholes for those inside the Washington beltway and restrictions on constitutional rights for the rest of America.

Moreover, this legislation stifles free speech and makes it more difficult for average Americans to express their views.

The First Amendment to the U.S. Constitution, in the Bill of Rights, states: "Congress shall make no law—abridging the right of the people—to petition the Government for a redress of grievances." Unfortunately, this bill puts more restrictions on private individuals and grassroots organizations than it does on Congress. This bill authorizes fines of up to $200,000 on private citizens for failure to register with the forthcoming lobbying bureaucracy at the White House. But a Member of Congress would not even have his or her name disclosed, even if he or she is involved in a violation of this legislation. Not only is this a double standard, it also violates the spirit of legislation the House passed recently to require that the laws Congress passes for everyone else apply to Congress itself.

This bill forces grassroots groups, such as churches, to register and report all expenditures and list those lobbying on their behalf, including volunteers.

While this bill puts a gag on grassroots lobbying, it addresses only appearances of impropriety on the part of big-money lobbyists. For instance, lobbyists would be prohibited from taking a Member of Congress for lunch at MacDonald's, but would still be permitted to give $10,000 to a Congressman from a single PAC.

I urge a "no" vote on this fatally flawed bill and welcome true reform legislation, including the elimination of political action committees. We need real and permanent change, not a bill that undermines the Constitution we are sworn to uphold.

Mr. ZIMMER. Mr. Speaker, once again Congress is coming up short on reform. This bill addresses only a minor part of the problem that has caused Americans to lose faith in their government. We need tougher lobby reform, and more important, we need meaningful campaign finance reform.

What's the point in banning a lobbyist from buying lunch for a Congressman if he is still allowed to hand him a $10,000 PAC check? The link between big money and politics won't be severed until we enact real campaign finance reform. But the leadership of Congress doesn't seem to want to change the rules under which they got here.

Moreover, this bill completely ignores scandalous lobbying practices that cry out for reform. For instance, Members of Congress too often leave public service and then use their contacts and knowledge to influence the very people they worked with as a public servant. I have introduced legislation with my colleague from Florida, Mr. BACCHUS, that would slam shut this revolving door. It would impose a 5-year ban on Members of Congress who seek to lobby any committee on which they served and would permanently ban them from lobbying on behalf of foreign nationals. I have introduced another bill that would prevent former Members of Congress and high-level staff from lobbying the executive branch. And, I will soon be introducing legislation that would permanently ban former Members of Congress who have been convicted of a felony from becoming lobbyists.

Despite its flaws and omissions. I will be voting for the lobbying bill because I believe it is a small step toward restoring some measure of accountability to Congress.

Mrs. COLLINS of Illinois. Mr. Speaker, as I have stated before on the floor of this Chamber, I recognize and support reasonable initiatives that seek to ensure greater openness and accountability in our legislative process. However, I do not believe that the bill before us today adequately addresses the most substantive ways in which we as Members of Congress can meet these important goals. Unfortunately, this conference report and all the innuendo and hype surrounding it have simply fed the fuel of negative opinions that all too many Americans have about Washington without tackling the real concerns on the minds of most citizens.

Each one of us as Members has been charged with the responsibility of representing the priorities and interests of thousands of individuals, families, and businesses back home in our districts. We meet this responsibility by listening to their concerns and voices at a variety of times and in a myriad of settings, including over meals or during conferences. However, this legislation seems to suggest that doing so is somehow improper or corrupt or that Members' motivations on such occasions stem from nothing more than mere self-interest. I deeply resent such a suggestion.

It is ludicrous that some of my colleagues would imply that by accepting an invitation to dinner or to an industry function my views and decisions on a particular legislative issue will be swayed. This is flatout false, and I believe that an overwhelming majority of Members would agree to this premise.

These incidental measures included in the conference report we are considering will have but minor impact on the vital business of the Nation that we conduct in this Chamber every day. For the remainder of this Congress and into the next, Members must continue to focus their efforts upon the more important and fundamental issues that underlie lobby reform and the public's disenchantment with this institution.

This issue before us is not whether Congress is for sale. It is not. The real issue is how do we expand the ability of more individuals and groups to have a say in the democratic governing process. Throughout the 103d Congress we have been extremely successful under the leadership of President Clinton in revitalizing the economy, creating jobs, strengthening our communities, families, and schools, and making our streets safer—and I look forward with great optimism to the opportunities that await the next Congress to once and for all tackle such issues as comprehensive health care and welfare reform.

My colleagues, we need to stop playing the blame game and pointing fingers at one another. We need to move forward and get on with the vital legislative business of the Nation that the American people want passed. We should not have to apologize for carrying out the important work which our constituents sent us to this body to perform. We do not need to legislate our integrity. We need to continue with the mission for which we were elected to Congress—to listen to, communicate with, understand, and represent average, hard-working Americans.

I urge my colleagues to vote no on the rule.

Mr. FAZIO. Mr. Speaker, I spoke at length when the House passed the lobbying reform bill, and so I will only take a few minutes today.

The bill that has come out of conference has been praised by reform advocates, including Common Cause. The lobbying reform bill will ban meals, travel, entertainment, and gifts from lobbyists to Members of Congress and their staff. In addition, the bill places new restrictions on meals, entertainment, and gifts from nonlobbyists.

There is a decided view in America that lobbyists and special interests have too much access to elected officials. The Lobbying Disclosure Act will address these concerns by requiring those who lobby to disclose their activities—to document the issues they lobby on and the amount of money they spend doing so.

I rise in support of the Lobbying Disclosure Act, not to limit or stop the act of lobbying, but to shed light on the process and to instill confidence that lobbying is an appropriate avenue for people to express their concerns and interests to their elected representatives.

When this bill is enacted, the American people will be better informed and educated. Whether it is a group of activists who organize a letter writing campaign, or a one-on-one meeting with a company's representative—the American people will know it happened, know what issue was discussed and how much money was spent in the process.

This bill will ban lobbyists from buying lunches, providing gifts, and paying for entertainment for Members of Congress—but it will allow Members to continue to have legitimate interaction with their constituents.

Mr. COBLE. Mr. Speaker, legislative action continues on the Lobbying Disclosure Act Conference Report. I voted against this measure primarily because of the so-called gag rule on grass-roots lobbying. This provision, buried in the conference report, is designed to kill citizen pressure from back home that has been so effective in the last few years.

This gag rule would force many groups, including religiously affiliated organizations, to register and report their activities to a new bureaucracy in the executive branch. This raises constitutional and financial considerations for grass-roots organizations.

Who will be called a lobbyist under this bill? Anyone spending 10 percent of his or her time talking to Federal officials and whose lobbying

income exceeds $2,500 or expenses are more than $5,000 in a 6-month period. No grassroots group can exist without somebody in that group devoting his or her time to the effort. Because this bill would identify that person as a lobbyist, the entire organization and its members may be brought under the reporting and penalty provisions.

A newspaper in our district, the High Point Enterprise, stated, "Citizens who join their voices once or twice in an effort to influence Congress should not be treated the same as Washington's standing army of professional corporate and special-interest group lobbyists." Let's not trample on the rights of citizens to protest the actions of their government. Our constituents should not have to register with a bureaucracy in Washington. That's not the American way. Let's kill the gag rule on grassroots lobbying and preserve every American's right to voice his or her opinion.

The SPEAKER pro tempore (Ms. PELOSI). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. GEKAS

Mr. GEKAS. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. GEKAS. In its present form, I am, Madam Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEKAS moves to recommit the conference report on the bill (S. 349) to the committee of conference with instructions for the managers on the part of the House to carry out the following:

(1) In the proposed section 103—

(A) strike out paragraph (8),

(B) strike out the second sentence of paragraph (9)(A), and

(C) strike out subparagraph (B) of paragraph (9),

(2) Strike out paragraph (5) of section 104(b).

(3) Strike out paragraph (6) of section 105(b).

(4) In the proposed section 103(10)(B)(xviii), strike out the material following subclause (II).

(5) In the proposed section 103, insert before the period at the end of paragraph (12) the following: "or a person who spends more than $100,000 in a 6 month period to influence decisionmaking in the executive and legislative branch.".

(6) In the proposed section 106(c), strike paragraph (2).

(7) In the proposed Rule XXXV of the Standing Rules of the Senate strike out subparagraphs (a) and (c) of paragraph 2 and in clause 4 of Rule XLIII of the Rules of the House of Representatives strike out paragraphs (b) and (d) of clause 4.

(8) In title I redesignate sections 112 through 121 as sections 113 through 122, respectively, and add after section 111 the following:

SEC. 112. LEGISLATIVE SERVICE ORGANIZATIONS.

(a) COVERAGE.—Any entity affiliated with a legislative service organization shall be considered a lobbyist subject to—

(1) the registration, reporting, and disclosure requirements of sections 104 and 105

(2) the prohibition of section 106, and

(3) the amendments to the Standing Rules of the Senate and the Rules of the House of Representatives made by title II.

(b) OTHER REQUIREMENTS.—Each entity affiliated with a legislative service organization shall report to the Office of Lobbying Registration and Public Disclosure—

(1) the names and salaries of its staff,

(2) arrangements made with others to share staff and costs,

(3) relationships with other organizations in connection with lobbying activities, and

(4) any contributions, gifts, or reimbursements received.

(c) REPORTS.—Any person, organization, or foreign government which makes any contribution to any entity affiliated with a legislative service organization during the semiannual period beginning on the first day of January or the first day of July of each year shall report such contribution to the Office of Lobbying Registration and Public Disclosure not later than 30 days after the end of that semiannual period.

(d) SPECIAL FORM.—For purposes of reporting, the Office of Lobbying Registration and Public Disclosure shall issue a form that clearly identifies reportable activity by or to an entity affiliated with a legislative service organization.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(2) The term "legislative service organization" refers to a particular category of working groups or caucuses organized to provide legislative services and assistance to Members of the House of Representatives and certified by the Committee on House Administration.

(3) The term "entity affiliated" means an organization which is described in at least 2 of the following:

(A) An organization which spends at least 10 percent of its funds in any year on—

(i) travel expenses for Members of Congress or congressional staff,

(ii) meals, receptions, or other food and beverage expenses on activities attended by Members of Congress or congressional staff, and

(iii) gifts (other than educational materials) to Members of Congress or congressional staff.

(B) An organization which has a name which is like or similar to the name of an entity of the House of Representatives, including a legislative service organization or congressional member organization, or uses the word "congressional" in its official name or title.

(C) An organization which has a Member of Congress serving on its board of directors or holding another controlling position.

In the proposed section 103(3), strike "and" at the end of subparagraph (F), strike the period at the end of subparagraph (G) and insert "; and", and insert after subparagraph (G) the following:

(H) any other officer or employee not otherwise described in this paragraph serving in a position in the executive branch that is classified at or above GS-14 of the General Schedule.".

At the end of the bill, add:

Any penalty applicable to lobbyists or lobbying firms in this bill shall also apply to Members of Congress.

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

Mr. BRYANT. Madam Speaker, reserving the right to object, I would like to ask the gentleman from Pennsylvania [Mr. GEKAS] if the motion to recommit is the one that was most recently given to our side.

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

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Yes, Madam Speaker, we believe so.

Mr. BRYANT. Madam Speaker, I would ask if we could get a clear identification of which motion it is.

Mr. GEKAS. Madam Speaker, if the gentleman will continue to yield, we are down to two versions, the one that is now being read, or was being read, the one concerning grassroots lobbying, GS-14's and 16's, campaign spending, campaign contributions, and a few others.

Mr. BRYANT. Madam Speaker, I withdraw my reservation of objection.

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

There was no objection.

POINT OF ORDER

Mr. BRYANT. Madam Speaker, I make a point of order that the motion to recommit offered by the gentleman from Pennsylvania [Mr. GEKAS] is not in order, in that it instructs the conferees to carry out instructions which exceed the scope of the matters committed to conference. Specifically, the motion to recommit contains language which expands the definition of lobbyists and expands the definition of covered executive branch officials.

Both of these expanded definitions exceed the scope of the matters committed to conference. Therefore, Madam Speaker, I insist on the point of order.

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

Mr. GEKAS. Yes, Madam Speaker.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GEKAS] is recognized on the point of order.

Mr. GEKAS. Madam Speaker, if I am to understand the point of order, it is visited against the section that we have in which we strike out, or that we have a motion to instruct the conferees to eliminate campaign contributions, is that correct? Is that part of the point of order that was made? I could not hear all of it.

Mr. BRYANT. Madam Speaker, I have already stated my point of order.

PARLIAMENTARY INQUIRIES

Mr. GEKAS. I have a Parliamentary inquiry, Madam Speaker. If the gentleman would respond to me, I am asking if in his point of order he itemizes

the campaign contributions as one of the items.

The SPEAKER pro tempore. The Chair will control the debate. Does the gentleman from Pennsylvania [Mr. GEKAS] concede the point of order?

Mr. GEKAS. No, Madam Speaker, I want to speak on it, but I want to make sure that that is what I heard; that in the point of order that he made, as a parliamentary question, I would ask does the point of order that was just entered by the gentleman from Texas [Mr. BRYANT] include a point of order against the campaign financing feature of my motion?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] has made a point of order on several grounds. The Chair will entertain argument on the point of order from each Member on his own time.

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Mr. GEKAS. Madam Speaker, as a point of parliamentary inquiry, I simply wanted to have repeated whether or not the point of order that was made included the point on campaign financing. I could not hear the gentleman from Texas.

The SPEAKER pro tempore (Ms. PELOSI). Will the gentleman from Texas repeat his point of order.

Mr. BRYANT. Madam Speaker, I made a point of order that the motion to recommit offered by the gentleman is not in order in that it instructs the conferees to carry out instructions which exceed the scope of the matters that were committed to the conference.

Specifically the motion to recommit contains language which expands the definition of lobbyists and expands the definition of covered executive branch officials. both of these expanded definitions exceed the scope of the matters committed to conference.

Mr. GEKAS. Madam Speaker, I believe that the motion to recommit is in order. The important feature of the motion to recommit has to do with campaign contributions in which we feel that, as we argued in the well of the House, the big gift that we should be banning is campaign contributions by lobbyists, not just sandwiches. The question is, if the point of order is to prevail and the Chair is to rule that my campaign contribution feature is out of order, does that not return it to the status of the current law in which, then, the whole issue becomes one that cannot be a point of order if it is returned to current law? I pose that as a parliamentary inquiry.

The SPEAKER pro tempore. If the Chair rules this motion out of order, the gentleman may offer another motion to recommit.

Mr. GEKAS. Madam Speaker, that is not answering my question. My inquiry is this: If the Chair rules that my motion is out of order in that the striking of campaign contributions is beyond the scope, is not the result of that, and this is the test of whether or not it is out of order, is not the result of that to return campaign contributions to the status in current law, thus making the point of order inoperable?

The SPEAKER pro tempore. The Chair cannot respond to that inquiry. The Chair will address the point of order that has been raised.

Mr. GEKAS. Madam Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Madam Speaker, is the motion in order insofar as it seeks to clarify the ambiguous language that we feel is contained in this legislation on grassroots lobbying?

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order of the gentleman from Texas.

Mr. GEKAS. Madam Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Madam Speaker, I think I know the answer to this, but I must pose it for the record.

Is the motion that I have made divisible in any way?

The SPEAKER pro tempore. The gentleman's motion is not divisible. The gentleman may offer one, proper motion to recommit.

Mr. GEKAS. I understand that. I will yield to the decision of the Chair on this matter.

Mr. ARMEY. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ARMEY. Madam Speaker, I see by the rule just passed that allows this bill to be under consideration that in this rule, it says all points of order against conference report and against its consideration are waived except the provisions of clause 2. If in fact the majority is able to bring the bill to the floor by waiving all points of order against the bill, would that waiver not also cover the gentleman's motion to recommit?

The SPEAKER pro tempore. The waiver does not inure to the motion to recommit.

Mr. ARMEY. The waiver only applies to the bill brought to the floor by the majority, not to the motion to recommit offered by the minority?

The SPEAKER pro tempore. To the conference report.

Mr. GEKAS. Madam Speaker, before we receive the final edict of the Chair, am I to understand in the nature of a parliamentary inquiry that the point of order is based partially on our effort in the motion to have the conference reconsider language that would equalize the penalties making Members of Congress equally liable to citizens who violate the grassroots lobbying requirements?

The SPEAKER pro tempore (Ms. PELOSI). The gentleman from Texas has stated the point of order two times for the gentleman.

The Chair is prepared to rule. The gentleman from Texas makes a point of order against the motion to recommit offered by the gentleman from Pennsylvania.

As discussed in section 26.12, chapter 33 of Procedure in the U.S. House of Representatives, a motion to recommit a conference report may not instruct House conferees to include matter beyond the scope of differences committed to conference by either House.

The motion offered by the gentleman from Pennsylvania includes several instructions that violate this principle. For example, the motion instructs conferees to expand the definition of "lobbyist" as defined in both the Senate bill and House amendment to include not only persons who spend a certain period of time engaging in lobbying activities while serving a client but also those who spend more than a certain dollar amount within a fixed period to influence decisionmaking.

Another example is found in the instruction that expands the definition of "covered executive branch official" as defined in both the Senate bill and House amendment to include a position in the executive branch that is classified at or above GS–14 of the General Schedule.

The inclusion of even one of the above-described instructions provides the Chair with an adequate basis to find the entire motion out of order on the grounds the instructions exceed the scope of differences committed to conference. Accordingly, the point of order is sustained.

Mr. GEKAS. Madam Speaker, that is a marvelous conclusion. I thank the Chair.

MOTION TO RECOMMIT OFFERED BY MR. GEKAS

Mr. GEKAS. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEKAS moves to recommit the conference report on the bill (S.349) to the committee of conference with instructions for the managers on the part of the House to carry out the following:

(1) In the proposed section 103—

(C) strike out subparagraph (B) of paragraph (9).

(2) Strike out paragraph (5) of section 104(b).

(3) Strike out paragraph (6) of section 105(b).

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

POINT OF ORDER

Mr. BRYANT. Madam Speaker, I am reserving a point of order against the gentleman's motion.

The SPEAKER pro tempore. The gentleman must state his point of order now.

Mr. BRYANT. Madam Speaker, it is not clear to our side whether or not

this motion includes section 1, subsection (c), or only includes section 2 and 3. The motion that we have been given has portions stricken out by hand and it is not clear to us what is in and what is out.

The SPEAKER pro tempore. Without objection, the Clerk will reread the motion.

There was no objection.

The Clerk reread the motion.

The SPEAKER pro tempore. Does the gentleman from Texas insist on his point of order?

Mr. BRYANT. I do not insist, no.

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

There was no objection.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Madam Speaker, I have a parliamentay inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Madam Speaker, are we to understand now that what lies before the Members of the House is our motion to recommit to the conference with instructions to sort out the language on grassroots lobbying, to strike the requirements for grassroots registration?

The SPEAKER pro tempore. That is the gentleman's interpretation of his motion.

The motion as read is what is before the House.

Mr. GEKAS. I understand.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. GEKAS. Madam 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 202, nays 215, not voting 18, as follows:

[Roll No. 450]

YEAS—202

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brooks
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Hefner
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—215

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Orton
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slaughter
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Taylor (MS)
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—18

Applegate
Berman
Clyburn
Fields (LA)
Fish
Gallo
Hayes
Hutto
Lloyd
McCrery
McCurdy
McDade
McNulty
Owens
Slattery
Thompson
Washington
Wheat

□ 1629

Ms. DANNER and Mr. OLVER changed their vote from "yea" to "nay."

Messrs. ORTIZ and SHAYS changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Ms. PELOSI). The question is on the conference report.

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

RECORDED VOTE

Mr. GEKAS. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 306, noes 112, not voting 17, as follows:

[Roll No. 451]

AYES—306

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Coleman
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Filner
Fingerhut

Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hutchinson
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McHugh
McInnis
McKinney
Meehan
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal-Allard
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tauzin
Taylor (MS)
Tejeda
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOES—112

Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Bateman
Bentley
Bliley
Boehner
Brewster
Brooks
Brown (FL)
Bunning
Burton
Buyer
Callahan
Camp
Clinger
Coble
Collins (GA)
Collins (IL)
Combest
Cox
Crane
Cunningham
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Dunn
Emerson
Everett
Fields (TX)
Fowler
Gallegly
Gingrich
Goss
Grams
Grandy
Hall (TX)
Hancock
Hansen
Hastings
Hefley
Herger
Hoekstra
Houghton
Hunter
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Laughlin
Lewis (CA)
Lewis (FL)
Livingston
Lucas
McCandless
McCollum
McKeon
McMillan
Meek
Mica
Michel
Miller (FL)
Molinari
Moorhead
Moran
Murtha
Myers
Orton
Oxley
Packard
Parker
Paxon
Pombo
Quillen
Ravenel
Roberts
Rohrabacher
Rowland
Royce
Rush
Sarpalius
Schaefer
Shuster
Skeen
Smith (OR)
Spence
Stearns
Stump
Talent
Tanner
Taylor (NC)
Thomas (CA)
Traficant
Vucanovich
Walker
Whitten
Wilson
Young (AK)

NOT VOTING—17

Applegate
Clyburn
Fields (LA)
Fish
Gallo
Hayes
Hutto
Lloyd
McCrery
McCurdy
McDade
McNulty
Owens
Slattery
Thompson
Washington
Wheat

□ 1651

Mr. HALL of Texas and Mr. LAUGHLIN changed their vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRYANT. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Ms. PELOSI). Is there objection to the request of the gentleman from Texas?

There was no objection.

FLOW CONTROL ACT OF 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 552

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 552 is an open rule providing for consideration of H.R. 4683, the Flow Control Act of 1994. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee.

Mr. Speaker, House Resolution 552 is a totally open rule providing that any germane amendment may be offered to the bill when it is considered for amendment. The rule provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule, and the substitute shall be considered as read.

The rule further provides that, at the conclusion of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole.

Finally, the rule provides that the previous question shall be ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4683 provides the specific congressional authorization needed to assure States and localities of their ability to control the flow of municipal solid waste and recyclable materials within their boundaries. States rely upon the assurance of an adequate waste stream to repay the bond obligations incurred to finance new or expanded waste management facilities.

A recent Supreme Court decision has raised some question about the ability

of States and localities to exercise their flow control authorities. Specifically, the Court struck down a New York State control ordinance on the grounds that it interfered with interstate commerce. It is clear that, without some congressional directive, many State and local governments which now depend upon flow control to repay their indebtedness will face significant uncertainties.

H.R. 4683 addresses the problem raised by the Carbone decision, and provides the tools necessary for the States and localities to carry out their responsibilities. I urge my colleagues to support this open and fair rule.

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

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

Mr. Speaker, I thank the distinguished chairman of the Rules Committee, Mr. MOAKLEY, and I join him in supporting this open rule.

We witnessed a rare occasion, perhaps even a first, when the Energy and Commerce Committee appeared before the Rules Committee earlier this week and requested an open rule for two bills under its jurisdiction. I applaud the committee for a job well done, and I ask unanimous consent to insert extraneous materials into the RECORD following my statement.

Mr. Speaker, H.R. 4683 is commonly known as the flow control bill. Flow control refers to State and local laws that confer power on local governments to manage municipal solid waste disposal. This bill complements the interstate waste bill we considered earlier. It addresses a Supreme Court ruling by clarifying the rights of State and local governments to exercise their flow control authority.

I understand that some Members have very strong opposing views on many provisions of this legislation, and this open rule allows all members the opportunity to offer amendments which address their particular concerns.

I urge adoption of this rule so we can proceed with the business at hand.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	99	31	31	68	69

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

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

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

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 28, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

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

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	

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

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

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1700

The SPEAKER pro tempore (Mr. SKAGGS). Pursuant to House Resolution 552 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4683.

□ 1700

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes, with Mrs. UNSOELD in the chair.

The Clerk read the title of the bill.

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

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

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

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

Mr. SWIFT. Madam Chairman, I rise in support of H.R. 4683, the Flow Control Act of 1994, which was ordered reported by the Committee on Energy and Commerce by a voice vote with bipartisan support. We have been working for months to bring this important legislation to the floor, and I commend the Members both on and off the committee who have worked so hard on this legislation.

Madam Chairman, flow control authority is that authority of a local government that allows it to direct that all municipal solid waste generated within its borders be delivered to one or more specified waste management facilities. It is often utilized to provide assurances that an adequate waste stream to guarantee revenue to pay bonds issued to finance municipal solid waste management facilities is available.

Since RCRA became law in 1976, many States have adopted comprehensive waste management plans. The nature of these plans and the increasing complexity and costliness of waste management facilities have had significant effects at the local level, where responsibility for municipal solid waste management has traditionally rested.

Further, Madam Chairman, because the Federal Government does not share the cost of waste management programs at the local or State level, States and local governments have adopted various means, including flow control, to finance MSW management services and facilities. For example, when a local government builds waste management facilities, it will often use flow control to provide insurance that an adequate waste stream is there to guarantee revenue to repay bonds issued to finance municipal solid waste management facilities or systems.

Madam Chairman, we hear a great deal of debate on this floor regarding unfunded mandates. This is a similar situation. By failing to pass this bill, and thus failing to restore local governments' authority to use flow control to manage their municipal solid waste, we will be leaving local governments with the responsibility to manage their wastes, but we at the Federal level will have denied them a critical tool that they need to do it. It is nothing less than an unfunded mandate in reverse.

According to the EPA, 35 State laws authorizing their political subdivisions to use flow control exist today. Eight other States have indirectly authorized the use of flow control. In these States, billions, billions of dollars have been invested in municipal solid waste management facilities or integrated systems.

The ability of State and local governments to repay this debt, these billions of dollars, is predicated on the ability of them to control the flow of the waste stream. Local governments argue that without flow control, they will be unable to build new facilities to meet the stricter environmental requirements, and they may default on bonds issued for existing and proposed facilities.

Madam Chairman, in 1994, May 16 of this year, the Supreme Court struck

down Clarkston, NY's flow control ordinance on the grounds that it discriminated against interstate commerce, and thereby precipitated this entire nationwide crisis. As a result of that, many State and local governments that relied on flow control now face significant financial uncertainties.

The issues in the flow control debate are complex and controversial, and affect many different parties. I believe that because local governments are traditionally given the responsibility for municipal solid waste management, we should be at the Federal level very careful how we restrict the tools they have to carry out those responsibilities.

Unless the Federal Government wants to take over the responsibility for dealing with and handling solid waste, unless it wants to do that, then it seems that it must do what it can to ensure that local government has access to the tools to carry out that responsibility.

During preparation of this legislation for the subcommittee's consideration, a great deal of time and effort was spent by both parties on both sides of this debate in an effort to narrow the differences. I have to commend everybody involved, Madam Chairman, because those differences were narrowed to a very significant degree.

However, it became apparent that there are two principal approaches to addressing the concerns raised by the Clarkston case. In our committee we considered each of these approaches as two separate amendments to the base text. No other amendments were offered. The full committee adopted the one offered by the gentleman from New Jersey [Mr. PALLONE], and his amendment is now embodied in the bill we bring before the Members today.

Madam Chairman, it is critical, and I think most of us agree, that we do something to protect the roughly $14 billion in outstanding municipal bonds that are now at risk because of the court's decision. Whether or not to give local governments more flexibility than they have since the Supreme Court decision is the primary issue of our debate today.

Madam Chairman, this is a philosophical and jurisdictional dispute between those who would believe that local governments need to have recourse to the tools to carry out the solid waste management requirements that have traditionally been their responsibility and, on the other hand, those who really wish to radically change that traditional model and let the marketplace handle it, with all of the resulting uncertainties.

Today, Madam Chairman, we are presented with this choice: One, there will be an amendment offered providing limited protection for local governments from the Supreme Court decision, with a return in the relatively near future to the current situation, with flow control not being available as a viable waste management policy; or, sticking with the basic text, which preserves the bill reported by the committee, it provides that local governments have the flexibility to manage their solid waste into the future, but with limits placed on their ability to use flow control as a management tool.

In neither case, Madam Chairman, would recyclable materials be subject to flow control, unless the recyclables are voluntarily surrendered by the generator or owner.

I support the committee-reported bill. I believe it is a better approach to solving the flow control dilemma. I also note that the proponents of both proposals have made significant changes in their proposals in order to make them more reasonable, and I commend them for their efforts. It is unfortunate that we were unable to come any closer to agreement.

Madam Chairman, I believe this is the optimal way to proceed, because it will give both sides the opportunity to have a free-flowing open debate on both approaches simultaneously. Again, this is exactly what happened to the committee. I have been working with both sides to try to set up that scenario.

Madam Chairman, I urge my colleagues to listen to that debate. I think it can be very informative.

Madam Chairman, I reserve the balance of my time.

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

Madam Chairman, for more than two decades local governments exercised flow control authority primarily to finance municipal solid waste incinerators. However, in recent years flow control has been used as a tool to address solid waste management problems. Facilities subject to flow control now include not just incinerators but landfills, materials recovery facilities, transfer stations, and composting facilities.

When Congress adopted the Resource Conservation Recovery Act, it recognized that municipal solid waste creates problems for local governments. Nonetheless, Congress believed that collection and disposal of garbage should remain the responsibility of State and local governments. To carry out that responsibility, many States have allowed local governments to use flow control authority to achieve the goal of reducing reliance on landfills and minimizing limited landfill disposal facilities.

In Ohio, solid waste districts have had flow control authority since 1988. In fact, until last year State law required localities to use flow control. As a result, many solid waste districts made large financial investments in recycling programs, waste material processing centers, composting facilities, and hazardous waste collection programs.

Ohio has found flow control to be an effective mechanism for protecting human health and the environment, for developing waste management capacity, and for encouraging waste reduction and recycling. In fact, my constituents believe flow control is an essential tool for local government to perform integrated waste management.

Last May the Supreme Court ruled that the flow control laws which has worked so effectively for my constituents in Ohio are unconstitutional in the absence of clear congressional authorization.

□ 1710

This legislation is clear congressional authorization. The decision has forced Congress to reexamine local governments' responsibility for solid waste management and more importantly what authority local governments need to carry out that responsibility. Reasonable arguments have been made by those who support authorizing the use of flow control and by those who oppose it. Because the Carbone decision has resulted in many State and local governments facing financial uncertainty, there is general agreement that at a minimum Congress should act to protect the financial viability of existing solid waste management facilities.

In addition, I believe that communities who have relied on flow control to safely manage municipal solid waste need certainty. Ever increasing volumes of waste combined with ever increasing Federal environmental legislation has made it more difficult for localities to plan for and pay for disposal of municipal solid waste. Flow control ordinances have been a key component of many solid waste management and financing plans. To help local governments face the challenge of safely disposing of waste and avoid disruptions in their integrated waste management plans. I urge my colleagues to support H.R. 4683 without amendment. This bill is not perfect but it certainly represents a compromise between local government and the private sector. It will provide the necessary protection without adverse effects on small businesses and consumers or for the environment.

Madam Chairman, at this time I say to the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee, it has been a pleasure in working with him in crafting this compromise legislation. All of us know the difficulty of dealing with this issue and the number of components that it undertook and all of the various groups that were interested in this legislation. Having been through all of that and worked our way through the legislative

process, not unlike what we accomplished just yesterday with the interstate waste bill, this I think is an example of how our committee can work effectively for the benefit of the environment and for our constituents and I am proud to have been part of that particular facility.

Madam Chairman, I yield to the gentlewoman from Maine [Ms. SNOWE] for the purpose of a colloquy with the chairman of the subcommittee.

Ms. SNOWE. Madam Chairman, I thank the gentleman for yielding.

I would like to engage the gentleman from Washington, the chairman of the subcommittee, in a colloquy.

Mr. SWIFT. Madam Chairman, if the gentleman will yield, I am happy to join the gentlewoman in a colloquy.

Ms. SNOWE. Madam Chairman, the bill before us today is designed in part to allow the qualified political subdivisions that have already adopted flow control ordinances to continue to exercise flow control authority over municipal solid waste generated within their jurisdictions. In many cases, these municipalities must retain flow control authority in order to meet their financial and contractual obligations with designated disposal facilities.

Some municipalities find themselves in related but somewhat unique circumstances, however. They signed long-term contracts with waste disposal facilities which require them to either deliver a minimum quantity of waste to a designed disposal facility, or to pay for that minimum quantity of solid waste even if the minimum quantity is not delivered. In Maine, 160 municipalities have signed these so-called put-or-pay contracts with one particular disposal facility. They signed these contracts prior to 1994 with the understanding that they would be able to enact flow control ordnances if necessary to meet their obligations under the contracts. Unfortunately, many of these towns had not formally enacted flow control ordinances at the time of the Carbone decision, and as a result of that decision, they now face the prospect of having to meet expensive contractual obligations without having the regulatory authority to guarantee delivery of the required amount of waste.

Was the intent of the committee, in writing and reporting H.R. 4683, to preserve flow control authority for qualified political subdivisions whose previous commitments and investments on solid waste were predicated on a need for flow control authority?

Mr. SWIFT. Yes, among other things, the Committee's purpose in reporting the legislation was to allow qualified political subdivisions that had entered legally binding agreements such as put-or-pay contracts to exercise flow control authority after May 15, 1994.

Ms. SNOWE. Madam Chairman, let me state further that the language of H.R. 4683, particularly subsection (a)(2), would appear to preserve flow control authority over municipal solid waste for qualified political subdivisions that have signed put-or-pay contracts, and begun delivering waste to a designed facility, but that have not yet enacted a flow control ordinance.

Is it your understanding that the committee, in writing and reporting H.R. 4683, intended to preserve the ability of qualified political subdivisions that signed put-or-pay contracts prior to May 15, 1994, and that have begun delivering waste to facilities designated in the contracts, to exercise flow control authority over municipal solid waste generated within their borders, even if those municipalities had not formally enacted flow control ordinances before that date?

Mr. SWIFT. Yes, the committee intends to preserve flow control authority over municipal solid waste for qualified political subdivisions that had signed put-or-pay contracts or other legally binding agreements. The fact that a flow control ordinance had not been enacted by May 14, 1994, does not disqualify municipalities from the protections provided by subsection (a)(2), as long as the municipality had signed the put-or-pay contract with a designed disposal facility and had begun delivering waste before that date.

We recognize that these qualified political subdivisions signed the contracts under the assumption that they had the authority to direct their waste pursuant to the contract, and that their decision to sign such contracts might have been very different had they known that flow control authority would not be available to them. It would be unfair to change the rules for these cities and towns now after they have already signed expensive contracts for which their citizens are liable. We believe that H.R. 4683 as written, particularly subsection (a)(2), addresses this problem and allows municipalities in this situation to exercise flow control authority in the future for municipal solid waste generated within their boundaries.

Ms. SNOWE. Madam Chairman, I thank the gentleman, chairman of the subcommittee, for his clarifying this very important point of this legislation to communities in Maine and other communities across this country.

Mr. OXLEY. Madam Chairman, I reserve the balance of my time.

Mr. SWIFT. Madam Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON], who is author of the primary amendment. I want to commend the gentleman for how he has worked with the committee. This has been a difficult situation and everybody connected with it has behaved in an extraordinarily civil and useful way which has made the legislative process work the way it is supposed to.

Mr. RICHARDSON. Madam Chairman, let me say I must return the compliment to the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY]. They truly worked in a spirit of trying to work this issue out. Regrettably, we were not able to.

Madam Chairman, I rise today in opposition to H.R. 4683, the Flow Control Act of 1994.

At the appropriate point, I plan to introduce an amendment offered by myself, Mr. FIELDS of Texas, and the more than 20 bipartisan cosponsors of the bill, H.R. 4643, upon which it is based.

I will offer this amendment out of concern that the bill approved by the Committee on Energy and Commerce and sent to the floor today goes much further than necessary to correct problems that might result from the recent Supreme Court flow control decision. The Court held that local flow control laws violate the commerce clause of the Constitution.

This decision has caused a panic in local governments across the country. Local solid waste management officials are worried that their previously existing waste agreements are now invalid.

While I feel that these concerns have merit, I believe that we are going too far in alleviating the problem. As currently drafted, H.R. 4683 is equivalent of trying to save a drowning man in the shallow end of the pool by jumping into the deep end without a life preserver.

Yes, we need to provide relief to those municipalities dependent on flow control for their waste disposal.

No, we do not need to go beyond simple "grandfather" authority to grant broad new powers in the future.

The bipartisan amendment I plan to introduce will grandfather existing flow control arrangements to protect those facilities financially dependent on flow control, and allow local governments which have shown significant movement toward designation to continue flow controlling waste for a limited time.

For those Members who have followed this issue, it should be no surprise that organizations such as the National Federation of Independent Businesses, the National Association of Manufacturers, the Sierra Club, the National Taxpayers Union, the U.S. Chamber of Commerce, and the Environmental Industries Association oppose flow control entirely.

But, for most Members this may come as a shock. We have heard that the language in the committee-passed bill is supported by everyone and that there is no controversy about its passage. That assertion is simply not true.

In fact, the bill my amendment is based on was originally conceived as a compromise position between the organizations solidly opposed to flow control and those in favor of broad flow control authority.

Our true compromise amendment really reflects the halfway point between the two very contentious sides of this debate.

Unfortunately, flow control has been an incredibly complicated issue that has not caught the attention of our constituents and therefore has not been at the forefront of our attention.

However, I can assure my colleagues that H.R. 4683 is a bill in trouble. As we head for the home stretch of the legislative session, I do not think that we should blindly go forward on legislation that is the source of as much controversy as this legislation.

From the Sierra Club, NY Public Interest Research Group, and Clean Water Action we have heard that flow control impedes recycling efforts and promotes the spread of dioxin-spewing incinerators throughout the country. On environmental grounds alone we should oppose the current language.

From the National Taxpayers Union, the Competitive Enterprise Institute, and Citizens for a Sound Economy we have heard that "flow control would establish protected government monopolies that have no incentive to increase the quality of their services. Waste management prices would be set by political forces, without regard for market pressures. There is little doubt that under this scenario, consumers of waste management services would pay more."

From the National Federation of Independent Businesses and the National Association of Manufacturers we have heard that flow control hurts small business because the monopolization of the marketplace under flow control deprives small businesses from securing the most inexpensive or most environmentally preferable method of waste disposal.

From Browning Ferris Industries, Laidlaw Inc., Chambers Development Corp., Union Pacific and Southern Pacific Corp., we have heard that flow control would impose Superfund liability on waste generators by stripping them of the ability to send waste to the protective facility of their choice or the most environmentally appropriate location.

Madam Chairman, the Richardson-Fields amendment addresses all of these areas by providing careful, rational, responsible relief to those facilities that truly need it.

I do not believe it makes sense for Congress to consider any more far-reaching policy than that without the benefit of a thorough debate on the Resource Conservation Recovery Act which will not happen until next year at the earliest.

As the second session of the 103d Congress comes to a close, now is not the time to act hastily on emotional appeals which will result in higher prices for waste management services and higher taxes for our constituents.

Now is the time to solve the problems of the Nation quickly and efficiently and go home.

I urge my colleagues to join me in supporting the Richardson-Fields amendment and opposing the overreaching and monopolistic provisions of the current bill.

□ 1720

Again, Madam Chairman, let me say that Chairman SWIFT, the committee, and the gentleman from Ohio [Mr. OXLEY], have made an honest effort to work with us. We came close, but regrettably not close enough so that there will be unanimity on the bill. So the choice will be on an approach that we think is market oriented and we think is environmentally sound, the approach which Chairman SWIFT and the gentleman from Ohio [Mr. OXLEY], have, which is an honest effort, but we do not think it goes far enough.

Mr. OXLEY. Madam Chairman, I yield 4 minutes to the gentleman from California [Mr. MOORHEAD], the ranking member of the full committee.

Mr. MOORHEAD. Madam Chairman, I thank the gentleman for yielding me the time.

I rise in support of H.R. 4683, the Flow Control Act of 1994. Disposal of waste has become a major problem in the United States.

We need limited and responsible flow control legislation this Congress. Flow control is the ability of local governments to direct the flow of municipal waste in a given jurisdiction to a specific facility. This authority allows for more stable financial planning for municipal facilities. However, such authority can also restrict free market competition for waste management services. That is why I believe flow control legislation should be focused on the immediate problem.

The recent Supreme Court decision in Carbone versus Clarkstown has placed a number of communities which rely on flow control in a difficult situation. Accordingly, I support enactment of some flow control legislation this Congress to help communities that relied on flow control when planning for existing facilities.

Two competing compromise bills were presented on this issue in the Energy and Commerce Committee: H.R. 4683 and the Richardson-Fields substitute. The Richardson-Fields approach is more consistent with my belief that free market competition will, on balance, provide the most economical and efficient national policy. Accordingly, I plan to vote for the Richardson-Fields amendment.

However, I believe both H.R. 4683 and the Richardson-Fields substitute are responsible compromises. I plan to support either on final passage.

Mr. SWIFT. Madam Chairman, I am happy to yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE], who has also been invaluable in helping to develop the compromise that resulted in this bill.

Mr. PALLONE. Madam Chairman, I also want to thank the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY] for all of their work on this legislation.

Madam Chairman, the Committee-passed legislation provides equity to local communities where there has been reliance and tax dollars expended. For more than two decades local governments financed waste disposal facilities and environmental projects, such as composting and recycling plants and waste reduction programs under flow control laws and ordinances.

The Committee-passed legislation does not endorse incineration or any particular type of waste management. Rather, the committee bill is narrowly drawn to protect the investment of public funds while assuring that competition is preserved in the free market should a local community decide to exercise other options for its waste management.

On May 15, the Supreme Court barred such flow control without an express affirmation from the Congress. It is critical for the Congress to act before this session ends to help these communities who have relied on flow control to finance disposal facilities.

The Energy and Commerce Committee bill strikes an appropriate balance between public and private sector concerns and has the broadest political support of any proposal. Here are four reasons why this bill should be enacted:

It strikes a fair balance: It protects only those communities that have already relied on flow control or have made significant recent financial commitments in the process of implementing flow control. It also bars flow control over commercial waste in the future.

It preserves competition and is pro-small business: No new flow control is permitted without meeting strict competitive standards spelled out in the legislation. Many small businesses support our proposal because it levels the playing field.

It is pro-environment and pro-recycling: Without the revenue bond financing available because of flow control, recycling and composting facilities will not be built by communities without tax increases or reliance on general revenue bonds. Also, our proposal permits flow control over recyclable materials only if they are voluntarily relinquished.

It is pro-consumer: Despite statements by some flow control opponents, waste disposal costs in flow controlled systems are not higher than in non-flow-controlled ones and, in many instances, are significantly lower.

It is pro-labor: The American Federation of State, County and Municipal

Employees recognizes the value of flow control as an important tool for waste management, and they, with dozens of other local government organizations, have endorsed the bill.

Madam Chairman, what we are talking about today is simply an issue of equity: equity for the hundreds of counties and municipalities that have already built recycling facilities, landfills or waste-to-energy facilities using flow control, and equity for the many communities that have expended significant amounts of public dollars to build integrated waste management systems. Without this legislation, Congress will be turning its back on both of these groups of local governments, the result of which will be potential default on billions of dollars of bonds which are supporting these systems.

Mr. OXLEY. Madam Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. MCMILLAN], a member of the committee.

Mr. MCMILLAN. Madam Chairman, I rise in support of the Pallone-McMillan-Lambert compromise, which is the true compromise of this committee which passed overwhelmingly. Flow control, I recognize, is not easy for anyone to understand. But if you live in a community in this country that has a coordinated waste management plan, then you know exactly what we are talking about, and many of them are in very difficult straits because of a court ruling that reversed the orderly development of flow control in this country.

Increased knowledge of the environment has given us a greater understanding of the consequences of waste disposal. Because of the importance of protecting the natural resources, Congress passed environmental laws designed to protect groundwater supplies and other natural elements. The Solid Waste Disposal Act, commonly known as RCRA, was passed to insure safe disposal of solid waste.

One of the side effects of the passage of RCRA was the reduction in the number of landfills and an increase in the cost of waste disposal facility construction and permitting. Furthermore, RCRA increased awareness of solid waste issues in State legislatures. This awareness, in conjunction with other reasons, led many legislatures to pass State waste management laws and recycling requirements to reduce flow. It is these State laws which contain the flow control provisions that have stimulated the legal battle and congressional concern.

Municipal solid waste residential flow control is a necessary tool for communities to insure the proper handling of solid waste. Municipalities have historically been held responsible for proper and effective residential waste disposal in order to protect health, aesthetics and safety in the community.

Flow control authority was established for communities by States to insure several things. State legislatures wanted to insure proper waste management practices were being performed, including waste reduction, recycling, composting, waste to energy—incineration—and landfilling. This coordinated waste management structure was and is seen throughout States and local government as an effective and environmentally friendly way to manage waste.

Opponents of flow control will argue that flow control may result in high waste disposal fees. There is a simple and good explanation for this. Along with flow control ordinances, a community generally enacts a coordinated waste management plan which is environmentally preferable to the option of simple landfilling. It is the environmentally friendly waste management plan that gives the impression of higher costs associated with flow control. Flow control enables the municipality to get the best deal for its taxpayers and absorb environmental costs.

Opponents of flow control would have you believe that flow control authority is anticompetitive. This is not the case. In fact, many communities which exercise flow control authority do so through private companies which have competitively bid for selection. Furthermore, this legislation requires competitive bidding be a part of the process in the implementation of any flow control authority which is not now required. Therefore, it will engender more, not less, competition.

The fundamental responsibility of waste disposal lies within the local community and on their elected officials. These officials must decide what waste disposal methods are in the long-term interest of the community. Officials must be able to insure safe disposal as well as waste reduction options which can be viable for the long-term. Flow control must be one tool which can be utilized to achieve health and environmental goals consistent with a community's needs.

I urge my colleagues to support this legislation.

□ 1730

Madam Chairman, this is a must bill for communities that are trying to do a comprehensive, environmentally effective job. I urge my colleagues to pass this bill as turned out by the committee.

Mr. SWIFT. Madam Chairman, I yield 2½ minutes to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. Madam Chairman, today I rise in strong support of H.R. 4683, a bill to assist local communities in managing the disposal of their solid waste.

Many may ask, what is flow control? Many of us have learned from our local communities, flow control is an important tool locals use to manage the disposal of the huge amount of trash that we produce daily. Flow control grants communities the authority to direct that waste generated within waste management districts be disposed in the district.

Unfortunately this tool has been taken away by the Supreme Court in the Carbone decision that came down in mid-May. This decision held that communities who implement flow control violate the interstate commerce clause of the Constitution because flow control impedes the flow of interstate commerce. Along the lines of Philadelphia versus New Jersey, which was the original case that determined that solid waste was a commercial commodity, flow control was struck down as unconstitutional.

Since the Carbone decision, communities have not known where to turn. Many communities invested large sums of money in new disposal facilities to meet requirements which need the waste stream to generate the revenue to pay off their debt. However, without flow control, these communities will not be able to do this.

Mr. SWIFT, Mr. PALLONE, Mr. MCMILLAN, Mr. MINGE, and I have been working with the local communities and they in turn have forged a compromise with waste management, Ogden, the recycling industry and the public financing authorities to address flow control after the Carbone decision. I believe it is a good compromise, good policy and the only approach with such a broad base of support.

H.R. 4683 reflects this agreement. It grandfathers current facilities and the amount of waste they currently flow control. In addition, it grandfathers management plans for waste disposal. The Richardson/Fields approach would only grandfather current facilities until the end of their lives. However, this limited fix would not help communities that have instituted integrated management plans for the disposal of solid waste. Many communities have in place various methods of waste disposal, including recycling, composting, landfilling and incineration. My concern with Mr. RICHARDSON's simple grandfather is that if one of the disposal components within the entire waste disposal system, such as the composting facility, becomes either obsolete or worn out, communities will be unable to flow control to the new facility which would treat the same amount as the old facility thus breaking down the whole integrated waste management plan.

Mr. RICHARDSON's proposal also would not grandfather those communities that have invested large financial and personal resources and are in the process of implementing flow control. For example, in my district, one of the waste management districts decided to implement flow control in

January of this year. From January through to the Supreme Court decision in May, they passed a regulation and followed up with ordinances from each major city and county. However, they were unable to secure all of the ordinances before May 16, the date of the Supreme Court decision declaring these type of arrangements unconstitutional. Now this community has secured financing to purchase a landfill through the issuance of a revenue bond and devoted much time and money—however, they would receive no relief and be out of luck under the Richardson amendment. H.R. 4683 would cover this type of situation and grandfather communities who have devoted significant financial and technical resources to the development of their flow control activities.

In addition, the simple grandfather offered by Mr. RICHARDSON and Mr. FIELDS would not cover the expansion of existing facilities that need more space. H.R. 4683 would.

Local communities, in many cases, have taken the initiative to finance innovative methods to handle trash. They have installed recycling facilities, composting facilities, household hazardous waste pickup and disposal facilities in addition to the more traditional method of landfilling and incineration. These communities should have the ability to continue their work.

Local communities have always had the ultimate responsibility of disposing our trash. We don't appreciate the hard work they do or the headaches they endure to make sure that every Monday morning the trash is removed. All we do, in many areas, is put our trash bins out on the curb, and we expect that the waste is removed and disposed of in an environmentally sound way.

These local communities should have the tools available to them to control the movement of the waste so that when they plan in the future, in an environmentally responsive way, both for disposal techniques and future capacity, that they have some certainty that they can carry out their plans.

H.R. 4683 would not include the prospective flow control of commercial waste, but it would include the prospective flow control of residential waste under 2 very important stipulations: As long as there is a competitive bid process and as long as there is the presorting of recyclables before the disposal of the waste.

This is a good bill and good policy, and I urge you to vote "yes" on H.R. 4683 and "no" on the Richardson amendment.

Mr. OXLEY. Madam Chairman, I yield 2 minutes to the gentleman from upstate New York [Mr. WALSH].

Mr. WALSH. I thank my friend for yielding this time to me and also for his leadership, along with that of Mr. SWIFT, Mr. PALLONE, and Ms. LAMBERT, on this bill. I rise in strong support of committee bill H.R. 4683.

I would also like to identify myself with the comments of the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY] on this bill.

Flow control is smart; unfortunately, the Supreme Court did not agree with that. But they did leave us the opportunity to intervene statutorily, and this is our chance.

We have a good bill before us. I urge my colleagues to support the committee bill and oppose the Richardson-Fields amendment. Flow control is pro-environment. It allows a municipality to charge a higher fee so that it can do the recycling and the other aspects of waste removal which are required. Is it not better that every community in America handle its trash locally than to send it all over the country by truck or train or by whatever transportation vehicle there is? It is better to take care of it locally. It is better than a landfill. There are toxics, certainly, that are emitted from the smoke stack but the technology has improved dramatically. It is far safer in the long term than the time bomb of a landfill which will allow toxic wastes to go into our water supply and pollute the land and the air. It is also wasteful to ship.

I would like to read just a portion of a letter I received from our county legislature:

> Our Onondaga County solid waste system includes several components, including recycling, yard waste composting, household hazardous waste collection, waste-to-energy production and finally landfilling. Our recycling program has received national recognition and awards for recycling approximately one-third of our waste stream. Our community has borrowed more than $175 million for the construction of a waste-to-energy facility that will greatly reduce the volume of waste. Additionally, our community will also benefit from the sale to Niagara Mohawk Power Corporation of electricity produced at the Rock Cut Road Waste-to-Energy Facility.

Madam Chairman and my colleagues, this legislation is good legislation. It will help all of our communities to deal with their own problems rather then send their waste around the country somewhere else.

Mr. SWIFT. Madam Chairman, I am happy to yield 2 minutes to the gentleman from Washington [Mr. KREIDLER], a member of the committee.

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

Madam Chairman, some say that this bill is bad for the environment—that it will hurt recycling and encourage incineration.

I am now and always have been a strong supporter of recycling. I am from a State that strongly supports recycling.

That is why I am also a supporter of this bill.

It will help local communities develop stable and comprehensive recycling programs.

It will give recycling companies like Weyerhaeuser the certainty they need to make investments in recycling technologies.

If this bill would harm recycling efforts, why is it supported by those who make a living by recycling, including the Institute of Scrap Recycling, Weyerhaeuser, and the American Forest and Paper Association?

If this bill would encourage incineration, why is it opposed by large waste management companies, many of whom construct, own, and operate incinerators?

I urge my colleagues to recognize this argument for what it is—a red herring—and to support the bill.

□ 1740

Mr. OXLEY. Madam chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH] who has been an active participant on this issue since its inception, and I salute his leadershop on this important issue.

Mr. SMITH of New Jersey. Madam Chairman, I thank the gentleman from Ohio [Mr. OXLEY] for those kind words, and I thank he and the distinguished chairman, the gentleman from Washington [Mr. SWIFT], for this good work on this. Although I am not a member of the subcommittee, the chairman and the ranking member have been very, very kind in extending their hand to me to be a part of the process, and I am very grateful for that and say, "Thank you, Chairman SWIFT."

Madam Chairman, I rise today in very strong support of H.R. 4683, the Waste Flow Control Act, a bill to help remedy the solid waste management crisis created by the Supreme Court's May 16 decision in Carbone versus Clarkstown, New York. In the Carbone case, Madam Chairman, the High Court seemingly pulled the plug on each and every flow control ordinance in the land. Flow control, the ability of governments to direct the garbage to its ultimate disposal, was, as the court said, not authorized by Congress and thus ruled that such an ordinance was an excessive burden on interstate commerce. The court, however, invited Congress to take action and to authorize flow control as a means of garbage management and as a means to finance long-term, environmentally sound, integrated waste management programs.

Madam Chairman, H.R. 4683 answers the Court's invitation and grandfathers those laws, and ordinances, and solid waste management plans adopted prior to May 15 so that local governments can continue to regulate the transportation management or disposal of their trash. The bill, which is a produce of hours, weeks, of labor, of negotiations

and a bipartisan consensus building protects the investments of time, money, energy and resources made by State and local governments in order to procure safe, clean, and financially efficient garbage disposal. Additionally the bill provides for a strong free market and public involvement through a new competitive bidding and designation process.

Madam Chairman, flow control is the linchpin of waste management self-sufficiency for my State of New Jersey and for many, many other States. Flow control enables communities to determine their waste tonnage, their cost projections, their financing needs, and their disposal methods and capacities. To date New Jersey communities have assumed a $1.6 billion debt in bond obligations in order to move forward with high tech recycling, waste to energy and composting facilities. If we do not protect waste flow control authority, this debt and the $10 billion debt incurred through projects around the country will be shifted to the taxpayer while future technologically sophisticated projects are likely to be scapped.

Madam Chairman, over the past several months I have worked very hard with a dedicated group of people representing diverse interests to develop a consensus approach to flow control policies and protecting taxpayers. This coalition, with more than 300 members, includes recycling groups, the Public Securities Association, State and local governments such as the National Association of Counties, the League of Cities, the Conference of Mayors and many others all working together in a cooperative way to find solutions.

This agreement did not come easy. I would like to especially point out that in my own State Mercer County Executive Bob Prunetti did an outstanding job in leading the county executives around the country and in making sure that this job was done, and I also would like to single out David Brooman who drafted major portions of this bill, and he is the unsung hero in this long journey to waste flow control enactment.

Mr. SWIFT. Madam Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Madam Chairman, I thank and commend the distinguished chairman, the gentleman from Washington [Mr. SWIFT], and my colleague, the gentleman from New Jersey [Mr. PALLONE], for their leadership in this legislation.

New Jersey has the most developed system of planning and regional self-sufficiency in the Nation. This hard won achievement was in response to the victimization of the people of the state by racketeers. Hiding behind the facade of private sector businesses, these mobsters monopolized the private handling of waste hauling, engaged in the illegal dumping and mixing of toxic waste with municipal trash. I will, under leave to include extraneous matter, include a related Wall Street article in my statement.

In the Carbone decision, the Supreme Court struck down the authority of state and local government to direct the flow of interstate waste. Under this decision, waste haulers cannot be directed by States or localities to specific facilities for waste disposal. The Carbone case was largely paid for by organized crime.

New Jersey has paid approximately $1.6 billion for waste disposal self sufficiency. This money has funded transfer stations, resource recovery facilities, recycling and incineration centers. Without flow control, these facilities will be unable to meet bonding obligations. Failing to pass flow control legislation will require local taxpayers to pay huge tax increases to pay off defaulted bonds. This legislation prevents needless increase in local taxes.

Flow control is not a question of free markets. Let me quote the New Jersey attorney general in her brief before the U.S. Court of Appeals.

> The purpose of New Jersey's system was to take control of an industry facing capacity and corruption crises in the 1970's and '80s and to insure that every piece of solid waste in this State had an environmentally sound destination [and was properly handled] at a just and reasonable rate. Essentially we note that New Jersey has tried the free market in the solid waste industry and it has failed. The free market in this state resulted in the disposal crises and in industry-wide indictments for anticompetitive conduct.

In August, the New Jersey attorney general indicted the individuals who were major contributors to the Carbone case. In a 31 count indictment including fraud, racketeering and theft, the conspirators were accused of having "masterminded a sophisticated, multimillion dollar shell game.—through sham recycling and other unregulated companies.—they have maintained their place in the solid waste industry" after having been fined $4 million and banned from that industry in the 1980's.

Waste disposal is a $26 billion industry. Do not give a huge subsidy to organized crime. Support the flow control legislation.

FIGHTING CITY HALL: IN A TUSSLE OVER TRASH, 2 HAULERS COULD WIN RULING COSTLY TO TOWNS

(By Jeff Bailey)

HILLSDALE, NJ.—Municipal sanitation chiefs across the country face a frightening prospect: a Supreme Court decision expected soon that could strip away their control over trash, threatening billions of dollars of public investment in dumps and incinerators. The legal challenge doesn't come from a national waste-control company but from two local garbage haulers who are hoping for sweet revenge.

For 15 years, state and local officials have tried to run Salvatore and Carmine Franco out of the garbage business in part because, they allege, the Francos have Mafia ties. New Jersey wants to bar the two brothers' grown children, too. And authorities in the state are preparing a sweeping criminal case, hoping to seize much of the family's wealth and send the elder Franco to jail.

The Supreme Court case runs along a separate legal path and can't stop the anticipated indictments, but it does give the Francos a chance to get even. It also underscores the increasingly rancorous battles between municipalities and haulers for control of the $25 billion-a-year trash industry. At stake are many municipal budgets, more than $10 billion in bonds issued to finance waste facilities and, ultimately, the garbage fees paid by millions of households and businesses.

"The satisfaction I'm going to get," Sal Franco, the more diplomatic of the brothers, says of the possibility of a high court decision in his favor, "is that I kicked their a p--." The surprising story stretches from three unsolved murders to a trash-strewn expressway to the halls of Congress.

A municipal role in trash initially made sense. Many places had been gouged by private haulers found to have engaged in collusive price-fixing and bid-rigging schemes during the 1970s and 1980s. Public officials were further alarmed by the tendency of some privately operated dumps to turn into toxic sewers.

But many cities and counties may have gone too far. They invested heavily in dumps, incinerators and garbage-transfer stations and then legislated "flow control," which allows them to commandeer all the trash within their borders and direct it to a favored disposal site. Once wielding monopoly power, many municipalities jacked up their dumping fees to pay for other services, such as recycling, cleaning up old dumps and salaries for sanitation officials. Haulers fumed.

Then, although officials had predicted a shortage of dump space, a glut developed. And market forces began eroding public control. Haulers cheated on flow control, sneaking trash off to cheaper private outlets. And some, like the Francos, sued.

Their case, C&A Carbone Inc. (named for some partners) versus Clarkstown, N.Y., involves a transfer station just over the New Jersey border into New York, where trucks were unloaded and waste was repacked into big rigs for trips to dumps in Pennsylvania and beyond. Authorities in New Jersey and New York, suspecting that the Francos were diverting trash from municipalities in both states in violation of flow-control laws, mounted an impressive investigation: helicopter surveillance, troopers pulling over big rigs on interstate highways and an armed raid by more than 30 law-enforcement officials in June 1991 to seize records.

Officials may now wish they hadn't bothered. Many experts expect the Supreme Court to rule for the Francos, holding that flow control illegally interferes with interstate commerce. If so, municipal sites could get too little trash and disposal prices could plunge in some areas. That could trigger a price war among haulers, to the benefit of businesses and consumers.

Most vulnerable is the Francos' home turf: New Jersey has nearly $2 billion invested in public trash facilities. Some counties charge $100 a ton and more to dump, while $50-a-ton disposal abounds across the Delaware River in Pennsylvania. Fearing defeat, local-government groups already are lobbying Congress to preserve some sort of flow control and protect public-sector investments and bondholders.

The Francos, acknowledged as talented entrepreneurs even by some government critics, would probably prosper in no-holds-

barred competition. With additional transfer stations here in Bergen County, N.J., and in Philadelphia, and a sizable hauling operation, the family business has annual revenue of $50 million to $100 million. It is one of the largest haulers in New Jersey, a state with a fragmented market that WMX Technologies Inc. and Browning-Ferris Industries Inc., which operate nationally, have yet to dominate.

Entering the New Jersey hauling business in 1963, the Francos showed an early flair for organization. In 1976, Carmine Franco became president of a haulers' group, the Trade Waste Association, that law-enforcement officials have frequently alleged brought to New Jersey a New York City-style price-fixing system. What set that scheme in motion, the New Jersey Board of Public Utilities concluded after hearings, was Mr. Franco's bold move in setting July 1, 1977, as the cutoff date for competition; customers swiped from other haulers before then could be kept but, after that date, a hauler's accounts couldn't be touched.

After official meetings of the trade group, Carmine Franco would adjourn to a restaurant to settle grievances among haulers. Sal Franco says his brother's edicts weren't binding, that haulers were "free to tell Carmine * * * 'I'm not giving the customer back.'"

Subduing competitive instincts proved difficult. Alfred DiNardi, a New Jersey hauler who took customers from rivals, was shot to death in a New York City parking garage in June 1976. Gabriel San Felice, another hauler who bid on and took a rival's account, was shot dead in May 1978 while dropping a load of garbage at a dump. And Crescent Roselle, a hauler who had lost business to both victims, was himself murdered in December 1980 outside his office. All three killings remain unsolved.

Another hauler, Eugene Sorgine, underbid the Francos in the 1970s on a job to operate a dump. He later sold his business to them. About the same time, a fire broke out at his house.

No one has been charged. "So his house burns," Sal Franco says, denying any involvement. "We get blamed for it. Three guys get killed. Police tried like hell to attribute that to us."

During a daylong interview while touring the trash facilities of Bergen County and Clarkstown in his Mercedes sedan, the 55-year-old Mr. Franco says he and his brother aren't Mafia-connected, though he acknowledges they know a few mobsters socially.

Tino Fiumara, identified by law-enforcement officials as a Genovese crimefamily soldier, "was a friend of ours," Sal Franco says. Mr. Fiumara was released in early February after 14 years in prison on racketeering and extortion convictions. Sal Franco says he has also socialized with Salvatore Avellino, the Long Island trash chief for the Lucchese crime family. Mr. Avellino pleaded guilty in mid-February to racketeering charges that include extortion and conspiracy in the murder of two haulers who defied Mafia price fixing.

Carmine Franco himself, now 58, pleaded guilty to a misdemeanor in the 1983 Trade Waste Association price-fixing case, in which New Jersey charges against organized-crime figures, including Mr. Fiumara, were dropped. The judge who in 1983 sentenced Mr. Franco to 180 days, served on work release, said evidence of his mob ties "is almost solely by way of innuendo, hearsay and triple hearsay."

While the Francos have never been accused of a violent crime or extortion, the mob tag—asserted by New Jersey and other states' law-enforcement officials and widely publicized—has stuck. "The newspapers do a hell of a job," Sal Franco says. "My customers don't want to leave—they're afraid. Even our lawyers think, well maybe."

After Carmine Franco's guilty plea, the Francos and New Jersey officials settled into trench warfare. The state bumped a $4,000 fine up to $2.2 million, though a state appellate court reversed that. The state litigated until 1987 and finally succeeded in ousting Carmine Franco from the New Jersey trash business. (He now runs the Philadelphia operation.)

Along the way, the Francos frustrated public officials' broader goal of controlling trash and thus established themselves as a defiant presence. In the late 1980s, Bergen County, for instance, built the nation's biggest transfer station, about four times the size of a football field and capable of handling all the county's trash. That ignored, however, the fact that private transfer stations, including one owned by the Francos, already had ample capacity. The county tried using flow control to force trash into its facility, but, in a test of wills with haulers, lost.

One morning, Sal Franco drops by the county plant and finds it quiet. A trickle of no more than 400 tons of trash a day arrives at the facility, though it is designed for up to 3,750 tons daily. Albert Adcock, security chief for the county utilities authority, welcomes Mr. Franco, and the two men commiserate over the recent demise of a favorite Hackensack saloon.

Nature calls, Mr. Adcock offers his washroom to Mr. Franco, and alone with a reporter, volunteers: "All that stuff you hear about Sal, it's bull s---." In the background, a bulldozer slowly pushes a trash pile around the plant floor.

In contrast, the Francos' Sal-Car transfer plant in Hillsdale is a model of efficiency, with trucks lined up to empty trash onto a tiny tipping floor where a giant compactor immediately reloads the waste into big rigs.

Indeed, state and local officials charge that the site has been too busy, exceeding its daily permitted limit and, in effect, spreading to adjoining Franco property that lacks a proper permit. The state has also gone after the Francos for having too many hauling permits, which makes it difficult to put them out of business; if one hauling permit were revoked, state officials complain, the Francos could shift customers to another hauler.

Sal Franco was banned from the industry in New Jersey administrative proceedings involving multiple hauling permits, and the state later charged him with contempt for allegedly continuing to run the business. The state has also sought to bar six grown sons and daughters of Carmine and Sal Franco who, according to the Francos, now run the business.

Nearly all these disputes, in which the state seeks millions of dollars in penalties, have been appealed by the Francos from administrative proceedings to state courts. The Francos deny wrongdoing.

Steven J. Madonna, the state environmental prosecutor who has overseen much of the civil litigation, says he wants the Francos out of the trash business. "We're working toward ending their involvement," he says. Of their alleged business ties with the mob, Mr. Madonna says, "I don't think anybody cannot take into account that reality." He mentions murder, violence and arson. "I'm not making a leap that that is the Francos. But it would be unreasonable to disregard that."

In recent months, meanwhile, Sal and Carmine Franco and some of their grown sons have received so-called target letters from the state attorney general saying they could soon be indicted on criminal charges. A state official confirms that an indictment is expected soon, but won't discuss the charges. Sal Franco says the charges would include theft for diverting trash from Bergen County's flow-control system and contempt for his staying in the business. He expects the state to seek prison terms for him and Carmine and financial penalties as high as $20 million. "They're going to come up with a big one. I guarantee you."

The increasing nastiness with New Jersey officials followed the Francos to their New York state operation, where Sal is an owner but Carmine never was (through he helped in the business). Clarkstown also has flow control, requiring haulers to dump at a town transfer station for $81 a ton. The Francos were doing business nearby at $70. Clarkstown, losing volume, went looking for the reason.

The town's police staked out the Francos' business, first trying to hide beside the Deer Head Inn, a tavern up the road. "We thought it was a speed trap," says the bar's owner, Ken Brennan, who sent a bartender out to ask the police if they wanted anything. Police switched to helicopter flyovers. "Real cloak-and-dagger stuff," Sal Franco says.

The break in the case come in March 1991, when an Indiana trucker, Carl E. Drake, loaded up with trash at the Franco site, got lost and turned into the Palisades Interstate Parkway, which bars trucks. His trailer rammed the first bridge it came to, spilling the trash.

On the bridge overhead, Carmine Franco was soon spotted trying to direct a hurried cleanup, according to Paul D'Alessandro, a Clarkstown detective. Troopers and police started pawing through the mess and say they found what they were looking for, Clarkstown trash, by looking at addresses on the junk mail.

The Francos say that the trash was from elsewhere and that local stuff must have got mixed in when police impounded the load and took it back to the Clarkstown transfer station for a closer look.

In the following weeks, police pulled over and checked the loads of more truckers leaving the Franco operation. Then, in June 1991, police, prosecutors and environmental regulators from New York and New Jersey, guns drawn, descended on the site. "They opened the door and pointed their guns into the office," says Linda Franco, Sal's daughter, who was working there at the tme. She was frightened. For that, Mr. Franco says Clarkstown can expect an especially spirited competitive effort from the Francos should the Supreme Court toss out flow control. "I'll never forgive what they did to my daughter," he adds.

The Francos haven't fought this battle entirely on their own. More than 100 New Jersey and New York haulers paid $1,000 apiece last fall to attend a legal-defense fund-raiser in Manhattan. And the Franco case has become a darling of the free-enterprise set. Friend-of-the-court arguments poured in from, among others, Detroit's Big Three auto makers, the National Association of Manufacturers and the Chemical Manufacturers Association; big business also doesn't like to be told where and at what price to dump its trash. "Hell no, we won't flow," says Bruce Parker, a Washington lawyer for a haulers' group.

On the other side, municipal governments weighed in, warning about bond defaults and

environmental risks if haulers prevail. "We're talking disaster," says H. Lanier Hickman, head of a municipal trash officials' group.

After oral arguments before the Supreme Court last December, Detective D'Alessandro walked up to Sal Franco and asked, "Who would've thought it would wind up here?" The hauler replied: "You underestimated the Francos."

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, first of all I rise in support of H.R. 4683. Let me congratulate and thank my distinguished colleague, the gentleman from Ohio [Mr. OXLEY], and also acknowledge the leadership of the gentleman from Washington [Mr. SWIFT], the gentleman from New Jersey [Mr. PALLONE] and the gentlewoman from Arkansas [Ms. LAMBERT] on this important piece of legislation.

Mr. Chairman, H.R. 4683 allows for the control and management of municipal solid waste. The bill reinstates local government authority to manage the flow of municipal solid waste.

Mr. Chairman, for two decades local governments have exercised authority over the flow of municipal waste within their jurisdiction. It was this authority which has allowed municipalities to build the facilities required to address the solid waste needs of their residents.

Without the ability to control the flow of municipal waste, local and State governments would be unable to finance the needed waste management infrastructure, including environmentally sound technologies such as recycling and composting. Unfortunately, this spring that control was put in jeopardy by the Supreme Court.

Flow control is a key mechanism for implementing local government decisions regarding integrated municipal solid waste management. Once the decision has been made to develop new waste management infrastructure, flow control is a means, first, to effectuate that decision regarding the best method for managing MSW, and, second, securing the community's financial support. Without flow control, many communities would not be able to develop environmentally advanced MSW management systems. This reflects the fundamental fact, recognized in a lengthy study by Congress' Office of Technology Assessment, that if left to the normal operation of the economic forces of the marketplace, MSW will flow to the lowest cost, short-term alternative. I must emphasize short term. If we want local government to develop long-term environmentally sound MSW management systems at stable prices for our constituents then they must have flow control authority. It is that simple.

I should also emphasize that environmentally sound MSW management and public health protection are the predicate for exercising flow control authority under State laws. Moreover, the use of flow control offers additional environmental benefits. One example is a significantly increased commitment to recycling. Flow control authority allows local government to provide very costly recycling, yard waste collection, household hazardous waste collection, and other types of programs without imposing any direct charge on their residents for those services. That powerful incentive for recycling would not be possible without flow control authority.

I must also note that H.R. 4683 represents a very exhaustive compromise effort that included all sectors of the waste industry, local government, recycling industries, and others. The process that led to this legislation was extraordinarily inclusive.

In particular I want to emphatically reject a myth that some have offered to oppose flow control—specifically the false claim that flow control is anticompetitive. The private waste industry is highly concentrated, and becoming even more so. That concentration has been coupled by explosive growth in the industry and outstanding profitability. I would simply refer you to the recent annual reports filed with the SEC by major waste management companies. Their profits are soaring. And as emphasized by these reports, growth has been the dominant feature of their business. All of this has occurred in direct parallel with increasing use of flow control by local government. Don't get me wrong, I have no problem with increasing profitability. But in the face of these facts, the assertion that flow control is anticompetitive doesn't hold any water.

In addition, flow control is not a debate between public versus private facilities. Local governments that rely on flow control repeatedly use a competitive process to procure waste management services from private companies. And flow control allows those communities to obtain environmentally sound waste management capacity for the long term at stable prices.

Finally, yesterday we approved H.R. 4779, which will restrict the ability of States to export municipal solid waste and require exporting States to become more self-sufficient. Flow control is the essential complement for restrictions on interstate transportation of MSW. Flow control provides local government with the tools for self-sufficiency.

On May 15, 1994, the Supreme Court ruled in C&A Carbone versus Town of Clarkstown that local governments do not possess the ability to control the flow of waste unless Congress grants it to them. H.R. 4683 does just that. It will grant our governments the authority they have relied on for decades to address their municipal waste needs.

Mr. Chairman, we cannot deny our towns, cities, and counties the tools they need to govern. We must pass H.R. 4683, and I encourage all my colleagues to join me in supporting this important measure.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. MINGE] who has been a consistent worker on this issue since the first day he walked onto the floor in this Congress.

□ 1750

Mr. MINGE. Madam Chairman, I would like to associate myself with the remarks made by other Members of this Chamber. I certainly agree with their insights, their comments, their analysis, of the problem we face. I would just like to briefly outline a slightly different approach to what we are trying to address in this legislation today.

We had a lot of discussion in Congress in the last few months about unfunded mandates, and we have had a lot of discussion about the impact that this has on local units of government. In fact, the Federal Government and States have placed an unfunded mandate in many respects upon local units of government, and that mandate is that solid waste, or trash, must be disposed of in a manner that is consistent with the environmental laws that have been passed in this city and in State capitals around the country.

Local communities have responded to this mandate. They have constructed state-of-the-art facilities. They have constructed landfills. They have gone to great expense. They have bonded to cover the financing costs. And what they have found is that once they constructed these facilities and tried to make sure that they were financially self-supporting, they were involved in litigation. That litigation, tragically, resulted in the U.S. Supreme Court determining that trash is a commodity and, when it moves in interstate commerce, only Congress can regulate its flow. Consequently, we are here this afternoon.

The other tragic aspect of the litigation is that these local units of government that have acted responsibly to meet an unfunded mandate, have had the power, the tools that they need, to meet this mandate, stripped away.

This legislation goes a long way toward redressing this tragic result. One thing that we still have to address is what do we do with the hundreds, perhaps thousands, of local units of government that are still in the process of trying to determine how to effectively and economically deal with their trash problems, and what can we do in the future to ensure that they have the tools available to them to meet this mandate in a responsible fashion.

I know that this added concern is one that is shared by many Members of

this institution, and hopefully in the months to come, we will find a way to resolve that as well.

But in the meantime I would like to join with the other Members here in indicating my support of H.R. 4683, and urging all Members to support this important legislation.

Madam Chairman, on May 16, 1994, the U.S. Supreme Court ruled that local flow control laws were unconstitutional. This stripped local governments of the tools they need to meet environmental standards handed down by the Federal Government. In her concurring opinion, Supreme Court Justice Sandra Day O'Connor made clear that it was within Congress' power to authorize and make available local autonomy over waste flow control. All Congress has to do is act and that would promote the continued use of innovative and environmentally sound solid waste management.

Afer 1½ years of negotiations, H.R. 4683 represents a compromise agreement reached by local governments, some of the waste management industry, public finance groups, and others impacted by court decisions against waste flow control.

Flow control simply means that local governments can designate an environmentally safe facility for trash disposal. When the Federal Government mandated that States meet minimum environmental standards for garbage disposal, some of our localities adopted flow control ordinances in order to comply with these unfunded Federal mandates. In trying to meet these mandates, some communities borrowed millions of dollars to build environmentally sound disposal facilities with the assurance that they could designate that site as the community site for garbage disposal.

In my own district, two counties issued $7.9 million in revenue bonds to construct a state-of-the-art composting facility. To ensure that waste generated within the counties would be disposed of at the new facility and to protect the integrity of those outstanding bonds, the counties implemented the flow control ordinances. But a waste hauler—which owns a landfill in Iowa—challenged flow control, and now, the counties' municipal solid waste is being hauled over the border and dumped into the clay-lined landfill.

With the recent Supreme Court decision and local ordinances overturned, responsible solid waste management has been handicapped and the integrity of some $18 billion nationwide in outstanding municipal bonds has been undermined.

This compromise would allow: First, flow control over residential waste and second, flow control over commercial waste only in those communities which have already designated a facility for commercial waste—or that had committed to designate.

Flow control is an option for our localities—not a requirement. In Minnesota we encourage private enterprise as the preferred waste managers. Flow control is only our final tool to ensure that RCRA mandated standards are met.

Support this legislation and restore local government choice. They know better than we what is best for them.

Support this legislation and unite the hands of local government in their efforts to manage their waste stream in a way that's sound economically and environmentally.

Support this legislation and promote recycling and the environment. Without flow control, environmentally sound disposal methods will likely be replaced with the cheapest disposal option—large regional landfills.

And finally, support this legislation and give our localities the tools they need to protect our environment—and in turn—protect our children and our communities.

Mr. OXLEY. Madam Chairman, I yield 2 minutes to our good friend the gentleman from upstate New York [Mr. BOEHLERT].

Mr. BOEHLERT. Madam Chairman, forget about every negative argument you have heard about flow control. Quite simply, they just do not flow. As the House considers H.R. 4683, let us look at the facts.

Fact No. 1: A reversal of flow control policy represents a classic unfunded mandate. The Federal Government requires that municipal solid waste be disposed of in a particular manner, and then it strips States and local communities of the means to meet these requirements, including jurisdictions that have invested millions of dollars and made long-range commitments to properly dispose of solid waste in an environmentally sound manner.

Fact No. 2: The bill is not bad for the environment. In fact, failure to pass this bill may jeopardize current successful environmental programs already implemented by many local communities.

Fact No. 3: Flow control authority is not anticompetitive. Under H.R. 4683, flow control arrangements would have to meet strict competitive standards before flow control authority would be granted.

Fact No. 4: Flow control policy represents a successful partnership between the private sector and local governments. Flow control systems often result in lower costs for the consumer due to high volume business and increased negotiating leverage.

These are the facts, Mr. Chairman. H.R. 4683 is responsible legislation, and we are doing it in a responsible manner. We are doing the House proud, because this is a bipartisan measure. Republicans and Democrats, the gentleman from Washington, Chairman SWIFT, the gentleman from Ohio, ranking minority member OXLEY, working hand in glove, consulting every step of the way, to fashion a bill that deals with a serious national problem in a very responsible way.

Madam Chairman, I urge my colleagues to support this worthy legislation.

Mr. SWIFT. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding, and congratulate him and his ranking member, the gentleman from Ohio [Mr. OXLEY] for their work on this.

Mr. Chairman, solid waste and dealing with solid waste and the problems of solid waste are I think one of the leading environmental problems in the country. It is an issue that is intrinsically local in its nature. It is simply impossible for us to superimpose an overall solution on the Nation. This is something that involves education, and it involves a myriad of different efforts at the local level.

In fact, that effort has begun. It is amazingly successful in many of our communities. As I have seen States convey to the counties certain responsibility in Minnesota, they have entered into agreements and attempted successfully to deal with solid waste, recycling, and trying to provide the impetus to the market.

In order to do that, they have what they call tipping fees they charge when there is solid waste put in a solid waste facility, a landfill, or put into a process for recycling. Most of them necessitate a subsidy because the market does not sustain them, but we know environmentally it is much better to recycle the aluminum, to use the various products that can be recycled.

Unfortunately, this particular system is about to have the rug pulled out from under them. They cannot do that unless they have the tools. The rug is being pulled out by someone in Iowa or Wisconsin, saying you can come dump this in my landfill and pay a much lower tipping fee. Of course, at the point of the customer, where the customer is paying, they can dramatically reduce the price, undercutting those dealing with this in an environmentally sound manner.

I know there has been some very creative thinking here in terms of how to avoid this problem. So they have appealed through the courts under the interstate commerce laws, as is appropriate. The end result, of course, is you are going to have anarchy.

If we want this issue dealt with, you have to put the tools in the hands of the local and State governments so they can do it. We are not going to do it in Congress. You are not going to avoid the dreaded incinerator, which apparently is one of the criticisms here, that there is someone who bonded an incinerator. They bonded incinerators for some waste, and when they cannot recycle it, they burn it.

Vote with the committee, and against the amendments which weaken the tools given to local governments.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to my old friend and colleague just north of my district, the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Chairman, I rise to support the bill and to oppose the amendment to be offered by the gentleman from New Mexico [Mr. RICHARDSON].

I was president of the Ohio Senate in 1988 when our State passed one of the most comprehensive, forward-thinking solid waste disposal laws in the country. We did what Congress wanted us to

do: We planned for our disposal needs well into the future, set up local solid waste districts, and required management plans. We gave local waste districts the power to designate where their waste would go. That is called flow control.

Some of the waste districts quickly designated facilities to which their waste would go. Some bought land to guarantee future disposal space. Some decided they would wait because their disposal needs would not change for a few years. That is, they wouldn't need to build a new facility for several years thus make an obligation of public funds, buy land, site the facility, go through permitting, and so on.

We have counties across our State in varying stages of solid waste planning and management, and varying amounts of effort and investment that would be lost without flow control. It is the same thing all across the country—cities and counties find themselves in different positions. The Richardson amendment would leave a lot of them financially exposed. For example, it wouldn't protect a community that has perhaps spent years and significant of money siting a facility but has not yet "committed to its construction." The committee-passed bill would protect a much broader range of situations.

If we pass the Richardson amendment, we risk creating a disparity between two communities that are at exactly the same point in their waste planning process, except that one merely hasn't formally signed a construction contract. The solid waste management process involves a great deal more than simply signing a contract, and the committee-passed bill recognizes this. Let us stick with the bill as it is.

□ 1800

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of H.R. 4683, legislation that I believe is crucial to the promotion of responsible solid waste management.

During my tenure as mayor of Akron, OH, in the early to mid-eighties, Akron's flow control ordinance was challenged by private haulers as being unconstitutional. At every legal step, including two appeals to the Supreme Court, I fought successfully to retain Akron's law. As mayor, I understood how vital flow control authority is to responsible waste management planning. Local governments have the responsibility to pick up and dispose of all of the trash generated within their borders. We simply cannot allow them to lose the principal tool they have to finance the construction and operation of the facilities they need to meet this obligation.

The people of Ohio recently passed a broad waste management law which requires local governments to band together to ensure that they have adequate disposal capacity for decades to come. Without flow control authority, many of these collaborative agreements will be in jeopardy. This type of responsible planning is crucial to the future of innovative and integrated recycling programs and waste management techniques.

Mr. Chairman, I want to thank Chairman SWIFT for his willingness to work with me to clarify that the counties I represent will be able to pursue their long-range management plans. As usual, the gentleman from Washington has listened to diverse interest and has worked to craft consensus legislation that moves this Nation forward. Again, I thank him for his assistance on this bill and for his years of brilliant service to this House.

Mr. GEJDENSON. Madam Chairman, I rise in support of H.R. 4683. I want to thank the gentleman from Washington [Mr. SWIFT], and the gentleman from Michigan [Mr. DINGELL], for bringing this bill to the floor. I also want to thank the gentleman from New Jersey [Mr. PALLONE], who has been a strong advocate of protecting the interests of local governments across the Nation.

The Supreme Court decision in the case of C&A Carbone, Inc. versus Town of Clarkstown has significant implications for municipalities and taxpayers across the country. The case invalidated the use of flow control to manage solid waste generated within the borders of a community. The implications are far reaching because according to the Congressional Research Service [CRS], 41 States exercise flow control either through statute or other means. Many States have used flow control to ensure that municipal solid waste [MSW] is disposed of in accordance with several Federal laws and regulations.

Flow control authority is especially important to communities across my State of Connecticut. Many small towns in eastern Connecticut have contracts with solid waste disposal facilities which require them to deliver a minumum amount of waste or face financial penalties, also known as "put or pay" requirements. Towns entered into these agreements because they believed that flow control ordinances, authorized under State law, would allow them to meet their contractual obligations. Without flow control, residents in communities such as Norwich, Vernon, Gordon, Tolland, Westbrook and many others will be forced to pay higher taxes to pay penalties for failing to deliver the minimum volume of waste. To make matters worse, the majority of solid waste disposal facilities in my State have been financed with State revenue bonds. Disposal authorities require a minimum amount of waste to operate at levels sufficient to generate revenue to repay these bonds. If facilities can not make these payments, the bond holders could be forced to make the payments. According to Connecticut's attorney general, the State and its taxpayers could ultimately be responsible for $520 million worth of bonds. This would be disastrous for our State which is only beginning to fully recover from the recession.

H.R. 4683 will provide relief to these communities. It grandfathers existing flow control ordinances, statutes, and agreements. It also allows communities to flow control certain recyclable material provided that the material is voluntarily relinquished. This is especially important because flow controlling common household recyclables in urban areas helps to subsidize recycling efforts in rural communities. The bill makes it clear that such authority does not place an undue burden on interstate commerce.

Contrary to what some opponents of the bill argue, this is a balanced approach. For MSW generated by entities other than households, a community must have a flow control ordinance in place or have identified one or more solid waste disposal methods before May 15, 1994, in order to exercise flow control in the future. In addition, it limits flow control authority only to those materials addressed in the ordinance. In order to use flow control over household MSW or recyclables, a community must demonstrate that flow control is necessary to meet its solid waste management needs and establish a competitive process for designating a disposal facility for recyclable material. This is not anticompetitive. In addition, the bill terminates flow control authorization if a community does not actually designate a disposal facility within 5 years of enactment of this bill. If flow control is essential to a community, it should act in a reasonable amount of time to exercise that authority or lose it. Finally, the bill specifically prohibits States from requiring owners of recyclables to give up those products.

Madam Chairman, I want to take a moment to comment on the charge that flow control damages the environment. I am not aware of a single case where this argument has been proven conclusively. In fact, the vast majority of communities use flow control to direct waste to state-of-the-art disposal facilities. In my State, waste goes to transfer stations, landfills, and other facilities which meet strict State, Federal, and local standards designed to project the air, water, and public health. Charges that flow control damages the environment are a red herring designed to prevent Congress from providing important relief to small communities across the country.

Madam Chairman, it is essential that the House pass this legislation today. If we fail to act, taxpayers across the country could face much higher tax bills as their communities are penalized for failing to meet their contractual obligations. This is a balanced bill which provides needed relief while placing reasonable limits on future flow control authority. I urge my colleagues to support this important bill.

Mr. MCHALE. Mr. Chairman, in anticipation that the vote on final passage on H.R. 4683 will be by voice vote, I would like to take this opportunity to express, for the RECORD, my support of this bill.

A few minutes ago, I voted for the Richardson-Fields amendment in belief that while some version of flow control is essential, the Richardson amendment was superior to the existing bill. However, with defeat of the Richardson amendment, I am convinced that the committee draft of the legislation, as now before us, should be enacted. It is my intention, therefore, to vote "aye" on final passage of H.R. 4683, the Flow Control Act of 1994.

Mr. Chairman, recent Supreme Court decisions on the subject of flow control have cast doubt on the continuing constitutional validity of existing State and local flow control legislation. In my own State of Pennsylvania, our existing State statutes, and the local waste disposal plans adopted subject to it, are now faced with the very real possibility of a successful constitutional challenge. State and local governments should not be held hostage to evolving Supreme Court case law. For this reason, it is important that the validity of existing State and local legislation be confirmed by an appropriate delegation of authority under the commerce clause. Though a voice vote will prevent Members from documenting their individual positions regarding final passage, I wish to make it clear that my vote will be aye.

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

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

The CHAIRMAN pro tempore (Mr. VENTO). Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

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

S. 4683

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

SECTION 1. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY.—Each State and each qualified political subdivision may, in accordance with this section, exercise flow control authority within the boundaries of such State or political subdivision, as the case may be, for each of the following:

"(1) Municipal solid waste generated from household sources within the boundaries of the State or qualified political subdivision.

"(2) Municipal solid waste generated within the boundaries of the State or qualified political subdivision, if, before May 15, 1994, the State or qualified political subdivision adopted a law, ordinance, regulation, solid waste management plan or legally binding provision that—

"(A) exercised flow control authority over such solid waste with respect to a proposed or existing waste management facility designated before May 15, 1994, or

"(B) identified the use of 1 or more waste management methods that will be necessary for the transportation, management, or disposal of municipal solid waste generated within its boundaries, and committed to the designation of 1 or more waste management facilities for that method or methods.

"(3) Recyclable materials generated within the boundaries of the State or subdivision.

Any State or qualified political subdivision meeting the requirements of subparagraph (A) or (B) of paragraph (2) may also, after the effective date of this section, direct, limit, regulate or prohibit the transportation, management, and disposal of such solid waste from any existing or future waste management facility to any other existing or future waste management facility, and may do so without regard to subsection (b)(2).

"(b) LIMITATIONS.—(1) A State or qualified political subdivision may exercise the authority described in paragraph (3) of subsection (a) with respect to recyclable materials only if—

"(A) the generator or owner of the materials voluntarily made the materials available to the State or qualified political subdivision, or the designee of the State or qualified political subdivision, and relinquished any rights to, or ownership of, such materials; and

"(B) the State or qualified political subdivision, or the designee of the State or qualified political subdivision, assumes such rights to, or ownership of, such materials.

"(2) A State or qualified political subdivision may exercise the authority provided by subsection (a)(1) or (a)(3) only if the State or qualified political subdivision—

"(A) before exercising the authority described in subsection (a)(1), establishes a program to separate, or divert at the point of generation, recyclable materials from the municipal solid waste, for purposes of recycling, reclamation, or reuse, in accordance with any Federal or State law or municipal solid waste planning requirements in effect; and

"(B) after conducting 1 or more public hearings—

"(i) finds, on the basis of the record developed at the hearing or hearings that it is necessary to exercise the authority to meet the current solid waste management needs (as of the date of the record) or the anticipated solid waste management needs of the State or qualified political subdivision for management of municipal solid waste or recyclable materials; and

"(ii) provides a written explanation of the reasons of the finding described in clause (i).

"(3) The authority to direct, limit, regulate, or prohibit the transportation, management, or disposal of solid waste pursuant to subsection (a)(2) shall apply only to the specific classes or categories of solid waste to which the authority under subsection (a)(2)(A) was applied by the State or qualified political subdivision before May 15, 1994, and/or to the specific classes or categories of solid waste for which the State or qualified political subdivision committed to designate a waste management facility under subsection (a)(2)(B).

"(4) The authority granted under subsection (a)(2) shall expire if a State or qualified political subdivision has not designated, by law, ordinance, regulation, solid waste management plan, or other legally binding provision, 1 or more proposed or existing waste management facilities within 5 years of the date of enactment of this section.

"(c) COMPETITIVE DESIGNATION PROCESS.—A State or qualified political subdivision may exercise the authority provided by subsection (a) only if the State or qualified political subdivision develops and implements a competitive designation process with respect to waste management facilities or facilities for recyclable materials which—

"(1) ensures that the designation process is based on, or is part of, a municipal solid waste management plan that is adopted by the State or qualified political subdivision and that is designed to ensure long-term management capacity for municipal solid waste or recyclable materials generated within the boundaries of the State or subdivision;

"(2) sets forth the goals of the designation process, including at a minimum—

"(A) capacity assurance;

"(B) the establishment of provisions to provide that protection of human health and the environment will be achieved; and

"(C) any other goals determined to be relevant by the State or qualified political subdivision;

"(3) identifies and compares reasonable and available alternatives and options for designation of the facilities;

"(4) provides for public participation and comment;

"(5) ensures that the designation of the facilities is accomplished through an open competitive process during which the State or qualified political subdivision—

"(A) identifies in writing the criteria to be utilized for selection of the facilities;

"(B) provides an opportunity for interested public persons and private persons to offer their existing (as of the date of the process) or proposed facilities for designation; and

"(C) evaluates and selects the facilities for designation based on the merits of the facilities in meeting the criteria identified; and

"(6) bases the designation of each such facility on reasons that shall be stated in a public record.

"(d) CERTIFICATION.—(1) A Governor of any State may certify that the laws and regulations of the State in effect on May 15, 1994, satisfy the requirements for a competitive designation process under subsection (c).

"(2) In making a certification under paragraph (1), a Governor shall—

"(A) publish notice of the proposed certification in a newspaper of general circulation and provide such additional notice of the proposed certification as may be required by State law;

"(B) include in the notice of the proposed certification or otherwise make readily available a statement of the laws and regulations subject to the certification and an explanation of the basis for a conclusion that they satisfy the requirements of subsection (c);

"(C) provide interested persons an opportunity to comment on the proposed certification, for a period of time not less than 60 days after publication of the notice; and

"(D) public notice of the final certification, together with an explanation of the basis for the final certification, in a newspaper of general circulation and provide such additional notice of the final certification as may be required by State law.

"(e) OWNERSHIP OF RECYCLABLE MATERIALS.—

"(1) PROHIBITION ON REQUIRED TRANSFERS.—Nothing in this section shall authorize any State or qualified political subdivision (or any designee thereof) to require any generator or owner of recyclable materials to transfer any recyclable materials to such State or qualified political subdivision, unless the generator or owner voluntarily made the materials available to the State or qualified political subdivision (or any designee thereof) and relinquished any rights to, or ownership of, such materials.

"(2) PROHIBITION ON PROHIBITED TRANSACTIONS.—Nothing in this section shall prohibit any person from selling, purchasing, or accepting, conveying, or transporting any recyclable materials for purposes of transformation or remanufacture into usable or marketable materials, unless the generator or owner voluntarily made the materials available to the State or qualified political subdivision (or any designee thereof) and relinquished any rights to, or ownership of, such materials.

"(f) EXISTING LAWS AND CONTRACTS.—

"(1) IN GENERAL.—This section shall not supersede, abrogate, or otherwise modify any of the following:

"(A) Any contract or other agreement (including any contract containing an obligation to

repay the outstanding indebtedness on any proposed or existing waste management facility) entered into before May 15, 1994, by a State or qualified political subdivision in which such State or qualified political subdivision has designated a proposed or existing waste management facility pursuant to a law, ordinance, regulation, solid waste management plan or legally binding provision adopted by such State or qualified political subdivision before May 15, 1994.

"(B) Any other contract or agreement entered into before May 15, 1994, for the management of solid waste.

"(C)(i) Any law, ordinance, regulation, solid waste management plan or legally binding provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertain to the transportation, management, or disposal of municipal solid waste generated within the boundaries of a State or qualified political subdivision;

if the law, ordinance, regulation, solid waste management plan or legally binding provision is applied to the transportation, management, or disposal of municipal solid waste, generated from household sources within its boundaries, to a proposed or existing waste management facility designated before May 15, 1994, under such law, ordinance, regulation, solid waste management plan or legally binding provision.

"(ii) Any law, ordinance, regulation, solid waste management plan or legally binding provision—

"(I) that is adopted before May 15, 1994;

"(II) that pertains to the transportation, management, or disposal or municipal solid waste generated within the boundaries of a State or qualified political subdivision; and

"(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation, management, or disposal of municipal solid waste that is generated, or is commingled with municipal solid waste that is generated, from commercial, institutional, or industrial sources within its boundaries, or construction debris or demolition debris, generated within its boundaries;

provided that the law, ordinance, regulation, solid waste management plan or legally binding provision is applied to the transportation, management, or disposal of such solid waste described in subclause (III), to a proposed or existing waste management facility designated before May 15, 1994, under such law, ordinance, regulation, solid waste management plan or legally binding provision.

"(iii) Any law, ordinance, regulation, solid waste management plan or legally binding provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertains to the transportation or management of recyclable materials generated within the boundaries of a State or qualified political subdivision;

provided that the law, ordinance, regulation, solid waste management plan or legally binding provision is applied to the transportation or management of recyclable materials, that are generated within its boundaries and with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (b)(1), to a proposed or existing facility for recyclable materials designated before May 15, 1994, under such law, ordinance, regulation, solid waste management plan or legally binding provision.

"(2) CONTRACT INFORMATION.—A party to a contract or other agreement that is described in subparagraph (A) or (B) of paragraph (1) shall provide a copy of the contract or agreement to the State or qualified political subdivision on request. Any proprietary information contained in the contract or agreement may be omitted in the copy, but the information that appears in the copy shall include at least the date that the contract or agreement was signed, the volume of municipal solid waste covered by the contract or agreement with respect to which the State or qualified political subdivision could otherwise exercise authority under subsection (a) or paragraph (1)(C), the source of the waste or materials, the destination of the waste or materials, the duration of the contract or agreement, and the parties to the contract or agreement.

"(3) LIMITATION.—Any designation by a State or qualified political subdivision of any waste management facility or facility for recyclable materials after the date of enactment of this section shall comply with subsection (c). Nothing in this paragraph shall affect any designation made before the date of enactment of this section, and any such designation shall be deemed to satisfy the requirements of subsection (c).

"(g) SAVINGS CLAUSE.—(1) Nothing in this section is intended to supersede, amend, or otherwise modify Federal or State environmental laws and regulations that apply to the disposal or management of solid waste at waste management facilities or facilities for recyclable materials.

"(2) Nothing in this section shall be interpreted to authorize a qualified political subdivision to exercise the authority granted by this section in a manner inconsistent with State law.

"(h) EFFECT ON INTERSTATE COMMERCE.—The exercise of flow control authority in compliance with this section by a State or qualified political subdivision shall itself be considered a reasonable regulation of commerce and shall not itself be considered as imposing an undue burden on or otherwise impairing, restraining, or discriminating against interstate commerce.

"(i) DEFINITIONS.—As used in this section—

"(1) FLOW CONTROL AUTHORITY.—The term 'flow control authority' means the authority to control the movement of solid waste or recyclable materials and direct the transportation of such waste or recyclable materials to one or more designated waste management facilities or facilities for recyclable materials.

"(2) INDUSTRIAL SOLID WASTE.—The term 'industrial solid waste' means solid waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling, that is not hazardous waste regulated under subtitle C.

"(3) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—(i) The term 'municipal solid waste' means all waste materials discarded for disposal by households, including single and multifamily residences.

"(ii) The term also includes waste materials generated by commercial, institutional, and industrial sources, to the extent such wastes—

"(I) are essentially the same as waste normally generated by households; or

"(II) were collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d).

"(iii) The term includes residue remaining after recyclable materials have been separated, or diverted at the point of generation, from waste materials described in clause (i) or (ii).

"(iv) The term also includes any waste material or waste substance removed from a septic tank, septic pit, or cesspool.

"(v) Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

"(B) EXCLUSIONS.—The term does not include any of the following:

"(i) Any solid waste identified or listed as a hazardous waste under section 3001.

"(ii) Solid waste containing a polychlorinate biphenyl regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(iii) Any solid waste, including contaminated soil and debris, resulting from—

"(I) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604 or 9606),

"(II) a response action taken under a State law with authorities comparable to the authorities of section 104 or 106, or

"(III) a corrective action taken under this Act.

"(iv) Recyclable materials.

"(v) Materials and products returned from a dispenser or distributor to the manufacturer or an agent of the manufacturer for credit, evaluation, and possible reuse.

"(vi) Industrial solid waste.

"(vii) Any solid waste that is—

"(I) generated by an industrial facility; and

"(II) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated.

"(viii) Any medical waste referred to in section 11002 that is segregated from, or not mixed with, solid waste.

"(4) QUALIFIED POLITICAL SUBDIVISION.—The term 'qualified political subdivision' means a governmental entity or political subdivision of a State, as authorized by the State, to plan for, or determine the methods to be utilized for, the collection, transportation, disposal or other management of municipal solid waste generated within the boundaries of the governmental entity or political subdivision.

"(5) RECYCLABLE MATERIAL.—The term 'recyclable material' means any material (including any metal, glass, plastic, textile, wood, paper, rubber, or other material) that has been separated, or diverted at the point of generation, from solid waste for the purpose of recycling, reclamation, or reuse.

"(6) SOLID WASTE MANAGEMENT PLAN.—The term 'solid waste management plan' means a plan for the transportation, treatment, processing, composting, combustion, disposal or other management of municipal solid waste adopted by a State or qualified political subdivision pursuant to and conforming with State law.

"(7) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means any facility or facilities in which solid waste is separated, stored, transferred, treated, processed, combusted, deposited or disposed.

"(8) COMMITTED TO THE DESIGNATION OF ONE OR MORE WASTE MANAGEMENT FACILITIES.—The phrase 'Committed to the designation of one or more waste management facilities' as used in subsection (a)(2)(B) means that the State or qualified political subdivision, prior to May 15, 1994, was legally bound to designate one or more existing or future waste management facilities, or performed or caused to be performed one or more of the following actions for the purpose of designating one or more such facilities:

"(A) Solicitation of proposals for designation of a waste management facility.

"(B) Purchase of land on which the waste management facility to be designated will be located.

"(C) Execution of a legally binding contract or franchise agreement for waste collection services expressly for the delivery of waste to a waste management facility to be designated.

"(D) Other action since January 1, 1993, that evidences recent significant financial commitment for the continuing development of a waste

management facility for which a designation will be made unless such action has been halted by a court order based upon a ruling under the Constitution of the United States.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle D is amended by adding at the end of the items relating to such subtitle the following new item:

"Sec. 4011. Congressional authorization of State control over transportation, management, and disposal of municipal solid waste.".

The CHAIRMAN pro tempore. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKEEN: Page 20, after line 12, insert:

SEC. 2. EFFECTIVE DATE OF TRUCKING DEREGULATION.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 is amended by striking "January 1, 1995" and inserting "January 1, 1996".

SEC. 3. TECHNICAL CORRECTIONS TO ACT PREEMPTING STATE ECONOMIC REGULATION OF MOTOR CARRIERS

(a) Section 11501(H)(2) of Title 49, United States Code, is amended as follows:

(1) Strike "and" after subparagraph (A).

(2) Strike the period at the end of subparagraph (B) and insert in lieu thereof a semicolon.

(3) Insert the following new subparagraphs at the end thereof:

"(C) does not apply to the transportation of garbage and refuse;

"(D) does not apply to the transportation of recyclable materials, as defined under section 10733(b), pursuant to programs conducted under the auspices of any unit of government; and

"(E) does not apply to motor carriers providing tow or wrecker services.".

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. SWIFT. Mr. Chairman, I reserve a point of order on the amendment.

Mr. SKEEN. Mr. Chairman, I have taken this opportunity and I appreciate the concession from the chairman of the subcommittee and the ranking member, because I want to offer this amendment to delay trucking deregulation for a year. I seek principally an opportunity to discuss some salient points in support of this need for the delay.

Early last month the House and Senate conference committee attached legislative language to the Federal Aviation Administration Authorization Act which essentially deregulates interstate trucking. This bill is now law, and deregulation will take effect on January 1, 1995.

Many States are in the same position as New Mexico in that the State legislature and small trucking companies will not have an opportunity to meet and adjust to this deregulation by this January. Deregulation would require or will require new State authority to address safety, taxes, and a myriad of other legislative reforms.

Those supporting the delay include the National Conference of State Legislators, National Association of Regulatory Utility Commissioners, Regular Common Carrier Conference, the Teamsters, the National League of Cities, Public Citizen, and a number of State motor carrier associations from Michigan, California, Oregon, Washington, Oklahoma, Louisiana, Pennsylvania, just to name a few.

I would also like to thank the gentleman from Michigan [Mr. BONIOR] and the gentleman from Indiana [Mr. MCCLOSKEY] and the gentleman from Oklahoma [Mr. LUCAS], who offered to be cosponsors of a bill to effect this delay. And rather than take this, that course, it was deemed more prudent to try this as an amendment.

Whether or not Members agree with the concept of trucking deregulation, the responsible thing to do is to give State regulatory bodies and small truckers time to adjust.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RICHARDSON: Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Municipal Solid Waste Flow Control Act of 1994".

SEC. 2. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS.

(A) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section after section 4010:

"SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS.

"(a) AUTHORITY.—Each State and each political subdivision thereof is authorized to require the movement of municipal solid waste generated, and recyclable material voluntarily relinquished by its owner, within its jurisdiction to one or more waste management facilities or recycling facilities if such requirement—

"(1) is imposed pursuant to a law, ordinance, or other official act of the State or political subdivision in effect on May 15, 1994; and

"(2) has been implemented by designating before May 15, 1994, the particular management facilities in operation as of May 15, 1994, to which the municipal solid waste and recyclables must be moved.

Such authorization shall include any political subdivision that has in fact implemented such requirements prior to May 15, 1994, by requiring municipal solid waste to be sent to particular waste management facilities, but for which the legal authority for requiring such movement of municipal solid waste does not require the designation of particular facilities to receive such waste, or such legal authority resides in a designated official of the political subdivision. The authority of this section shall only extend to the specific classes or categories of municipal solid waste which were actually subject to a requirement of movement to one or more waste management facilities on or before May 15, 1994. With respect to each designated facility, the authority of this section shall be effective for the remaining life of a contract between the State or political subdivision and any other person regarding the movement or delivery of such waste or recyclable materials (as in effect May 15, 1994), or until completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994), or for the remaining useful life of the facility, whichever is longer.

"(b) CERTAIN REDESIGNATIONS OF FACILITIES.—Notwithstanding the restrictions in subsection (a)(2), any political subdivision of a State, which (1) required the movement of municipal solid waste or recyclable materials voluntarily relinquished by its owner to one or more waste management facilities or recycling facilities prior to May 15, 1994; (2) declared its intent to redesignate the facilities receiving such materials prior to May 15, 1994, and (3) as of the date of enactment of this section is in the process of redesignating the facilities receiving such materials, shall be granted the authority in subsection (a).

"(c) COMMITMENT TO CONSTRUCTION.—Notwithstanding the restrictions in subsection (a)(1) and (2), any political subdivision of a State may be granted the authority in subsection (a), if—

"(1) the law, ordinance, regulation, solid waste management plan, or legally binding provision specifically provides for the transportation or disposal of municipal solid waste generated within its boundaries, was in effect prior to May 15, 1994, and, in the case of a solid waste management plan, has the approval of either the State or the Administrator pursuant to this title, and

"(2) commits to the selection of one or more waste management facilities for such method of transportation facilities or disposal of municipal solid waste. Such a commitment to one or more waste management facilities is demonstrated by one or more of the following factors—

"(A) all required permits for the construction of such facility were submitted prior to May 15, 1994,

"(B) contracts for the construction of such facility were in effect prior to May 15, 1994,

"(C) revenue bonds were presented for sale to specifically provide revenue for the construction of such facility prior to May 15, 1994, or

"(D) the State or subdivision submitted to the appropriate regulatory agency or agencies, on or before May 16, 1994, administratively complete permit applications for the construction and operation of the waste management facility.

"(d) RETAINED AUTHORITY.—Upon the request of any generator of municipal solid waste affected by this section, the State or political subdivision may authorize the diversion of all or a portion of the solid wastes generated by the generator making such request to a solid waste facility, other than

the facility or facilities originally designated by the political subdivision, where the purpose of such request is to provide a higher level of protection for human health and the environment and reduce potential future liability under Federal or State law of such generator for the management of such wastes. Requests shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method. In making such a determination the State or political subdivision shall consider the ability and willingness of both the designated and alternative disposal facility or facilities to indemnify the generator against any cause of action under State or Federal environmental statutes, and against any cause of action for nuisance, personal injury or property loss under any State law.

"(e) FLOW CONTROL STUDY.—The Administrator, in cooperation with the National Academy of Public Administration, shall conduct a study of the extent to which the decision of the United States Supreme Court in C & A Carbone v. Clarkstown, New York has affected the ability of public and private agencies and entities to secure or retain financing for solid waste management facilities or services. Such study shall address whether such decision is likely to interfere with the implementation of State solid waste management plans, and whether such decision is likely to reduce the increased use of recycling or composting. The Administrator shall submit a report on such study to Congress, together with recommendations for needed legislation, if any, not later than March 31, 1996.

"(f) EFFECT ON OTHER LAWS.—Nothing in this section shall be interpreted or construed to have any effect on any other law relating to the protection of human health and the environment, or the management of municipal solid waste.

"(g) DEFINITIONS.—For the purposes of this section—

"(1) The term 'municipal solid waste' means solid waste generated by the general public and from residential, commercial, institutional, and industrial sources, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible materials and noncombustible materials such as metal and glass, including residue remaining after recyclable materials have been separated from waste destined for disposal, and including septage, except that the term does not include—

"(A) any waste identified or listed as a hazardous waste under section 3001 of this Act or waste regulated under the Toxic Substances and Control Act,

"(B) any waste, including contaminated soil and debris, resulting from response taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9602 or 9606) or a corrective action taken under this Act;

"(C) medical waste;

"(D) industrial waste;

"(E) recyclable materials; or

"(F) sludge.

"(2) The term 'recyclable materials' means any materials that have been separated from waste otherwise destined for disposal (either at the source of the waste or at processing facilities) or that have been managed separately from waste destined for disposal, for the purpose of recycling, composting or organic materials such as food and yard waste, or reuse (other than for the purpose of incineration), only to the extent that the generator or owner of the materials has voluntarily made the materials available to the State or qualified political subdivision, and relinquished any rights to, or ownership of, such materials, and the State or political subdivision assumes such rights to, or ownership of such materials.

"(3) The term 'waste management facility' means any facility collecting, separating, storing, transporting, transferring, treating, processing, or disposing of municipal solid waste.".

"(b) TABLE OF CONTENTS.—The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding the following new item after the item relating to section 4010:

"Sec. 4011. Congressional authorization of State control over movement of municipal solid waste and recyclable materials.".

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, I offer this amendment in the nature of a substitute of H.R. 4683 with Mr. FIELDS of Texas and the 22 cosponsors of H.R. 4643, the bill upon it is based.

In this congressional session when nearly all the environmental legislation we have considered has been stalled, we do have an opportunity to do something positive for environmental protection, for Superfund reform, for environmental justice, and for competition and free market principles. That opportunity is this amendment.

As we enter the final days of the 103d Congress, there is no denying that we are all looking for ways to pass important bipartisan legislation that responsibly addresses the problems of this Nation: We are all trying to work hard and go home.

The Richardson-Fields amendment offers the perfect broad-based, bipartisan opportunity to do just that. Where else will you find the National Taxpayers Union and Clean Water Action, National Association of Manufacturers, and the Sierra Club on the same side of an issue?

The Richardson-Fields amendment would grandfather existing flow control arrangements to protect those facilities financially dependent on flow control, and allow local governments which have shown significant movement toward designation to continue flow control controlling waste for a limited time in the future.

However, our amendment will not allow for future flow control authority. If you are not flow controlling now, and you cannot prove that you had made significant steps toward flow control authority prior to the Supreme Court decision then you should not be able to exert new monopoly power in the future.

Mr. Chairman, the one thing to remember through all the hazy rhetoric we will hear today is that without our amendment, we will continue the monopoly power of local governments to continue to exert sole authority over waste disposal in the future.

But, don't be fooled, we aren't playing with Monopoly money. If you defeat the Richardson-Fields amendment you will be writing a blank check that will be cashed on the taxpayer's money.

FLOW CONTROL AND RECYCLING

In the past several days, local governments have been telling Members that flow control is pro-environment and pro-recycling.

In fact, because flow control guarantees a waste stream for newly constructed facilities like incinerators, the Sierra Club says that "these facilities lock out the adoption of recycling and source reduction alternatives because incinerators compete for the same materials collected by recycling programs."

And the New York Public Interest Research Group, Clean Water Act, the Audobon Naturalist Society, Baltimore Recycling Coalition, the Environmental Planning Lobby, and the Grassroots Environmental Organization of New Jersey all say that "Congressional authorization of flow control could inhibit the development of alternative waste management options, including market-driven recycling efforts."

These same organizations further charge that flow control laws "unnecessarily inhibit the ability of recyclers and other ecological entrepreneurs to compete in the marketplace."

So, my fellow colleagues, you have a choice. You can believe the monopoly proponents that flow control is somehow good for recycling, or you can believe a nationwide coalition of environmental groups that flow control and recycling are like oil and water: they don't mix.

FLOW CONTROL AND INCINERATION

During this debate, we will hear that flow control and incineration do not necessarily go hand in hand. But who do you believe? The Sierra Club says that "H.R. 4683 would make it significantly easier to site new incinerators."

The executive director of Pittsburgh Against Toxic Incineration, Clean Water Action, and the New York Public Interest Research Group say that the monopoly power over solid waste decisions conferred by flow control leads to the disposal of waste at "overpriced, inefficient incinerators."

The Nation's environmental groups say flow control is bad for the environment; the Nation's two largest incinerator companies are trying to convince Congress that flow control is good for

you and poses no threat to environmental protection efforts. You be the judge.

FLOW CONTROL AND SUPERFUND

Future flow control authority has the potential to lock waste generators and communities into using unnecessary or unsafe disposal facilities.

Local governments are not required to ensure that a facility treat waste in the safest possible manner. Waste generators who have no control over where or how their waste is disposed of under flow control, could be liable as a potentially responsible party under Superfund simply because their waste was shipped to an environmentally unsuitable facility.

The American Trucking Association and the National Association of Manufacturers have said that "flow control is totally at odds with the objections of Superfund" because "generators are denied altogether the ability to send waste to the most environmentally appropriate location."

Waste generators should demand that flow control not be enacted or even considered until the Congress can consider comprehensive RCRA reauthorization next year.

And, as many of my colleagues may know, waste generators and waste transporters are demanding that future flow control not be debated until we can talk about RCRA comprehensively. Kimberly-Clark Corp., the National Association of Manufacturers, the American Trucking Association, Southern Pacific Transportation Co., Union Pacific Corp., and Chicago and Illinois Midland Railways are all opposed to H.R. 4683.

FLOW CONTROL AND ENVIRONMENTAL JUSTICE

Because flow control leads to more incinerators, H.R. 4683 presents a problem for environmental justice advocates. As Congressman ED TOWNS and I know from the sponsorship of our incinerator bill, H.R. 2488, incinerators are more often located in communities of color and low-income areas.

If we pass H.R. 4683 today without the Richardson-Fields amendment, we will be signing a blank check for the future construction of incinerators. The EPA's recently announced reassessment of the toxic dioxin found that the most common source of dioxin emissions in the United States is municipal solid waste incinerators.

If Congress passes H.R. 4683 today without the Richardson-Fields amendment, we will be saying to people of color and people of low incomes that we don't care about their health and well-being because we're going to allow more dioxin-spewing incinerators to be located in their neighborhoods to dispose of someone else's trash.

FLOW CONTROL AND CONSUMERS

The National Taxpayers Union, Citizens for a Sound Economy, and the executive director of the Consumer Alert Advocate say that "flow control confers a portion of the solid waste management market to politically preferred constituencies at the expense of consumers."

In describing the effect of unlimited flow control authority in the future, these organizations say that "consumers of waste management services would pay more as they would be deprived of the option to take their business elsewhere when prices get too high."

FLOW CONTROL, COMPETITION, AND THE FREE MARKET

A diverse group of businesses including Browning-Ferris Industries, Laidlaw, Inc., and the National Association of Manufacturers says that "under flow control, competition would be limited and costs would increase."

The Competitive Enterprise Institute and the Reason Foundation say that "flow control would establish protected government monopolies that have no incentive to increase the quality of their services. Waste management prices would be set by political forces, without regard for market pressures."

Mr. Chairman, competition not monopolization is the best alternative for waste disposal decisions. The artificial constraints of flow control represent a step backward toward government control of waste policy, not free market competition where the best facility at the best price wins.

The argument has been made that our efforts to block future flow control authority represent another unfunded Federal mandate. This is simply not true. The Richardson-Fields amendment would in fact provide local governments with relief from the immediate impact of the Supreme Court decision while allowing the free market and open competition to prevail in the future.

The following organizations have opposed H.R. 4683: National Federation of Independent Business; National Association of Manufacturers; Chamber of Commerce of the United States of America; American Trucking Associations; Sierra Club; Clean Water Action; Environmental Action; Audubon Naturalist Society; National Taxpayers Union; Consumer Alert Advocate; Citizens for a Sound Economy; Competitive Enterprise Institute; New York Public Interest Research Group, Inc.; New Jersey Chamber of Commerce; Ohio Chamber of Commerce.

International Council of Shopping Centers; Union Pacific Corporation; Southern Pacific Transportation Company; CS First Boston; Browning-Ferris Industries; Laidlaw, Inc.; Chambers Development Company, Inc.; Kimberly-Clark Corporation; New Jersey Business & Industry Association; Georgia Chamber of Commerce; American Bakers Association; The John Locke Foundation; Environmental Industry Associations; Environmental Transportation Association; Grassroots Environmental Organization of New Jersey.

Institute for Justice; Indiana Policy Review Foundation; Arizona Institute for Public Policy Research; The Yankee Institute for Public Policy Studies; National Center for Public Policy Research; Institute for Local Self-Reliance; Hudson River Sloop Clearwater; The Heartland Institute; Chicago and Illinois Midland Railways; Intermodal Technologies; National Environmental Development Association's RCRA Project; Pittsburgh Against Toxic Incineration; Waste-NOT; PERC; Environmental Planning Lobby.

SEPTEMBER 26, 1994.

Hon. BILL RICHARDSON,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RICHARDSON: The issue of flow control—the monopolization of municipal solid waste by local governments—is a deeply troubling one for us. The implications for taxpayers, businesses and the environment are extremely dangerous. Congress should not lightly interfere with interstate commerce, and Congress should not confer monopoly power on the public sector when there is a competitive private sector already operating successfully.

Under flow control, competition would be limited and costs would increase. We urge Congress to act to reduce costs by assuring the continuing existence of a vibrant private sector industry.

We believe flow control is totally at odds with the objectives of Superfund. It is unfair to impose Superfund liability on waste generators who would be stripped of the ability to send waste to the protective facility of their choice. Under flow control they could be forced to send their waste to sites that either are or may well end up on the Superfund list. Instead of providing incentives for waste generators to take steps that protect the environment, generators are instead denied altogether the ability to send waste to the most environmentally appropriate location.

Flow control does a disservice to the environment. Flow control commits communities, in many cases for 20 to 30 years or more, to massive investments in environmental technologies that may soon be outdated. By interfering with the free market, flow control can also represent a barrier to recycling, which depends on the untrammeled movement of post-consumer recyclables for its success.

For all these reasons—threat to the free market, increased costs, imposition of Superfund liability and obstruction to environmental advances and recycling—we urge Congress to approach the issue of flow control with extreme caution. Excessively broad flow control legislation, and most certainly the virtually unlimited grant of flow control authority that recently passed the House Energy and Commerce Committee, would present precisely those problems that we believe Congress should be trying to prevent, not create. If it is necessary to legislate in this area, we believe that an approach that protects existing facilities dependent on flow control for the life of the original facility, but that confers the benefit of the free market in all other circumstances, is the best way for Congress to proceed. We would appreciate your support for our position.

Respectfully submitted,

International Council of Shopping Centers; Southern Pacific Transportation Company; Union Pacific Corporation; Intermodal Technologies; Chicago and Illinois Midland Railways; The National Environmental Development Association's RCRA Project; National Association of Manufacturers; American Trucking Association; Browning-Ferris

Industries; Chambers Development Company, Inc.; Kimberly-Clark Corporation; Environmental Transportation Association; and Laidlaw, Inc.

SIERRA CLUB,
Washington, DC, September 27, 1994.

DEAR REPRESENTATIVE: Broad "flow control" legislation, H.R. 4683, to be voted on by the full House this week, could negatively impact public health, the environment and safe waste disposal. Such legislation would give local governments exclusive control over the flow of trash, make it significantly easier to site new incinerators, and increase the possibility of Superfund liability for waste genertors. Sierra Club strongly urges you to narrow the scope, and curb these impacts by supporting an amendment expected to be offered by Reps. Bill Richardson (D-NM) and Jack Fields (R-TX).

Flow control requires that municipal solid waste be disposed of in a designated waste facility. The overwhelming experience in most communities has been the use of flow control to support the construction of capital intensive incinerators or waste-to-energy facilities which can emit dangerous toxins. (Flow control guarantees a waste stream for newly constructed facilities. Thus the revenue from the waste allows a facility to pay off the indebtedness occurred from building the facility.) These facilities also lock out the adoption of recycling and source reduction alternatives because incinerators compete for the same materials collected by recycling programs. Sierra Club urges that prospective flow control be considered only within the context of a RCRA reauthorization where sound solid waste plans—including reduction, recycling, and composting—and enforcement of those plans, can be adopted.

Furthermore, flow control could potentially lock waste generators and communities into using unnecessary or unsafe disposal facilities. Local governments are not required to ensure that a facility treat waste in the safest possible manner. Thus a generator might be liable simply by complying with a municipalities' flow control requirements should the waste facility ultimately be listed under Superfund. Waste generators should demand that flow control not be enacted or even considered until the best waste management system is established under RCRA.

The Richardson-Fields amendment would "grandfather" current flow control arrangements established prior to May 15, 1994, yet require new facilities to be built based on competition. This "grandfather" provision would prevent the disruption of existing municipal financing arrangements. Additionally, the Richardson-Fields grandfather has been broadened further to include those existing facilities that have not completed the schedule of payments for capital costs, or those in which the useful life of the original facility had not expired, whichever is longest.

The ramifications of enacting flow control legislation are great. We urge you to vote for the Richardson-Fields amendment which would provide a reasonable compromise to full-scale flow control. Sound solid waste management should not bring waste facilities on-line hastily, or when they are not the safest option.

Thank you for your consideration.

Sincerely,

A. BLAKEMAN EARLY,
Washington Director,
Environmental Quality Program.

COMPETITIVE ENTERPRISE INSTITUTE,
Washington, DC, September 20, 1994.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR THURMOND: In May of this year, the Supreme Court ruled that local flow control laws are unconstitutional impositions on interstate commerce. Now, some in Congress hope to reverse this decision and provide specific Congressional authorization for those laws. We, the undersigned, believe that this would be a terrible mistake and urge you to oppose any such efforts.

Flow control is the practice whereby local governments require all waste within their jurisdiction be processed at designated facilities, often at overpriced, inefficient incinerators. In this manner, flow control confers a portion of the solid waste management market to politically-preferred constituencies at the expense of consumers. It is this type of arrangement that the Supreme Court declared unconstitutional.

Reauthorizing the use of flow control would be a step backward in the handling of municipal solid waste. Rather than encourage expanded markets in solid waste management that would encourage greater efficiencies and innovation, flow control would establish protected government monopolies that have no incentive to increase the quality of their services. Waste management prices would be set by political forces, without regard for market pressures. Public sector facilities would not have to compete for any of their business. There is little doubt that under this scenario, consumers of waste management services would pay more as they would be deprived of the option to take their business elsewhere when prices get too high.

Equally important, Congressional authorization of flow control could inhibit the development of alternative waste management options, including market-driven recycling efforts. Flow control laws unnecessarily inhibit the ability of recyclers and other ecological entrepreneurs to compete in the marketplace. While our organizations have different perspectives on waste management, we agree that if recycling efforts are to succeed, they need to establish a firm foothold in the marketplace. Flow control represents a political barrier to this development.

We, the undersigned, represent no single ideological or economic interest. Rarely are we united on a single issue. In this instance, however, we are working together to oppose the folly of flow control. Flow control laws unnecessarily limit competition within the waste management industry, increase costs for local consumers, and discourage environmental innovation. They are not in the interest of the American people.

Sincerely,

Fred L. Smith, Jr., President, Competitive Enterprise Institute, Washington, DC.

Larry Shapiro, Senior Attorney, New York Public Interest Research Group, Inc., New York, NY.

Michael Sanera, President, Arizona Institute for Public Policy Research, Phoenix, AZ.

Neal Fitzpatrick, Conservation Director, Audubon Naturalist Society, Chevy Chase, MD.

Daniel Jerrems, Coordinator, Baltimore Recycling Coalition, Baltimore, MD.

Paul Beckner, President, Citizens for a Sound Economy, Washington, DC.

Paul Schwartz, Assistant to the Director, Clean Water Action, Washington, DC.

David Ridenour, Vice President, National Center for Public Policy Research, Washington, DC.

David Keating, Executive Director, National Taxpayers Union, Washington, DC.

Richard Stroup, Senior Associate, PERC, Bozeman, MT.

Betsy Ensminger, Founding Member, Pittsburgh Against Toxic Incineration, Pittsburgh, PA.

Robert Poole, President, The Reason Foundation, Los Angeles, CA.

Joseph Stouffer, Legislative Director, Sierra Club—Atlantic Chapter, Albany, NY.

Paul and Ellen Connett, Co-Editors, Waste-NOT, Canton, NY.

Laurence Cohen, Executive Director, The Yankee Institute for Public Policy Studies, Glastonbury, CT.

Frances Smith, Executive Director, Consumer Alert Advocate, Arlington, VA.

Lee Wasserman, Executive Director, Environmental Planning Lobby, Albany, NY.

Madelyn Hoffman, Director, Grassroots Environmental Organization of New Jersey, Flanders, NJ.

Joseph Bast, President, The Heartland Institute, Palatine, IL.

Bridget Barclay, Environmental Director, Hudson River Sloop Clearwater, Poughkeepsie, NY.

Thomas Hession, President, Indian Policy Review Foundation, Indianapolis, IN.

William H. Mellor III, President and General Counsel, Institute for Justice, Washington, DC.

Neil Seldman, President, Institute for Local Self Reliance, Washington, DC.

Marc Rotterman, President, The John Locke Foundation, Raleigh, NC.

□ 1810

Mr. PALLONE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in my opinion the Richardson substitute is really unfair. The Richardson alternative would freeze out communities that have spent significant resources to build facilities. The Richardson substitute would bar using flow control in the future to finance new facilities, retrofits, or expansions necessary to meet current needs or new environmental requirements.

A community that has spent years and hundreds of thousands of dollars to finance its facility would be frozen out under the amendment. Richardson pretends to grandfather communities that have invested in good faith reliance on flow control authority, but only under very rigid and limited circumstances.

The committee bill, on the other hand, will not now nor will it ever provide unfettered flow control authority. It simply recognizes the equity of allowing counties that have made significant financial investments in integrated waste systems to go ahead with their plans where those plans have been relying on flow control.

The committee-passed legislation neither encourages nor discourages a particular method of disposal, and I think that is very important to emphasize. We are not discouraging or encouraging any particular method of disposal: incineration, landfill, whatever.

For example, in my home State, we have an integrated system that consists of 12 modern lined countywide

landfills, 14 major transfer stations, and 5 regional incinerators. I view flow control as prorecycling and procomposting.

In my home county, which is called Monmouth County, we have an aggressive recycling program in place which has achieved a 42 percent total waste stream and a 44 percent municipal waste stream recycling rate. Through county planning and with the use of flow control authority, Monmouth County is well on its way toward meeting the statutory 60 percent total and 50 percent municipal stream recycling goals by the end of 1995. We would not be able to achieve this without flow control authority.

Mr. Chairman, some have argued that flow control authority merely fuels incinerators, and I think this is very misleading. Flow control allows the local governments to move forward and implement better technologies, environmental technologies. The real environmental danger comes from the reduced recycling and haphazard disposal of trash that will occur without strong flow control authority from municipalities.

Recycling and composting facilities are very costly initiatives, often requiring designating authority and subsidies to make them viable. What responsible local government could finance or construct a recycling or composting facility without flow control authority.

The financial community testified, Mr. Chairman, before the subcommittee in the Committee on Energy and Commerce and warned that recycling and composting facilities would not likely be financed without the option of flow control. Should a county like Monmouth County, my own county, want to build a composting or recycling facility, they would have no choice without flow control but to raise taxes. They would have no other alternative.

Mr. Chairman, I personally am concerned as an environmentalist that we may face a major step backward in environmental protection as the short-term economic gains of artificially cheap disposal prevail over more comprehensive long-term strategies to reduce the amount of waste we produce through resource reduction, reuse, and recycling. Make no mistake that the environmental vote is no on the Richardson amendment.

Mr. FIELDS of Texas. Mr. Chairman, I rise in support of the Richardson-Fields amendment.

Mr. Chairman, first of all, I want to commend the gentleman from New Mexico [Mr. RICHARDSON] for his eloquent statement and explanation of our amendment just a moment ago.

Mr. Chairman, I rise today in support of the Richardson-Fields amendment.

Since the recent Supreme Court Carbone decision, the local governments' push for legislative relief has intensified. After many negotiations and significant alterations to our bill, I am proud to be a sponsor with my friend, Mr. RICHARDSON, of an amendment to be offered as a substitute to the bill today. Our amendment will protect those facilities financially dependent on flow control but would rely on the free market and open competition in the future.

Our amendment addresses the core problem by providing the needed relief to the local government which are currently operating under flow control ordinances until such time as their contract expires or the current schedule of payments for the facility is paid off, whichever is longer. This amendment actually goes beyond our original bill by including facilities not yet constructed if they meet certain requirements such as having obtained required construction permits, the completion of contracts for construction or the presentation for sale of revenue bonds for financing the construction of the facility.

As a proponent of the free market, I believe our approach is the only one which would protect taxpayers, businesses, and the environment. Unlimited flow control authority which gives local governments a monopoly power would disrupt open competition and could raise prices for waste collection and disposal. As we all know, the market for waste is a large and extremely competitive one. Having no evidence that the private sector cannot effectively and maybe more efficiently control the movement of municipal solid waste, there is no need for Congress to grant this monopoly power to the local governments.

You all should have received a copy of a letter from the National Federation of Independent Businesses stating their opposition to virtually any flow control ordinance. The National Association of Manufacturers, the U.S. Chamber of Commerce, the Associated Builders and Contractors are just a few of the others who strongly oppose flow control.

They are concerned that small and large businessowners who want the ability to contract for the best possible price for their solid waste collection will not be able to do so under eternal flow control arrangements. They also feel that all waste companies should be allowed to compete fairly for waste collection contracts.

Let's address the real problem today and grandfather those facilities which would be affected immediately by the Supreme Court decision and leave the future in the hands of a competitive marketplace.

Mr. Chairman, I urge my colleagues to support the Richardson-Fields amendment. I yield back the balance of my time.

The environmental vote is aye, and the pro-business vote is aye.

□ 1820

Mr. MINGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am very interested in the arguments in favor of the Richardson substitute. I feel they are fallacious. To say that the environmentally favorable position is aye on this amendment really defies analysis. What we see happening around this country is that hundreds of local communities are attempting to do the right thing environmentally. They are being hamstrung by the Carbone decision. They are being hamstrung by the delay in Congress in responding to that decision. The responsible thing is to let local governments get on with the environmentally sound work that they have started. In my State, we have dozens of local communities that are trying to work together to do the right thing with local enterprise.

The other aspect of this which I find very interesting is that if we can, we should allow local units of government to solve these problems in their own communities rather than trying to micromanage things from Washington, DC or forcing local units of government to have one hand tied behind their back as they deal with a very difficult problem.

Mr. Chairman, I feel that those of us here in Congress on both sides of the aisle recognize the importance of maximum local autonomy to respond as is appropriate to local problems. I feel that the responsible vote on this amendment is no if we are thinking about how we relate to our local units of government and those officials. What we should do is encourage this debate to occur in our local communities. Let them thrash out the problem. Local businesses can come in, present their arguments, and they can work out an accommodation that makes sense at the county level.

Therefore, Mr. Chairman, I urge that all in this Chamber vote against the Richardson substitute.

Mr. MCMILLAN. Mr. Chairman, I move to strike the requisite number of words and I rise today in opposition to the amendment offered to the committee-passed bill.

Mr. Chairman, proponents of Richardson argue that flow control is environmentally unsound, and anticompetitive. It is pure and simple one waste management company and the Sierra Club.

Each of these charges is specious. The committee bill, which this amendment seeks to strike, has language to compel the use of competitive bidding, solid waste management planning, and a time certain when commercial flow control authority ends. This is not the open-ended granting of broad authority that the proponents of Richardson would have you believe it is. The committee bill balances the needs of both sides of the debate, Richardson does not.

Forty-three States allow the use of flow control authority, most as a base for environmentally sound solid waste management laws. Richardson would effectively make compliance with many of those laws impossible because the laws were based on flow control authority.

Under the Richardson language, scores of communities who have made substantial financial commitments could be left without the means to accomplish waste management goals required by State law.

Proponents of Richardson argue that flow control leads to incineration and supporting this amendment will result in a reduction in exposure to dioxin. This argument ignores that incineration is strictly regulated by EPA and a choice a community should make.

Finally, to say the committee bill eliminates competition in the marketplace is wrong. I am a strong advocate of competition and worked to insure that any flow control legislation include a requirement that competitive bidding be a part of any new designation. This competitive bidding process increases not decreases private sector involvement.

The arguments supporting this amendment were weak and unsound when it was handily defeated in the full Energy and Commerce Committee and they are weak and unsound today. I urge a "no" vote on this amendment.

Ms. LAMBERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Richardson Amendment. I believe that this amendment, while providing limited relief to our local communities, still leaves many communities, who have relied in good faith on flow control, out in the cold.

The Richardson approach would not help communities that are in the process of implementing flow control nor would it help communities that have comprehensive waste management plans in place. In both of these situations, communities have devoted much time and money.

Mr. Chairman, flow control will not create new monopolies with the localities. First, H.R. 4683 would provide for a competitive bid process for future flow control authority; second, it does not expand on existing flow control authority.

Mr. Chairman, some would say that H.R. 4683 is bad for small business and bad for the environment. I disagree.

Under this bill, small waste haulers will be able to compete on an equal level with the large vertically integrated waste management companies. Since these large waste management companies own their own landfills in addition to hauling waste, their tipping fees at the landfill can partially subsidize the costs associated with their hauling expenses. However, where the local governments own the waste disposal facility, the most competitive and price effective waste hauler will win the hauling contract, regardless of the size of the business. For this very reason, these small mom and pop trash haulers have survived and flourished in flow control jurisdictions.

This bill is also environmentally friendly. Under many flow control jurisdictions, local governments have installed new environmentally sound methods of waste disposal. Many localities have built and financed recycling and composting facilities and have organized curbside recycling and household hazardous waste pickups. None of these jurisdictions would have been able to invest in such facilities were it not for flow control. Without flow control, the locals would be unable to secure an adequate waste stream to pay off the debt secured by revenue bonds.

Additionally, recyclers are in strong support of H.R. 4683. Supporters of this bill include the American Forest and Paper Association, Weyerhaeuser, and the Institute of Scrap Recycling Industries. Many of my colleagues know that I am a strong proponent of recycling. I am pleased to say that the bill before the House protects municipal, as well as commercial, recycling of paper, glass, plastic, metals, textiles, and rubber. Recyclables voluntarily provided to governmental entities are unaffected by H.R. 4683. This bill does not subject to flow control those recyclables which have been collected and processed by commercial entities and which have not been voluntarily relinquished to government programs. Thus, this bill preserves the commercial market for recyclables.

In closing, flow control will not create new monopolies with the localities. First of all, H.R. 4683 would provide for a competitive bid process for future flow control authority and, second of all, it does not expand upon existing flow control authority.

H.R. 4683 is responsible legislation and I urge my colleagues to vote "no" on the Richardson amendment that would weaken this bill.

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

Mr. Chairman, I rise in support of the Richardson-Fields amendment. This substitute offers us a responsible compromise to the troubling issue of flow control. Ultimately, flow control is about a choice between inefficient government monopolies and a competitive free enterprise system. The Supreme Court has already chosen in favor of free enterprise. It has already ruled that local governments should not be able to have a monopoly on the flow of waste.

My preference would be to allow the court decision to stand. Congress does not need to provide broad new authorities to overturn the Court's ruling. Let the free market do the job.

I do realize that some local communities will suffer if Congress does not take some sort of action. If Congress must act, it should be in a very limited way to assist these communities and leave the core of the Carbone decision intact. This is what the Richardson-Fields amendment would accomplish. It would protect those communities currently involved in flow control, and it would protect free enterprise in the future.

If we must act, let us act responsibly. The Richardson-Fields amendment will accomplish this outcome. The bill before us right now will not.

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

Mr. Chairman, I am pleased to join my good friends from New Mexico and Texas in support of their amendment to grandfather existing flow control programs.

Flow control is a legal regimen that some communities have adopted to underwrite expensive waste projects. It was adopted because these communities found that they could not raise the necessary capital to pay for high priced incinerators and landfills without somehow assuring that the flow of waste would be large enough to provide the revenues to pay for that capital.

When the Supreme Court's Carbone decision struck down flow control, it left many communities that had made such commitments with stranded investments. Some cities and counties had invested tens of millions of dollars in landfills, incinerators, and waste-to-energy plants.

With flow control suddenly gone, how are they to pay back the loans or service the bonds that were issued to pay for these facilities?

The Richardson-Fields amendment resolves this problem by simply allowing communities that had made such financial commitments to retain flow control authority long enough to honor these obligations.

It is not the "Hands off Carbone" policy some of the waste companies and environmental groups wanted. It is not the complete, unlimited grant of flow control authority that some communities want. Like the interstate waste bill we passed overwhelmingly yesterday, it is legislation that gives no party all that it wants but, most importantly, it is fair to all parties.

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

Mr. Chairman, I am not going to take 5 minutes because much of what I have to say has been said in one form or another. However, I did not want the opportunity to go by without responding to something that was said about New Jersey, and also to reinforce the belief of I think most of this House that this committee has done a good job really in bringing out a balanced piece of legislation addressing a very difficult but

important issue. I congratulate the gentleman from Washington State and the gentleman from Ohio for their work.

□ 1830

I rise in support of the committee bill and in opposition to the Richardson-Fields amendment.

If a Member wants to be a mayor of a community, they ought to go back and run for mayor. They have enough problems trying to deal with waste management and they have done a good job.

I invite my colleagues to come to New Jersey and see what New Jersey is doing to recycle its waste. It is one of the most densely populated States in the Union, a lot of miles of coastline. Much of my industry is tourist oriented, and we have a major problem trying to manage waste. We have made major investments in facilities to recycle. We are aggressive recyclers. We are ahead of the curve. We are doing a good job in New Jersey like in many parts of the country.

We cannot invest millions and millions of dollars, as we have done, in major facilities without having some ability to control the flow of wastes. That is what these municipalities have done, they have invested tens of millions of dollars in an effort to provide good waste management.

Those who suggest that the environmental vote is a vote in favor of Richardson really have not looked at what is happening in waste management, because the committee bill basically does encourage, it grandfathers those that presently are managing wastes through flow control. It also encourages those who are trying to grapple with the problems to invest in facilities that will do just that, to recycle, to develop better waste management programs, and that is why the committee bill is the right bill, and I urge my colleagues to support it and salute the committee for their outstanding work.

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

Mr. Chairman, I rise in support of the Richardson-Fields amendment.

In very practical language, in my district in Illinois there is a real practical problem, a practical problem that some cities have pulled together in cooperative entities to try to solve the waste problems, and some of them, 50 some communities have been tied into a consideration that has spent a lot of money and used taxpayers' money. All of a sudden these cities now cannot get out of that amalgamation because of this waste flow legislation. They cannot get out and they cannot invest in better ways and the new technologies in the environmentally sound ways, and quite frankly, they cannot get out to save their taxpayers money.

The Richardson-Fields amendment holds harmless those people who are already doing it but prospectively allows us to start to plan for cities to be able to find better opportunities not being tied into the old corporate schemes that are out there. I think it is a good amendment. It deserves the support of this body and I ask for positive support.

Mr. Chairman, it is premature and irresponsible for Congress to pass this bill at this time. Congress should wait, and not enact any flow control legislation, until we have had time to determine the impact of the Carbone decision pertaining to currently operating waste management facilities. Furthermore, I do not believe any case can be made for granting prospective relief from Carbone.

As currently created, H.R. 4683 would enable local governments to control where wastes brought into a community, or generated within a community, will be disposed of. Such authority could remove many existing waste facilities from the competitive marketplace, a marketplace which in many instances would save taxpayers money. Additionally, this flow control legislation would eliminate incentives to control costs, provide quality services, and maintain efficient facilities. In short, this legislation creates a government monopoly that would stifle competition and deny the public the benefits of a free market system. To be sure, Congress should not be in the business of creating these government monopolies.

In conclusion, I believe that the free market is capable of responsibly and efficiently managing our waste facilities. Accordingly, I am opposed to enacting any flow control legislation during this Congress. I urge my colleagues to act responsibly and defeat this ill-timed piece of legislation.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too rise in opposition to the Richardson-Fields amendment.

Mr. Chairman, H.R. 4683 very wisely grandfathers integrated systems including a full range of services such as recycling, composting, and energy to waste. H.R. 4683 enables communities that use flow control to continue advancing and creating better and more sophisticated means of disposal.

The Richardson-Fields amendment, on the other hand, grandfathers facilities only, and once a facility runs its useful life, flow control authority is over as well, no grandfathering of retrofits, expansions, redesignations, or modifications. If a landfill becomes full, tough luck, no more flow control. If a burner is too small for increased waste, too bad.

Mr. Chairman, the Richardson amendment will freeze out hundreds of local governments across the Nation, including many counties in my State of New Jersey that have taken meaningful actions toward flow controlling their waste management facilities but have not yet completed such actions.

I think the committee has, again, very wisely, crafted a bipartisan bill, a bill I think that is environmentally sound, and I think that the Richardson amendment ought to be rejected and this consensus bill accepted by the House.

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words. I just want to expand on this issue as I rise in opposition to the Richardson-Fields amendment, and I rise based on the experience I had in local government for 8 years and the State legislature for 11 years. As county commissioner I served as chairman of the Board of Public Works and had a great deal of responsibility with solid waste disposal and became intimately familiar with solid waste problems and handling these problems at the local level. In the State Senate I chaired the Natural Resources and Environmental Affairs Committee and was involved in developing a State-county planning mechanism which was very effective in resolving some of the issues we are talking about here.

I believe it is very important to pass the original bill and to reject the Richardson-Fields amendment because States and counties have in many cases worked out systems of modified flow control which I believe are legitimate, should be constitutional, and will work.

I believe in competition, as the sponsors of the amendment do. But I have found that in the area of solid waste we generally do not have true competition. First of all, in this era of superlarge landfills and limited numbers of landfills, we often have a monopoly situation, and that does not lend itself to competition. Frequently it is necessary to institute flow control in order to obtain competition.

Furthermore, we have to recognize that the true costs of landfills are not always apparent. As an example, we are spending billions of dollars through Superfund to clean up landfills, and including the true costs of those landfills make waste reduction facilities, incinerators, and other facilities look far more competitive. We still have that problem today. We must introduce some other methods to assure true competition.

with flow control we can still have industry competition, as we do in Michigan, by having the State and the county have limited flow control, but then having the projects bid out to the private sector. That I think is probably the best way of ensuring competition in a semimonopolistic situation.

I am well aware of the environmental community's concerns with incinerators, but I have investigated that thoroughly, and I am convinced that the use of incinerators with good air-pollution controls, along with aggressive recycling programs, is better than the use of landfills, which are often the only alternative.

Mr. Chairman, I urge this body to reject the Richardson-Fields amendment

and pass the bill as originally submitted.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would like to remind Members that this committee was the first committee the Congress formed after 1787. It did so because of the squabbles between the States and reaffirmed that we regulate interstate commerce.

We need a bill, but I think we need a bill as moderate as we can get. We need to act very cautiously in a very limited manner when addressing this issue which we knew arose as a result of the Supreme Court decision.

Our colleagues, the gentleman from New Mexico [Mr. RICHARDSON] and the gentleman from Texas [Mr. FIELDS], have an amendment that addresses a genuine problem: to grandfather existing facilities in communities that had invested in flow control laws. This legislation, with some very minor fine tuning, should be all that is needed.

While I have the greatest respect and have enjoyed working with the chairman of the subcommittee for the 14 years I have been privileged to serve on the Committee on Energy and Commerce, and I have enjoyed working with the gentleman from Ohio, and as much as I respect him, I think on this issue that they are wrong, that the gentleman from Texas [Mr. FIELDS] and the gentleman from New Mexico [Mr. RICHARDSON] have the better argument.

□ 1840

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

Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Richardson-Fields amendment.

Mr. Chairman, first, I would like to note that I believe both H.R. 4683 and the Richardson-Fields approach represent responsible compromises and that I would vote for either approach upon final passage.

I have discussed these approaches with community leaders in my district. At this time and based on these discussions, however, I prefer the approach in H.R. 4683.

The approach in H.R. 4683, in effect, grandfathers flow control systems and, thus, allows for redesignation. The Richardson-Fields substitute authorizes flow control for only the initial facility, which may make it difficult for communities to provide for integrated waste management that may include transfer facilities, and different types of disposal facilities that may change over time.

I also do not believe that H.R. 4683 is a blank check to local governments. H.R. 4683 only allows for flow control of commercial waste under reasonable indicia of a commitment to designate a facility within a specified period of time. Moreover, the bill contains a competitive designation process that ensues some competition for operating the facility. Flow control in such situations, in effect, allows a community to bargain for the most cost-effective and environmentally sound waste management system for the whole community and assured financial stability for that system. This is a traditional function of local government.

I am not saying that flow control is the best option in any given community. I do, however, believe that legislation should not limit existing operations or facilities late in the planning process. I am more confident that H.R. 4683 will not disrupt these local communities, than I am with the Richardson-Fields substitute.

Accordingly, I ask my colleagues to vote against the Richardson-Fields amendment.

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

Mr. Chairman, I had brilliant remarks in opposition to the amendment offered by the gentleman from New Mexico, but in an act of heroic restraint, I will not give them at this time.

While I recognize that the gentleman from New Mexico has made a number of improvements to his amendment, and commend him for making these changes, I cannot support it for the following reasons:

First, the amendment contains only a narrow grandfather, limited to facilities. To me, this does not adequately address the issue of the integrated waste management systems which we have been urging States and local governments to adopt.

Second, the grandfathered flow control authority sunsets at the end of the life of contracts for delivery of waste to the facility, or the completion of the schedule of repayments for the facility, whichever is longer.

This sunset ensures that, while the local government will probably be able to pay off its financial commitment regarding the facility, it will never be able to use the facility to generate revenue. In effect, the use of the facility beyond the sunset date will be taken away.

Third, while the amendment makes some provision for local governments that need to redesignate facilities to account for a facility's closing, the grant of authority to make such redesignations is too restrictive.

Fourth, the same is true of the amendment's language regarding facilities in the pipeline, but not up and running, as of the date of the Carbone decision.

The Richardson amendment calls for an end to flow control in the near future. Before we take that step, we should consider a few factors:

Local governments have traditionally had the responsibility for waste management. They need to have the full range of available tools in order to best fulfill this responsibility.

Flow control is a useful solid waste management tool, especially for local governments that wish to develop integrated waste management systems.

Perhaps the alternative to providing local governments with the waste management tools they need is to take the responsibility for waste management from them and give it to another entity, such as the Federal Government.

Another option would be to regulate the waste disposal industry as a public utility.

The private sector will not always provide every service a community desires, especially when some of these services are not profitable. Examples of such services are household hazardous waste and scrap tire collection.

Local governments can use flow control to subsidize these unprofitable, but desirable, services.

The private sector is often the beneficiary of flow control—it provides them with long-term waste supplies at a guaranteed price. Besides, several of the larger members of the industry do not seem to be unduly suffering under the current system.

The escalating construction and operation costs for waste management facilities such as landfills, and the increasing reliance on regional facilities, automatically lead to more private sector involvement—it seems unlikely to me that many local governments will be building large subtitle D landfills in the coming years. They might wish, however, to contract with a private landfill operator, in which case they will probably need to guarantee a reliable waste stream for that privately owned or operated facility. Flow control is an excellent way to do this.

Mr. GRAMS. Mr. Chairman, as an original cosponsor of the Richardson-Fields flow control grandfather legislation, I rise in strong support of the Richardson-Fields amendment. Minnesota—like 28 other States—is a flow control State. When the U.S. Supreme Court ruled State flow control laws unconstitutional, local governments in my State were thrown into turmoil.

In my home State, county officials developed an integrated waste management system premised upon waste flow control laws. They build incinerators or composting facilities with a mandate for a steady stream of waste to finance them. Yet, as a result of the Carbone decision, these county commissioners have been faced with the unsavory options of having to cut vital programs or raising residential taxes.

Over the past 2 years, I have worked closely with Minnesota officials and representatives from the various parties interested in the flow control debate. I've worked hard to identify a compromise to address the arguments being made on all sides of this issue.

That compromise is embodied in the Richardson-Fields amendment. This language protects existing investments made under flow control before it was struck down, but does not expand the practice to the remainder of the country. It is a pure grandfather—affecting only those facilities teetering out on a limb—and sunsetting when the facility debt is paid off or a flow control contract expires.

Richardson-Fields fixes only what is broken, and does not interfere with the free-market in situations where flow control did not exist. That is why Richardson-Fields has gained the broadest base of support, including environmental groups, business groups, taxpayer, and consumer groups.

The Richardson-Fields amendment is the true compromise here today. I urge my colleagues to adopt the Richardson-Fields amendment as a solution for those governments which are in a bind as a result of the Carbone decision, and as a means of averting efforts to expand flow control.

Mr. ACKERMAN. Mr. Chairman, I rise today to speak on an issue that has affected municipalities in my district and districts all over the country, flow control of municipal waste.

Ever since a recent U.S. Supreme Court decision struck down local laws that control the flow and disposal of trash, municipalities, large and small, have been in conflict in an effort to best serve the needs of their taxpayers.

In my district, flow control was locally enacted several years ago, in order to ensure that incinerators owned and operated by the town governments received a constant and steady supply of garbage. The Supreme Court, however, has ruled that State and local governments cannot use their regulatory power to favor their own incinerators.

These incinerators were built by the towns in order to dispose of the waste created there, when the town governments felt they were under an obligation to do so. Smaller municipalities now wish to find more cost effective places to dispose of their waste, to benefit their taxpayers. If the town incinerators go unused, however, it is these same taxpaying citizens who are the real losers.

For these reasons, I rise in support of H.R. 4683, the Municipal Solid Waste Flow Control Act of 1994. This legislation would grandfather existing flow control contracts, which provide authority to local governments to designate facilities where municipal solid waste must be disposed of. Additionally, it would allow States and local governments to exercise flow control authority for either household waste or recyclable materials if it: First, establishes a program providing for separation or recyclable materials from other waste, for recycling, reclamation and reuse; and second, makes a finding, on the basis of one or more public hearings, that the use of flow control is necessary to meet current or anticipated solid waste management needs.

I urge my colleagues to support this bill.

Mr. TOWNS. Mr. Chairman, I rise in support of the flow control substitute offered by the gentleman from New Mexico.

Despite the attention given to many environmental issues, flow control is relatively esoteric and commands few headlines. Yet it could effect the pocketbooks of ratepayers and businesses throughout the United States.

We are voting today to decide what local governments can do to determine where people must send their trash. For most, this is not much of a constraint, residents put their trash at curbside and are happy to be rid of it. For businesses, commercial and industrial, waste disposal is more complicated, and certainly the cost of waste disposal is an important concern to a business' viability.

With flow control, many local governments will be able to plan knowing that they can capture all the ordinary garbage, residential and commercial, that is generated. The effect of this may not be so sanguine. Many governments have overbuilt for disposal, and need flow control precisely because their facilities are much more expensive than other options.

In particular, flow control supports incinerators, which are often more expensive than alternatives. I have been urging my own city, New York, to invest as much in recycling as they have in new incinerators. Ironically, recycling capacity could easily dwarf the capacity of the pending incinerator proposals, and it does not lock the city into an expensive technology for 20 years.

I am glad to see that flow control can also be used to support recycling programs, but I am not convinced that flow control is necessary to make recycling work. Most residents will surrender their trash happily. Many businesses will seek a part in recycling because that is seen as "the right thing to do." But flow control casts too broad a net, and supports foolish decisions as well as wise ones.

I am especially troubled by how this might affect businesses under Superfund. A local government would have the authority to tell a business where to send its trash. But if that site is not as well-managed or as well-designed as hoped, it could become, or contribute to, a superfund site. Businesses could have superfund liability where they had no choice. I support making the polluter pay, but this does not strike me as fair.

It is not that I do not acknowledge the merits to some of the arguments the other side will make. People hold local governments responsible for handling trash, and Congress has certainly encouraged planning at local and State levels. But we do not need the broad flow control in the current bill.

We do need to do something limited in this area to protect a few communities who have already issued bonds and built facilities under the assumption that they could use flow control, but we do not need to encourage this inefficient behavior.

I support the much more limited option in the amendment of my good friend from New Mexico. I urge my colleagues to support this substitute.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment in the nature of a substitute offered by the gentleman from New Mexico [Mr. RICHARDSON].

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

RECORDED VOTE

Mr. RICHARDSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 244, not voting 34, as follows:

[Roll No. 452]

AYES—161

Allard
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Becerra
Beilenson
Bentley
Bereuter
Berman
Bliley
Blute
Boehner
Bonilla
Boucher
Bryant
Bunning
Byrne
Callahan
Camp
Canady
Chapman
Conyers
Coppersmith
Cox
Cramer
Crane
Crapo
Cunningham
de la Garza
de Lugo (VI)
DeLay
Doolittle
Dreier
Duncan
Dunn
Edwards (TX)
English
Eshoo
Ewing
Fields (TX)
Filner
Fowler
Frost
Furse
Gallegly
Geren
Gilchrest
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Grams
Grandy
Green
Gunderson
Hall (TX)
Hancock
Harman
Hastert
Hefley
Hoekstra
Huffington
Hunter
Hutchinson
Hyde
Inglis
Jefferson
Johnson, E. B.
Johnson, Sam
Kennedy
Kim
Kingston
Klink
Klug
Kolbe
Kopetski
Kyl
LaFalce
Leach
Lewis (GA)
Lightfoot
Linder
Livingston
Machtley
Maloney
Mann
Manton
Manzullo
Martinez
McCollum
McHale
McInnis
Mfume
Michel
Mineta
Moorhead
Morella
Nadler
Norton (DC)
Nussle
Obey
Ortiz
Parker
Pastor
Payne (VA)
Pelosi
Pickle
Pombo
Porter
Poshard
Pryce (OH)
Quinn
Rahall
Reed
Richardson
Roberts
Rohrabacher
Romero-Barcelo (PR)
Roth
Roybal-Allard
Royce
Sanders
Sarpalius
Schaefer
Schiff
Scott
Serrano
Shepherd
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stenholm
Stump
Swett
Talent
Tanner
Tejeda
Thomas (WY)
Torkildsen
Torres
Towns
Upton
Velazquez
Vucanovich
Waters
Watt
Waxman
Wilson
Young (AK)
Zeliff

NOES—244

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Baesler
Baker (LA)
Ballenger
Barlow
Barrett (WI)
Bateman
Beyill
Bilbray
Bilirakis
Bishop
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Burton
Buyer
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coyne
Danner
Darden
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dornan
Durbin
Edwards (CA)
Ehlers
Emerson
Evans
Everett
Farr
Fawell
Fazio
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Hastings
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hughes
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klein
Knollenberg
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lipinski
Long
Lowey
Lucas
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCandless
McCloskey
McDermott
McHugh
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Murphy
Myers
Neal (MA)
Neal (NC)
Oberstar
Olver
Orton
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Portman
Price (NC)
Ramstad
Rangel
Ravenel
Regula
Reynolds
Roemer
Rogers

Ros-Lehtinen	Skaggs	Traficant
Rose	Skelton	Tucker
Rostenkowski	Slaughter	Unsoeld
Roukema	Smith (IA)	Valentine
Rowland	Smith (NJ)	Vento
Rush	Snowe	Visclosky
Sabo	Spratt	Volkmer
Sangmeister	Stearns	Walker
Santorum	Strickland	Walsh
Sawyer	Studds	Weldon
Saxton	Stupak	Whitten
Schenk	Swift	Williams
Schroeder	Synar	Wise
Schumer	Tauzin	Wolf
Sensenbrenner	Taylor (MS)	Woolsey
Sharp	Taylor (NC)	Wyden
Shaw	Thomas (CA)	Wynn
Shays	Thornton	Young (FL)
Shuster	Thurman	Zimmer
Sisisky	Torricelli	

NOT VOTING—34

Andrews (NJ)	Hoyer	Quillen
Applegate	Hutto	Ridge
Calvert	Inhofe	Slattery
Clyburn	King	Stark
Engel	Laughlin	Stokes
Faleomavaega (AS)	Lloyd	Sundquist
	McCrery	Thompson
Fields (LA)	McCurdy	Underwood (GU)
Fish	McDade	Washington
Ford (MI)	McNulty	Wheat
Gallo	Murtha	Yates
Hayes	Owens	

□ 1903

The Clerk announced the following pair:

On this vote:

Mr. Calvert for, with Mr. Andrews of New Jersey against.

Mrs. MEEK of Florida and Messrs. VENTO, JACOBS, FARR of California, MILLER of California, and MYERS of Indiana changed their vote from "aye" to "no."

Mr. BOEHNER, Ms. ENGLISH of Arizona, Messrs. LEACH, JEFFERSON, and WILSON, Ms. NORTON, and Messrs. MCCOLLUM, DOOLITTLE, POMBO, and CUNNINGHAM changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of H.R. 4683, flow control legislation brought to the House floor by the Energy and Commerce Committee. This bill will ensure that States, like New Jersey, which have made flow control an important part of their solid waste management plans have the necessary authority to do so.

Unfortunately, the Supreme Court's Carbone ruling this past May, which held that local governments do not have the legal right to enact flow control ordinances absent Congressional authorization, has cast into doubt a local government's right to adopt flow control policies. Prompt passage and enactment of this legislation, prior to our final adjournment, must be a very high priority for the bipartisan leadership of the 103d Congress and President Clinton.

Earlier this week, I received a letter from the State Department of Environmental Protection's [DEP] Commissioner, Robert Shinn, outlining why New Jersey prefers H.R. 4683, as reported by the Energy and Commerce Committee, to the Richardson-Fields alternative.

Having said that, the State has made it clear to the New Jersey delegation that it would still like to see some improvements to H.R. 4683 with respect to its provision that a State's Governor affirmatively certify compliance with the so-called competitive designation provision. I hope that when the conference committee meets to craft a final version of flow control legislation that the concerns of New Jersey can be addressed. If so, I would welcome the chance to support final passage and enactment of that bill as well.

In the meantime, I urge all of my colleagues in the House join me in supporting House passage of the Energy and Commerce Committee version of H.R. 4683 this afternoon.

Mr. SWIFT. Mr. Chairman, I move to strike the last word for the purpose of informing the membership that there has been agreement on both sides that the vote we just had will be the last vote of the evening. We will seek a voice vote on final passage, or, should we be surprised, we will roll that vote until tomorrow so the membership can plan the rest of its evening.

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

Mr. Chairman, I originally planned to offer an amendment, but I will not, Mr. Chairman, because of my respect for the chairman of the subcommittee with whom I have had the privilege to work with for the last 14 years, and this may be the last vote on the last bill that he controls the time on the floor, and certainly it is one of the last.

Mr. Chairman, it has been a privilege to work with the gentleman from Washington [Mr. SWIFT]. He has always been patient and understanding, particularly when I first came in as a young man, ready to change the world, and he tried to change me, sometimes successfully, and sometimes unsuccessfully. But on this matter of flow control I think that the term "significant finance commitment" is unnecessarily broad, and I would hope that he and the ranking member, as they go to conference with the other body, will look at this with a view, possibly, to see if it might be tightened up.

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

Mr. BLILEY. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I thank the gentleman from Virginia [Mr. BLILEY] for suggesting that he was such a young man and that this old man helped him, but I would remind the gentleman that his hair was gray before mine was.

Mr. BLILEY. Mr. Chairman, that is from serving in local government. One gets that way in a hurry.

Mr. SWIFT. Of course I would be very happy to work with the gentleman from Virginia on his areas of concern to see if there is some accommodation that can be reached.

Mr. SMITH of New Jersey. Mr. Chairman, the section in the bill that Mr. BLILEY would have amended is designed to provide authority to those communities that, pursuant to State law, have made significant financial commitment to develop waste management facilities for which a designation has not yet been made. These communities have spent hundreds of thousands of dollars in reliance on the right to flow control to determine sound municipal waste management options, but they have not yet secured financing for a particular waste facility.

The Bliley amendment now withdrawn would make it exceedingly difficult for those communities to carry through on their obligations and realize their investments.

More important, the Bliley amendment would subject communities to significant lawsuits brought by the waste management industry over what is and what is not "significant substantial investment", "detrimental reliance" and "substantial loss". It would be inherently unfair to local communities to second guess what is or is not a significant financial investment.

H.R. 4683 Mr. Chairman, as reported by committee is designed in part to end litigation that has saddled and burdened local community resources. The bill is designed to enable communities to effectively and efficiently manage municipal solid management without the threat of litigation.

Municipal solid waste management is a critical role of local communities today and the communities must be provided tools to do it effectively without the threat of litigation.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). Are there further amendments to this bill?

If not, the question is on the committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROEMER) having assumed the chair, Mr. MONTGOMERY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes, pursuant to House Resolution 552, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1910

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days within which to revise and extend their remarks on the bill just passed.

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

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT TO ACCOMPANY H.R. 4299, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–766) on the resolution (H. Res. 555) waiving points of order against the conference report to accompany 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, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT TO ACCOMPANY H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–767) on the resolution (H. Res. 556) waiving points of order against the conference report to accompany the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, for certain other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 4926, NATIONAL TREATMENT IN BANKING ACT OF 1994

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 543 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 543

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4926) to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 543 is an open rule providing for the consideration of H.R. 4926, the National Treatment in Banking Act of 1994.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs.

The rule makes in order as an original bill for the purposes of amending an amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill. Each section of the substitute shall be considered as read.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4926, the bill for which the Rules Committee has recommended this rule, would require the Secretary of the Treasury to identify foreign countries that may be denying national treatment to U.S. banking organizations and to determine whether that denial is having an adverse effect on the banking organizations. Federal banking agencies would be required to take notice of any such assessment published by the Secretary when considering applications filed by foreign banks under various banking statutes.

Mr. Speaker, I urge my colleagues to support this open rule so that the House may consider this important legislation.

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

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

Mr. Speaker, I support this rule for consideration of the National Treatment in Banking Act. It is an open rule that does not waive points of order against the bill or any amendments. Nobody is gagged, and nobody is given preferential treatment.

Mr. Speaker, spotting a rule like this coming out of the Committee on Rules is an endangered species sighting of sorts. When it occurs, it is cause for a small celebration. I urge all Members to support this rule, and I hope very much that we see a resurgence of fair open rules emanating from our Committee on Rules.

I do have some concerns about the legislation. However, I believe that any legislation that can have the potential of closing our market to quality goods and services must be very closely scrutinized. The burden of proof must lie with those who want to restrict or threaten to restrict trade. Last fall, a year-long study by the Nation's three top experts on productivity, including Nobel laureate Robert Solow, found that the United States is still the world's productivity leader, outdistancing Japan and Germany by significant margins.

Mr. Speaker, the key finding of the report was that protectionist barriers hurt productivity in the country that blocks foreign competition. The more open the economy, the more productive the industries. While the competitiveness of the U.S. banks has been hindered by Depression-era banking laws and regulations, in general the United States has the fewest trade barriers, resulting in the United States remaining most productive. The report recommends reducing trade barriers.

The message is clear, despite how much we detest unfair treatment in other countries, protectionism abroad hurts the other country more than it hurts us. At the same time, closing our market, even in the name of increasing exports at some future date, hurts us. Therefore, while we work, even struggle to open foreign markets to highly competitive American industries such as our banking institutions, resorting to protecting our market in retaliation would in practice shoot ourselves in the foot.

Therefore, despite the very good intentions of the authors and supporters of the bill, I do not believe it is in our national interests to threaten to close our market or abandon national treatment in banking. However, I recognize the desire to provide a stick to our trade negotiators as they painstakingly work to gain national treatment agreements for financial services.

In order to better focus the legislation on the trade negotiation leverage,

rather than on the potential for self-destructive regulatory protectionism, I will be using the open amendment process to offer two amendments.

One amendment will clarify that the review process undertaken by the Treasury Department is not intended to implicate treatment by countries with which the United States has negotiated trade agreements pertaining to banking, such as those in the North American Free-Trade Agreement. I believe that this will be a noncontroversial amendment.

My second amendment recognizes the fact that the administration does not have fast-track negotiating authority for financial services agreements. The administration has asked for that authority and they have repeatedly claimed that it is critical to concluding successful negotiations. I believe that without fast track, this bill creates a stick to punish offending countries without the authority to achieve the carrot of market opening agreements.

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Therefore, the amendment would defer the actions of the Treasury Department until fast track is granted to the administration.

In the meantime, Mr. Speaker, I strongly support this rule and urge adoption of it and look forward to working with my colleagues on this legislation.

Mr. Speaker, I include for the RECORD the following:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.—Continued

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	99	31	31	68	69

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

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

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

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 28, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

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

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	

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

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

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentlewoman for yielding time to me. I thank the Committee on Rules for giving us this open rule, which was requested by the chairman of the Committee on Banking, Finance and Urban Affairs. An earlier version of this legislation got bogged down because there were jurisdictional problems involving the Committee on Energy and Commerce and the Committee on Ways and Means.

This bill has been redrafted so that it impinges on the jurisdiction of no other committee. I share the sentiments of the gentleman from California that our goal ought to be to open markets. We regard this as a market opener. And as the gentleman said, he has two amendments. I would just say, of his amendments, one is better than the other. And we will get into the specifics tomorrow. But we believe that the result of this will be that more markets will be opened.

America now has very open markets in the banking area. Others are not. All we are saying is, and we are not going to disrupt any existing relationships, everybody is grandparented. If one is a foreign bank and one is applying to the Federal Reserve or the Office of the Controller of the Currency or the FDIC, to any American banking regulator, if the Secretary of the Treasury has reported that their host country denies access to American banks, the regulator must take that into account. It does not even mandate that the regulator must say no. But it does give our regulators a tool which we think will result in greater opening. That is the purpose of it.

When we discussed this earlier, some of the financial institutions were worried that they might get caught up in cross-sectoral problems, that a problem in the securities industry might interfere with banking and vice versa.

This bill is drafted so that no cross-sectoral problems can arise. it deals only with banking. Because the Committee on Rules did not waive points of order, at our request, any amendment that tried to involve securities would be out of order.

I would intend to make that point of order. I am sure others would. So I can reassure Members that none of the cross-sectoral problems will come up. No committee jurisdiction problems will come up. It is our judgment that this is a useful tool to give our regulators in terms of trying to open markets.

We will discuss it more tomorrow, but that is the essentials of the bill.

I thank both the majority and minority Members of the Committee on Rules for this open rule.

Mr. DREIER. Mr. Speaker, I have no requests for time, and I am very enthused about the project of an open rule on legislation which is designed to break down barriers and expand export opportunities for goods and financial services.

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

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

BEGINNING FARMER TECHNICAL CORRECTIONS ACT OF 1994

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill, (H.R. 5065) to amend the Consolidated Farm and Rural Development Act to make technical corrections to certain provisions relating to beginning farmers and ranchers, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROEMER). Is there objection to the request of the gentleman from South Dakota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from South Dakota [Mr. JOHNSON] for an explanation of the bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, this legislation was introduced by the gentleman from Minnesota [Mr. PENNY] who also introduced the original beginning farmer legislation.

H.R. 5065 makes certain technical changes in the operation of the Beginning Farmer loan program administered by USDA's Farmers Home Administration.

The bill was approved by voice vote of the Committee on Agriculture on Wednesday. I urge the House to support its passage.

Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 5065

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 "Beginning Farmer Technical Corrections Act of 1994".

SEC. 2. LAND OWNERSHIP LIMITATION MADE INAPPLICABLE TO OPERATING LOANS.

Section 343(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)) is amended by adding after and below the end the following:

"As used in subtitle B, the term 'qualified beginning farmer or rancher' shall have the meaning given in the preceding sentence without regard to subparagraph (F).".

SEC. 3. GRADUATION OF BORROWERS WITHOUT REGARD TO YOUTH LOANS.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by adding at the end the following:

"(c) DISREGARD OF LOANS MADE TO YOUTHS.—As used in this section, the term 'loan' does not include any loan made under section 312(b).".

SEC. 4. LOAN HISTORY AND GUARANTEE HISTORY CONSIDERED SEPARATELY IN APPLYING THE TRANSITION RULE FOR GRADUATION OF BORROWERS.

Section 319(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949(b)(2)) is amended by striking all that follows the 4th comma and inserting "the Secretary shall not make a loan to the borrower under this subtitle after the 5th year occurring after the date of enactment for which a loan is made under this subtitle to the borrower, nor shall the Secretary provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle after the 5th year occurring after the date of enactment for which such a guarantee is provided with respect to the borrower.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JOHNSON of South Dakota: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beginning Farmer Technical Corrections Act of 1994".

SEC. 2. LAND OWNERSHIP LIMITATION MADE INAPPLICABLE TO OPERATING LOANS.

Section 343(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)) is amended by adding after and below the end the following:

"As used in subtitle B, the term 'qualified beginning farmer or rancher' shall have the meaning given in the preceding sentence without regard to subparagraph (F).".

SEC. 3. GRADUATION OF BORROWERS WITHOUT REGARD TO YOUTH LOANS.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by adding at the end the following:

"(e) DISREGARD OF LOANS MADE TO YOUTHS.—As used in this section, the term 'loan' does not include any loan made under section 311(b).".

SEC. 4. DIRECT LOAN HISTORY AND GUARANTEE HISTORY TO BE CONSIDERED SEPARATELY IN APPLYING THE TRANSITION RULE FOR GRADUATION OF BORROWERS.

Section 319(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949(b)(2)) is amended to read as follows:

"(2) TRANSITION RULES.—

"(A) CONSIDERATION OF DIRECT LOAN HISTORY.—If, as of October 28, 1992, the Secretary has, for 5 or more years, made a loan to a borrower under this subtitle, then, after the 5th year (occurring after October 28, 1992) for which a loan has been made to the borrower under this subtitle, the Secretary shall not make a loan to the borrower under this subtitle.

"(B) CONSIDERATION OF GUARANTEE HISTORY.—If, as of October 28, 1992, the Secretary has, for 10 or more years, provided a guarantee under this subtitle with respect to a loan made to a borrower, then, after the 5th year (occurring after October 28, 1992) for which a guarantee has been provided under this subtitle with respect to a loan made to the borrower, the Secretary shall not provide a guarantee under this subtitle with respect to a loan made to the borrower.".

Mr. JOHNSON of South Dakota (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

FARM CREDIT SYSTEM AGRICULTURAL EXPORT AND RISK MANAGEMENT ACT

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 4379) to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

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

Mr. ALLARD. Mr. Speaker, reserving the right to object, I will not object. I yield to the gentleman from South Dakota [Mr. JOHNSON] to explain the bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, H.R. 4379, the Farm Credit System Agricultural Export and Risk Management Act would expand the authority of Farm Credit System's banks for cooperatives to finance exports of agricultural products. It allows the banks for cooperatives to participate in financing arrangements with other domestic or foreign businesses to promote the export of U.S. agricultural commodities. The bill specifically prohibits any of these institutions from financing the relocation of a plant or facility from the United States to another country.

The bill also allows Farm Credit System banks and associations to better manage the risk in their loan portfolios.

The bill was considered and approved by voice vote of the Committee on Agriculture on Wednesday of this week. The bill is designed to help American agriculture expand exports. I urge the bill's passage.

Mr. DE LA GARZA. Mr. Speaker, yesterday (Wednesday, September 28) the House Agriculture Committee considered and approved by voice vote the bill H.R. 4379, the Farm Credit System Agricultural Export and Risk Management Act. This legislation has two basic objectives.

First, the bill expands the authority of Farm Credit System's banks for cooperatives to finance exports of agricultural products. The bill allows the banks for cooperatives to participate in financing arrangements with other domestic or foreign businesses to promote the export of U.S. agricultural commodities.

The bill also allows the banks for cooperatives to finance joint ventures, partnerships and similar arrangements by eligible U.S. agricultural cooperatives, with certain limitations. To safeguard American jobs, the bill prohibits any of these institutions from financing the relocation of a plant or facility from the United States to another country.

Second, the bill allows Farm Credit System banks and associations to better manage the risk in their loan portfolios. The bill authorizes Farm Credit System institutions to purchase and sell loan participations with non-System lenders, thus reducing their concentration of risk by geography and industry.

Mr. Speaker, the bill was introduced by myself and Mr. ROBERTS, the ranking minority member of the Committee on Agriculture and several other Members from both sides of the aisle.

The bill has been the subject of a public hearing and was also included in our committee's proposals for inclusion in the Uruguay round implementation bill. This provision was not included in the final implementation bill and so we bring it to the House floor today so it can be considered as a separate measure.

Mr. Speaker, the committee has not had an opportunity to complete its report to accompany H.R. 4379. I do, however, want to submit and have printed in the CONGRESSIONAL RECORD at this point in the debate official correspondence and a technical analysis of the legislation received from the Farm Credit Administration, the Federal agency that regulates and examines the Farm Credit System institutions. The correspondence and technical analysis follows:

FARM CREDIT ADMINISTRATION,
McLean, VA, August 17, 1994.

Hon. E. (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to provide comment on H.R. 4379, the "Farm Credit System Agricultural Export and Risk Management Act," as modified by the House Committee on Agriculture's recommended changes to the discussion draft of legislation to implement the Uruguay Round Agreements.

The Farm Credit Administration (FCA) neither supports nor opposes the expanded authorities that would be granted to System institutions by H.R. 4379. Rather, as the agency that regulates and examines the System, we are providing an analysis of the effect of the amendments.

In addition to the technical analysis of the impact of the proposed legislation on existing authorities earlier provided to Committee staff, the FCA has evaluated the effect of each of the expanded authorities on the safety and soundness risks facing the System. (See attached addendum.) In general, we concluded that certain types of credit risk—underwriting, credit monitoring, currency risk, and political risk—may be increased, but that other risks such as concentration risk and sensitivity to changes in governmental farm and water policies are potentially decreased by the greater opportunities for diversification and the development of a broader business base. Management risk that comes from entering new lines of business may be increased, but this will depend on the extent to which the authorities are used to finance unfamiliar businesses and unfamiliar types of borrowers. In the international arena, the potential for a greater volume of unguaranteed and uninsured lending will require particular attention because of increased currency and political risk.

Although the expanded authorities granted by H.R. 4379 may require both the System and the FCA to develop additional expertise, the FCA regards the risks resulting from the expanded authorities as manageable. From a safety and soundness viewpoint, such risks, if prudently managed, may be more than offset by the opportunity for greater diversification. We would, of course, continue close regulatory oversight if System institutions were to expand into new lines of business.

More diverse and sophisticated lending could require the FCA to incur additional expense to acquire needed expertise and examination capability. However, it is not possible to provide the cost estimate you requested until we know how the expanded authority will be used. There is a significant potential, especially for banks for cooperatives, to finance new types of businesses and new types of borrowers, perhaps involving more sophisticated transactions. However, because the proposed legislation expands eligibility by relaxing restrictions on loan purpose and eligibility of existing classes of borrowers, rather than by authorizing new types of loans, it is difficult to predict what additional expertise, if any, will be needed or to quantify the additional resources that will be required. We see no immediate need to increase the FCA staff. Rather, we expect that any additional costs as may be incurred would be in response to demonstrated need and incremental in nature.

On a final note, the expansion of international lending authority for banks for cooperatives in H.R. 4379 may bring an increase in the volume of uninsured, nonguaranteed international lending, some of which may be to countries of the former Soviet Union and emerging democracies. While such loans now are statutorily required to be 95 percent Federally guaranteed, current guarantee restrictions would be superseded under H.R. 4379. Thus, the National Bank for Cooperatives (CoBank) would be able to lend, on a nonguaranteed basis, up to 35 percent of its capital ($336 million), and in certain circumstances, up to 50 percent of its capital, to an emerging democracy. Section 3.28 of the Act constrains the FCA's flexibility to respond to such an increased risk involving a single large CoBank credit.

We thank you for the opportunity to comment and stand ready to offer whatever further assistance you may require as you consider this legislation.

Sincerely,

DOROTHY L. NICHOLS
(For Billy Ross Brown, Chairman).

ANALYSIS OF IMPACT OF H.R. 4379[1] ON RISKS FACING THE FARM CREDIT SYSTEM

Expansion of international lending authorities. The expansion of international lending authorities for banks for cooperatives (BCs) would increase credit risk by increasing the potential for uninsured, nonguaranteed lending to noncooperative parties. Although BCs are currently engaged in international lending, most BC loans are guaranteed by the United States Government or agencies thereof. Loans to constituent entities of the former Soviet Union and emerging democracies (FSUs) are statutorily required to be Federally guaranteed in an amount equal to 95 percent of the loan amount. In addition, FCA regulations currently require all loans financing foreign trade receivables to be guaranteed or insured to the extent such insurance or guarantees are available, except for borrowers with high credit ratings and borrowers who have longstanding successful business relationships with the BC.

The expanded international authority of H.R. 4379 is of two types: (a) authority to lend to any exporter, domestic or foreign (whether or not a cooperative), who gives priority to cooperatively sourced products or services, where reasonably available; and (b) authority to lend to any entity, domestic or foreign, (whether or not a cooperative) in which an eligible cooperative has an ownership interest of any size for any purpose that facilitates the domestic or foreign operations of the eligible cooperative. Under the first of these authorities, loans that do not finance cooperatively sourced products and services and are not 95 percent federally insured or guaranteed are limited to 50 percent of the BC's capital, but there is no such limitation on uninsured loans financing cooperatively sourced goods or on lending to entities in which an eligible cooperative has an ownership interest. Since borrower stock is not required on international loans, capital will act as a constraint on the volume of such loans.

Because these authorities supersede current FSU authority, there would no longer be a statutory requirement that loans to FSU countries be insured or guaranteed. Although FCA regulations require that loans financing forcing trade receivables be insured or guaranteed if such insurance is available, there is no requirement, statutory or regulatory, for insurance or guarantees if the volume of international lending activity should increase beyond the supply of available insurance and guarantees. This would mean an increase in the volume of uninsured, nonguaranteed international lending, some of which may be to FSU countries.

In addition, the class of eligible entities and the types of businesses a BC is authorized to finance is significantly expanded by the elimination of the current requirements that an exporter be party to a transaction with an eligible cooperative and that the financing substantially benefit an eligible cooperative, as well as by the broadening of the permissible purposes for which a loan may be made to an entity owned by an eligible cooperative. Such expanded authority potentially increases underwriting and credit monitoring risk and the risk that the institution's expertise may not be adequate to exercise the authority prudently. However, it permits greater diversification and potentially decreases sensitivity to changes in governmental farm and water policies, which decreases the concentration risk of leading to a single industry.

Expansion of BC domestic lending authority. With respect to domestic lending authority, the relaxation of eligibility requirements for entities owned by eligible cooperatives and utilities eligible for assistance from the Rural Electrification Administration (REA) and Rural Telephone Bank (RTB)(REA- and RTB-eligibles) effects a similar expansion of the class of eligible entities and the types of businesses a BC is authorized to finance under its domestic lending authority. Currently, BCs may lend to any entity that is more than 50 percent owned by eligible cooperatives and/or REA- or RTB-eligibles. The proposed expansion of domestic authority would permit lending to any entity in which an eligible cooperative or REA- or RTB-eligible has an ownership interest for any purpose that facilitates its domestic operation, but if the entity is less than 50 percent owned by eligible entities, the amount of the financing is limited to the percentage ownership of the borrower by eligible entities. Since there is no minimum ownership requirement and the loans are not restricted to agricultural purposes, there is a potential for the risks of lending to unfamiliar businesses and unfamiliar borrowers to increase. Once again, however, there is a potential decrease in concentration risk resulting from the opportunity for greater diversification.

Expansion of BC participation authorities. In 1992, Congress granted BCs authority to purchase participation interests in loans made by other lenders to entities that are ineligible for BC financing, but engaged in operations functionally similar to eligible entities. H.R. 4379 would add a definition of "participation" for the purpose of the "similar entity" participation authority. The proposed definition is more expansive than the current regulatory definition of "participation" in that it permits risk-sharing on a basis other than pro rata. In addition, it appears to expand the "similar entity" participation authority to include participations in technical and financial assistance. This expanded definition of "participation" potentially increases credit risk, in that it permits the purchase of subordinated portions of loans. It increases management risk, in that the increased flexibility as to the types of agreements that are permitted is likely to result in more varied, complex and sophisticated agreements, increasing the risk that an institution may enter into complex arrangements without sufficient expertise to protect its interests. However, the expanded definition of "participation" also allows institutions to decrease credit risk by purchasing senior interests in loans and by purchasing interests in loan syndications, which better protect the institution from the insolvency of the lead lender. Here too, concentration risk may be decreased because

greater flexibility as to the types of agreements may result in fuller and more effective use of participations to achieve diversification.

Expanded FCB participation authorities. H.R. 4379 would authorize FCBs and direct lender associations to purchase participations in loans that are made by nonSystem lenders to entities not currently eligible under the Act but whose operations are functionally similar to entities that are. This expansion would provide authority similar to that granted to the BCs in 1991. Since there are no statutory restrictions on the types of entities to which FCBs and associations can lend, as there are for BCs, the effect of the authority is to override such restrictions on eligibility such as the statutory restrictions on processing and regulatory restrictions on foreign ownership of farming corporations. However, such participations are limited to the types of loans the FCBs and associations are authorized to make. Therefore, although there is some opportunity for added diversification from the use of this authority, it is not as likely to involve financing new and unfamiliar businesses as the existing BC authority, because FCBs and associations are subject to more loan purpose restrictions than BCs. For this reason, this authority may not have the same potential for diversification as the corresponding BC authority. The primary benefit may be in facilitating ongoing participation relationships with nonSystem lenders that will permit the sale of participation interests as well.

Credit risk may be increased to the extent an institution relies on the credit judgment of others or purchases interests in loans too remote to monitor effectively, but these risks are present under existing participation authorities and are addressed in FCA regulations. The more expansive definition of "participation," on the other hand, presents new risks in that it permits institutions to share risk on a basis other than pro rata. This would permit the purchase of subordinated pieces of loans as well as the senior pieces and transactions of increased variety, complexity and sophistication. The greater flexibility permitted under this expanded definition increases the management risk that an institution may lack sufficient expertise to adequately protect its interests in complex and sophisticated transactions.

On balance, the risks inherent in the exercise of the expanded participation authority are risks that can be managed by prudent underwriting, expert legal counsel, and effective regulatory oversight.

In sum, the greatest risk posed by the broader lending authority of H.R. 4379 is that institutions may make or participate in loans financing unfamiliar businesses and borrowers without adequate expertise or without adequate capacity to monitor. In addition, the potential for greater volume of unguaranteed and uninsured international lending increases currency and political risk. However, from a safety and soundness standpoint, these risks, if prudently managed, may be more than offset by the opportunity for greater diversification.

TECHNICAL ANALYSIS OF H.R. 4379

(As modified by the En Bloc Proposal Containing Recommended Changes to the Discussion Draft of Legislation to Implement the Uruguay Round Agreements offered by Chairman de la Garza and Mr. Roberts)

Section 3. Participation defined.

This section adds a definition of "participation" to the authority previously granted to banks for cooperatives (BCs) by section 3.1(11)(B) of the Farm Credit Act of 1971 (Act) to purchase participations in loans made to "similar entities" by non-System lending institutions. This definition does not require an undivided fractional interest in the principal amount of the loan (as FCA regulations do) and hence does not require pro rata risk sharing. Although this definition allows participation in loan syndications, which may better protect the participating institution from the insolvency of the lead lender, the effect of this change is also to allow the purchase of riskier investments, such as the subordinated pieces of loans, and the purchase of less risky investments, such as the senior pieces of loans. Also, although the authority granted by section 3.1(11)(B) is restricted to loans, the definition of participation includes other extensions of credit and other technical and financial assistance. In addition, the phrase "other forms of the purchase, sale, or transfer of interests in loans" would appear to allow the purchase of interests in loans other than principal amount, such as servicing rights.

Section 4. Agricultural Export Financing.

Section 4 of H.R. 4379 amends section 3.7(b)(1) of the Act as follows:

(1) Section 3.7(b)(1) would be amended by deleting all existing international authorities except authority to lend to noncooperative counterparties to import transactions with BC voting stockholders. The deleted authorities would be expanded by the amendment to (b)(2) of the Act, as described below. The remaining authority to finance counterparties to import transactions of voting stockholders is unchanged. The borrower must be a party to a transaction with a voting stockholder of a BC and the financing must substantially benefit the voting stockholder.

(2) Section 3.7(b)(2) would be amended to expand existing export lending authority and authority to lend to third parties in which eligible cooperatives have an ownership interest to facilitate import and export activities, as well as to expand domestic eligibility. Although the stated purpose of this amendment is to provide more flexibility to fund joint ventures, the authority is not limited to joint ventures. This expansion supersedes the narrower authority to lend to constituent entities of the former Soviet Union and emerging democracies (FSU authority), which sunsets in 1995.

Export lending authority. Currently, BCs can lend to non-cooperative parties with respect to import or export transactions with eligible cooperatives that are voting stockholders of the BC, provided the voting stockholder substantially benefits from the financing. This authority would be expanded by deleting the requirement that the borrower have a transaction with a voting stockholder of the BC and the requirement that the financing provide a substantial benefit to such stockholder. As long as there is compliance with BC policies designed to ensure that priority is given to products or services originally sourced from an eligible cooperative (as defined in 3.8(a)), where reasonably available, the borrower need not be a cooperative or actually export cooperatively sourced products, and the financing need not benefit any cooperative. However, the bill would limit the total volume of loans financing exports not originally sourced from eligible cooperatives and not insured by an agency, bureau, board, commission or establishment of the United States or a corporation wholly owned directly or indirectly by the United States in an amount equal to 95 percent of the loan amount. The uninsured amounts of such loans would be limited to 50 percent of the BC's capital. The total amount of uninsured loans financing the export of non-cooperatively sourced products and services in excess of 50 percent of the BC's capital would be required to be sold outside the Farm Credit System.

Other international lending authority. Currently, BCs are authorized to lend to domestic or foreign parties in which cooperatives have the minimum ownership interest approved by the FCA for the purpose of facilitating the export or import operations of a voting stockholder of the BC, provided the voting stockholder substantially benefits from the financing. This authority would be expanded by deleting the requirements that the borrower have a transaction with a voting stockholder of the BC and that the financing provide a substantial benefit to such stockholder. In addition, the requirement for the FCA to specify the qualifying minimum ownership is eliminated, and the permissible loan purpose is expanded from facilitating import or export transactions to facilitating the domestic or foreign operations of the eligible cooperative. In addition, the BCs would be permitted under this authority to lend to third parties, domestic or foreign, in which a person who has obtained credit from or been certified as eligible to obtain credit from the Rural Electrification Administration (REA) or the Rural Telephone Bank (RTB) (REA- or RTB-eligible) has an ownership interest, but only for the purpose of facilitating the domestic operations of the REA- or RTB-eligible.

If entities eligible for this authority—eligible cooperatives as defined in 3.8(a) and REA- and RTB-eligibles—own more than 50 percent of the borrowing entity, there is no limitation on the amount of the financing. However, if entities eligible for this authority own less than 50 percent of the borrowing entity, the amount of the financing is limited to the percentage of ownership by eligible entities. (This codifies the FCA's regulatory requirement for international lending and substitutes it for the existing domestic eligibility requirement for more than 50 percent cooperative ownership, as discussed below under domestic eligibility.)

Effect on FSU authority. Although proposed amendment of 3.7(b)(2) would delete the specific authority to lend to constituent entities of the former Soviet Union and emerging democracies (FSU authority), the authority that would be granted by the amendment is broad enough to accommodate such lending. This change has the effect of extending FSU authority beyond its current sunset date of 1995 and eliminating the requirement that FSU loans be 95% guaranteed. Note that in the proposed legislation the limitation on the amount of uninsured loans applies to the authority granted under 3.7(b)(2)(A)(i) but not to the authority granted by 3.7(b)(2)(A)(ii). However, many, if not most, loans to FSU countries may be made under (A)(i). Although the limitation on non-cooperatively sourced uninsured export loans would provide an incentive to insure such loans and limit the risk of such loans, there is no statutory requirement for insurance for export loans that are cooperatively sourced, even if the borrower is an FSU country.

FCA regulations currently require institutions engaging in the financing of foreign trade receivables to avail themselves of such guarantee and insurance plans as are available in the United States and other countries, such as the Foreign Credit Insurance Association and the Export-Import Bank of

the United States, except where a prospective borrower has had a longstanding, successful business relationship with the eligible cooperative borrower or has a high credit rating. See 12 CFR 614.4700. However, should the availability of such plans be limited, there would be no requirement, statutory or regulatory, for such guarantees or insurance, even for FSU countries. The statutory limitation on the (A)(ii) authority would be the only statutory or regulatory protection, even for FSU countries, and it only applies to loans financing noncooperatively sourced goods.

Effect on domestic lending authority. This provision also expands domestic eligibility by authorizing lending to any domestic or foreign party in which an eligible cooperative, as defined in section 3.8(a), has an ownership interest of any size for any purpose that benefits the domestic or international operations of the cooperative. This change accounts for the need for the conforming amendment to section 3.8(b)(1)(B) (made by Section 5 of the bill) to delete the more-than-50-percent-ownership requirement and the requirement that the combined entities meet the other eligibility requirements. In lieu of the restriction on ownership, the amendment limits the amount of the financing to the percentage of cooperative ownership in cases where the entity is not at least 50 percent owned by eligible cooperatives. If the cooperative ownership is 50 percent or more, there is no restriction on the amount of the financing.

New Limitation. The authorities granted by 3.7(b)(2)(A)(i) and (ii) may not be used to finance the relocation of a plant or facility from the United States to another country—a new limitation.

Effect on Similar Entity Authority. Because of the absence of loan purpose restrictions in Title III of the Act, the restriction on the types of loans a BC can make are primarily in the form of the eligibility requirements of its borrowers. Hence, the expansion of BC eligibility expands the type of loans a BC can make. As the class of eligible BC borrowers expands, the businesses in which they may be engaged is also likely to be more varied. To qualify for the BC similar entity participation authority, an entity need only be engaged in some business functionally similar to that in which an eligible borrower is engaged. Hence expansion of BC eligibility also expands the class of similar entities eligible for the loan participation authority, which may further expand the types of loans a BC can make. Since there is no statutory restriction to agricultural or agriculturally related loans in Title III, the loan need not be agriculturally related to qualify for BC financing. Loans that are not agriculturally related at all will qualify for the BC's similar entity participation authority. For FCBs and associations, on the other hand, this is not as true, because FCBs and associations are subject to statutory loan purpose restrictions. However, to keep the potential for BC participation in loans unrelated to agriculture in perspective, it should be noted that such participations are subject to a limitation of 15 percent of assets. Moreover the added flexibility to diversify may have safety and soundness benefits.

Section 6. Loan Participation Authority for Farm Credit Banks and Direct Lender Associations.

This section authorizes Farm Credit and direct lender associations to participate in loans of the types authorized under Titles I and II by other lenders to entities that would be ineligible to borrow under Titles I and II, provided such entities are engaged in operations functionally similar to those of an eligible entity. Because there are no statutory restrictions on the types of entities to which FCBs and associations can lend, the effect of the amendment is to override other types of statutory and regulatory restrictions on eligibility with respect to such participations, such as regulatory requirements designed to ensure that eligibility is restricted to entities that qualify as American farmers, and statutory and regulatory restrictions on the financing of processing and marketing activities.

The cumulative amount of participations in loans to ineligible entities is limited to 15 percent of the institution's assets, and participation in a particular loan is subject to an individual institution and a Systemwide limitation of 50 percent of the loan. Such loans are also subject to a statutory single credit risk limitation of 10 percent of the institution's capital (or the applicable higher lending limit authorized under FCA regulations if shareholders approve).

For similar entities that are eligible to borrow from a bank for cooperatives under title III, FCBs/associations must obtain the approval of the BC having the greatest loan volume in the state in which the similar entity's headquarters office is located. However, they do not need the approval of any other BC, even though the entity might be eligible to borrow from more than one BC and might in fact have a loan with another BC. Hence, this approval requirement is not quite the reciprocal of the approval requirement in 3.1(11)(B)(iii), which requires the approval of any FCB in whose territory the entity is eligible to borrow.

The authority does not apply to rural housing loans. There is no similar limitation in the existing BC authority to participate in loans to similar entities; possibly it was not deemed necessary because BCs are not expressly authorized to make rural housing loans and do not generally lend to individuals directly. However, restrictions on BC lending are primarily in the form of eligibility requirements of its borrowers rather than on the types of loans it can make, and eligibility is significantly broadened by this bill.

"Participation" is defined in the same manner as for the BC similar entity authority. See comments on section 3 of the bill above. For BCs, the expansion of the similar entity authority to include authority to participate in "technical and financial assistance" is consistent with their authority to offer such services directly. For FCBs and associations, however, it is different from their direct authority to offer technical assistance and financially related services appropriate to on-farm operations. It is unclear whether this definition of participation would permit FCBs and associations to purchase participations in financially related services that are not related to on-farm operations, since the authority granted is limited to "loans of a type otherwise authorized under Titles I and II of the Act." If so, the result would be to permit participation in a broader array of financially related services for ineligible borrowers than are available to eligible borrowers.

H.R. 4379 would help American agriculture take fuller advantage of the market opportunities in today's global economy. I urge the House to support its passage.

Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 4379

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 "Farm Credit System Agricultural Export and Risk Management Act".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

SEC. 3. PARTICIPATION DEFINED.

Section 3.1(11)(B) (12 U.S.C. 2122(11)(B)) is amended by adding at the end the following new clause:

"(iv) As used in this subparagraph, the term 'participate' or 'participation' means multi-lender transactions including, but not limited to, syndications, assignments, loan participations, subparticipations, or other form of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.".

SEC. 4. AGRICULTURAL EXPORT FINANCING.

(a) Section 3.7(b)(1) (12 U.S.C. 2128(b)(1)) is amended by—

(1) striking "assistance to (A)" and inserting "assistance to";

(2) striking "the export or" and inserting "the"; and

(3) striking ", and (B)" and all that follows through "subparagraph (A)".

(b) Section 3.7(b) (12 U.S.C. 2128(b)) is further amended by striking paragraph (2) and inserting the following new paragraph:

"(2)(A) A bank for cooperatives is authorized to make or participate in loans and commitments to, and to extend other technical and financial assistance to—

"(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products, farm supplies, or aquatic products from the United States under policies and procedures established by the bank for cooperatives to ensure that such commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations on a priority basis; and

"(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association (as defined in section 3.8) has an ownership interest, for the purpose of facilitating the association's domestic or foreign business operations: *Provided*, That if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, then such financing shall be limited to the percentage held in the party by such association or associations.

"(B) A bank for cooperatives shall not use the authority provided in paragraph (2)(A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of plants or facilities from the United States to another country.".

SEC. 5. CONFORMING AMENDMENT.

Section 3.8(b)(1) (12 U.S.C. 2129(b)(1)) is amended by—

(1) striking subparagraph (B); and

(2) redesignating subparagraph (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

SEC. 6. LOAN PARTICIPATION AUTHORITY FOR FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS.

Title IV (12 U.S.C. 2151 ed seq.) is amended by inserting after section 4.18 (12 U.S.C. 2206) the following new section:

"SEC. 4.18A. AUTHORITY OF FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATION TO PARTICIPATE IN LOANS TO SIMILAR ENTITIES FOR RISK MANAGEMENT PURPOSES.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, any Farm Credit Bank or direct lender association chartered under this Act is authorized to participate in any loan of a type otherwise authorized under title I and II made to a similar entity by any person in the business of extending credit; except that a Farm Credit Bank or direct lender association may not participate in a loan under this section if—

"(1) such participation would cause the total amount of all participants by the Farm Credit Bank or association under this section involving a single credit risk to exceed 10 percent (or the applicable higher lending limit authorized under regulations issued by the Farm Credit Administration if the stockholders of the respective Farm Credit Bank or association so approve) of the Farm Credit Bank's or association's total capital;

"(2) such participation by the Farm Credit Bank or association would itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit Banks and associations under this section would cause the cumulative amount of the participants by all Farm Credit Banks and associations in the loan to equal or exceed 50 percent of the principal of the loan;

"(3) such participation would cause the cumulative amount of participations that the Farm Credit Bank or association has outstanding under the section to exceed 15 percent of its total assets; or

"(4) the loan is of the type authorized under section 1.11(b) or 2.4(a)(2).

"(b) SIMILAR ENTITY DEFINED.—For the purposes of this section, the term 'similar entity' means a person or entity that, while not eligible for a loan from the Farm Credit Bank or association, has operations functionally similar to a person or entity eligible for a loan for the Farm Credit Bank or association in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by an eligible person.

"(c) PRIOR APPROVAL REQUIRED.—

"(1) With respect to a similar entity that is eligible to borrow from a bank for cooperatives under title III, the authority of a Farm Credit Bank or association to participate in a loan to such entity under this section shall be subject to the prior approval of the bank for cooperatives having, at the time the loan is made, the greatest loan volume in the state in which the similar entity's headquarters office is located.

"(2) Approval under paragraph (1) of this subsection may be granted on an annual basis and under such terms and conditions as may be agreed on between the Farm Credit Bank or association, as the case may be, and the bank for cooperatives granting the approval.

"(3) An association may not participate in a loan to a similar entity under this section without the approval of the association's supervising Farm Credit Bank.

"(d) DEFINITION.—For purposes of this section, the term 'participate' or 'participation' shall have the same meaning as provided in section 3.1(11)(B).".

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AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JOHNSON of South Dakota: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Credit System Agricultural Export and Risk Management Act".

SEC. 2. PARTICIPATION DEFINED.

Section 3.1(11)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)) is amended by adding at the end the following new clause:

"(iv) As used in this subparagraph, the term 'participate' or 'participation' refers to multilender transactions, including syndications, assignments, loan participations, subparticipations, or other forms of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.".

SEC. 3. AGRICULTURAL EXPORT FINANCING.

Section 3.7(b) of the Farm Credit Act of 1971 (12 U.S.C. 2128(b)) is amended—

(A) in paragraph (1)—

(i) by striking "assistance to (A)" and inserting "assistance to";

(ii) by striking "the export or" and inserting "the"; and

(iii) by striking "and (B)" and all that follows through "subparagraph (A): *Provided*, That a" and inserting "if the"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2)(A) A bank for cooperatives may make or participate in loans and commitments to, and extend other technical and financial assistance to—

"(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products thereof, farm supplies, or aquatic products from the United States under policies and procedures established by the bank to ensure that the commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations described in section 3.8(a) on a priority basis, except that if the total amount of the balances outstanding on loans made by a bank under this clause that—

"(I) are made to finance the export of commodities, products, or supplies that are not originally sourced from a cooperative, and

"(II) are not guaranteed or insured, in an amount equal to at least 95 percent of the amount loaned, by a department, agency, bureau, board, commission, or establishment of the United States or a corporation wholly-owned directly or indirectly by the United States,

exceeds an amount that is equal to 50 percent of the bank's capital, then a sufficient interest in the loans shall be sold by the bank for cooperatives to commercial banks and other non-System lenders to reduce the total amount of such outstanding balances to an amount not greater than an amount equal to 50 percent of the bank's capital; and

"(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association described in section 3.8(a) (including, for the purpose of facilitating its domestic business operations only, a cooperative or other entity described in section 3.8(b)(1)(A)) has an ownership interest, for the purpose of facilitating the domestic or foreign business operations of the association, except that if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, the financing shall be limited to the percentage held in the party by the association or associations.

"(B) A bank for cooperatives shall not use the authority provided in subparagraph (A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of a plant or facility from the United States to another country.".

SEC. 4. CONFORMING AMENDMENT.

Section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)) is amended—

(A) by striking subparagraph (B);

(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(C) by aligning the margin of subparagraph (D) (as so redesignated) so as to align with the margin of subparagraph (C) (as so redesignated).

SEC. 5. LOAN PARTICIPATION AUTHORITY FOR FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS.

IN GENERAL.—Title IV of the Farm Credit Act of 1971 (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.18 (12 U.S.C. 2206) the following new section:

"SEC. 4.18A. AUTHORITY OF FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS TO PARTICIPATE IN LOANS TO SIMILAR ENTITIES FOR RISK MANAGEMENT PURPOSES.

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

"(1) PARTICIPATE AND PARTICIPATION.—The terms 'participate' and 'participation' shall have the meaning provided in section 3.1(11)(B)(iv).

"(2) SIMILAR ENTITY.—The term 'similar entity' means a person that—

"(A) is not eligible for a loan from the Farm Credit Bank or association; and

"(B) has operations that are functionally similar to a person that is eligible for a loan from the Farm Credit Bank or association in that the person derives a majority of the income of the person from, or has a majority of the assets of the person invested in, the conduct of activities that are functionally similar to the activities that are conducted by an eligible person.

"(b) LOAN PARTICIPATION AUTHORITY.—Notwithstanding any other provision of this Act, any Farm Credit Bank or direct lender association charted under this Act may participate in any loan of a type otherwise authorized under title I or II made to a similar entity by any person in the business of extending credit, except that a Farm Credit Bank or direct lender association may not participate in a loan under this section if—

"(1) the participation would cause the total amount of all participations by the Farm Credit Bank or association under this section involving a single credit risk to exceed 10 percent (or the applicable higher lending limit authorized under regulations issued by the Farm Credit Administration if the stockholders of the respective Farm Credit Bank or association so approve) of the total capital of the Farm Credit Bank or association;

"(2) the participation by the Farm Credit Bank or association would equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit System institutions, would cause the cumulative amount of the participations by all Farm Credit System institutions in the loan to equal or exceed 50 percent of the principal of the loan;

"(3) the participation would cause the cumulative amount of participations that the Farm Credit Bank or association has outstanding under this section to exceed 15 percent of the total assets of the Farm Credit Bank or association; or

"(4) the loan is of the type authorized under section 1.11(b) or 2.4(a)(2).

"(c) PRIOR APPROVAL REQUIRED.—

"(1) IN GENERAL.—With respect to a similar entity that is eligible to borrow from a bank for cooperatives under title III, the authority of a Farm Credit Bank or association to participate in a loan to the entity under this section shall be subject to the prior approval of the bank for cooperatives having, at the time the loan is made, the greatest loan volume in the State in which the headquarters office of the similar entity is located.

"(2) TERMS AND CONDITIONS.—Approval under paragraph (1) may be granted on an annual basis and under such terms and conditions as may be agreed on between the Farm Credit Bank or association, as the case may be, and the bank for cooperatives granting the approval.

"(3) APPROVAL BY SUPERVISING FARM CREDIT BANK.—An association may not participate in a loan to a similar entity under this section without the approval of the supervising Farm Credit Bank of the association.".

SEC. 6. CONFORMING AMENDMENTS.

Section 3.1(11)(B)(i)(I)(bb) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)(i)(I)(bb)) is amended—

(A) by striking "the other banks for cooperatives under this subparagraph" and inserting "other Farm Credit System institutions"; and

(B) by striking "all banks for cooperatives" and inserting "all Farm Credit System institutions".

Mr. JOHNSON of South Dakota (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

ENSURING THAT TIMBER-DEPENDENT COMMUNITIES QUALIFY FOR CERTAIN LOANS AND GRANTS

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 4196) to ensure that all timber-dependent communities qualify for loans and grants from the Rural Development Administration, and ask for its immediate consideration.

The Clerk read the title of the resolution.

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

Mr. ALLARD. Mr. Speaker, reserving the right to object, I yield to the gentleman from South Dakota [Mr. JOHNSON] to explain the bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, H.R. 4196, has been introduced by the gentleman from Washington [Mr. DICKS].

The bill provides for a temporary increase in the population cap used in determining the eligibility of certain timber-dependent communities in the Pacific Northwest for loans and grants from USDA's Rural Development Administration.

Mr. Speaker, as we all know, many communities in the Northwest are struggling to retool their economies in the face of necessary changes in timber-cutting policies. What Mr. DICKS and others have become aware of is a gap in the funding eligibility limits for waste and water loans for communities between 10,000 and 15,000 in population. FmHA waste and water loans are available to communities up to 10,000 in population and HUD has a program that starts at 15,000. Hence, the gap.

This legislation allows these communities in Oregon, Washington, and eight counties in northern California that are under the President's northern spotted owl plan to qualify for this Federal assistance. The bill's changes terminate effective September 1998.

The bill was approved by voice vote of the Committee on Agriculture on Wednesday. I urge the House to support its passage.

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Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ROEMER). Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4196

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) timber-dependent communities including those in the Pacific Northwest have contributed significantly to the economic needs of the United States, and have helped ensure an adequate national supply of timber and timber products;

(2) a significant portion of the timber traditionally harvested in the United States, including the Pacific Northwest, derived from Federal forest lands, and these forests have played an important role in sustaining local economies;

(3) a number of traditionally timber-dependent communities are experiencing significant economic difficulties, particularly those located in proximity to the range of the northern Spotted Owl; and

(4) timber-dependent communities need economic assistance to help them diversify, including support from water and waste facility loans and grants and community facilities loans and grants funded through the Rural Development Administration.

SEC. 2. ELIGIBILITY OF TIMBER-DEPENDENT COMMUNITIES FOR CERTAIN RURAL DEVELOPMENT GRANTS.

Section 306(a)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(7) is amended to read as follows:

"(7)(A) As used in this title, the terms 'rural' and 'rural area' shall not include any area in any city or town which has a population in excess of 10,000 inhabitants, except as otherwise provided in this paragraph.

"(B) For purposes of loans for essential community facilities under subsection (a)(1), the terms 'rural' and 'rural area' may include any area in any city or town that has a population not in excess of 20,000 inhabitants.

"(C) For purposes of loans and grants for private business enterprises under sections 304(b) and 310B, and subsections (b), (c), and (d) of section 312, the terms 'rural' and 'rural area' may include all territory of a State that is not within the outer boundary of any city having a population of 50,000 or more inhabitants and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 inhabitants per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States, and special consideration for such loans and grants shall be given to areas other than cities having a population of more than 25,000 inhabitants.

"(D) As used in this title, the terms 'rural' and 'rural area' shall include any town, city, or municipality—

"(i) part or all of which lies within 100 miles of the boundary of a national forest;

"(ii) that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and

"(iii) that has a population of not more than 25,000 inhabitants.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JOHNSON of South Dakota: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TEMPORARY EXPANDED ELIGIBILITY OF CERTAIN TIMBER-DEPENDENT COMMUNITIES IN THE PACIFIC NORTHWEST FOR LOANS AND GRANTS FROM THE RURAL DEVELOPMENT ADMINISTRATION.

(a) FINDINGS.—Congress finds the following:

(1) Timber-dependent communities in the Pacific Northwest have contributed significantly to the economic needs of the United States and have helped ensure an adequate national supply of timber and timber products.

(2) A significant portion of the timber traditionally harvested in the Pacific Northwest is

derived from Federal forest lands, and these forests have played an important role in sustaining local economies.

(3) A number of traditionally timber-dependent communities are experiencing significant economic difficulties as a result of their proximity to the range of the northwest spotted owl.

(4) These timber-dependent communities need economic assistance to help them diversify, including support from water and waste facility loans and grants and community facility loans and grants funded through the Rural Development Administration.

(b) EXPANDED ELIGIBILITY.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1998, the terms "rural" and "rural area", as used in the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), shall include any town, city, or municipality—

(1) part or all of which lies within 100 miles of the boundary of a national forest covered by the Federal document entitled "Forest Plan for a Sustainable Economy and a Sustainable Environment", dated July 1, 1993;

(2) that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and

(3) that has a population of not more than 25,000 inhabitants.

(c) EFFECT ON STATE ALLOTMENTS OF FUNDS.—This section shall not be taken into consideration in alloting funds to the various States for purposes of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or otherwise affect or alter the manner under which such funds were alloted to States before the date of the enactment of this Act.

Mr. JOHNSON of South Dakota (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. JOHNSON of South Dakota: Amend the title so as to read: "A bill to ensure that timber-dependent communities adversely affected by the Forest Plan for a Sustainable Economy and a Sustainable Environment qualify for loans and grants from the Rural Development Administration.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1994

Mr. MINETA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1887) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

Mr. SHUSTER. Mr. Speaker, reserving the right to object, I do not intend to object, but I yield to the distinguished gentleman from California [Mr. MINETA], the chairman of our committee, for an explanation.

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

Mr. Speaker, our intent is to simply take the Senate National Highway System bill, insert in lieu thereof the House-passed bill, and ask for a conference.

Mr. SHUSTER. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1887

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Highway System Designation Act of 1994".

SEC. 2. NATIONAL HIGHWAY SYSTEM DESIGNATION.

Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following new subsection:

"(c) NATIONAL HIGHWAY SYSTEM DESIGNATION.—

"(1) DESIGNATION.—The most recent National Highway System as submitted by the Secretary of Transportation pursuant to this section is hereby designated to be the National Highway System.

"(2) MODIFICATIONS.—

"(A) IN GENERAL.—At the request of a State, the Secretary may—

"(i) add a new route segment to the National Highway System, including a new intermodal connection; or

"(ii) delete a then existing route segment and any connection to the route segment,

if the total mileage of the National Highway System (including any route segment or connection proposed to be added under this subparagraph) does not exceed 165,000 miles (265,542 kilometers).

"(B) PROCEDURES FOR CHANGES REQUESTED BY STATES.—Each State that makes a request for a change in the National Highway System pursuant to subparagraph (A) shall establish that each change in a route segment or connection referred to in such subparagraph has been identified by the State, in cooperation with local officials, pursuant to applicable transportation planning activities for metropolitan areas carried out under section 134 and statewide planning processes carried out under section 135.

"(3) APPROVAL BY THE SECRETARY.—The Secretary may approve a request made by a State for a change in the National Highway System pursuant to paragraph (2) if the Secretary determines that the change—

"(A) meets the criteria established for the National Highway System under this title; and

(B) enhances the national transportation characteristics of the National Highway System.".

MOTION OFFERED BY MR. MINETA

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

The Clerk read as follows:

Mr. MINETA moves to strike all after the enacting clause and insert in lieu thereof the text of H.R. 4385, the "National Highway System Designation Act of 1994," as passed by the House, as follows:

H.R. 4385

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Highway System Designation Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—NATIONAL HIGHWAY SYSTEM DESIGNATION AND OTHER PROVISIONS

Sec. 101. National Highway System designation.
Sec. 102. Congestion mitigation and air quality improvement program.
Sec. 103. Quality improvement.
Sec. 104. Contracting for engineering and design services.
Sec. 105. Highway safety promotion program.
Sec. 106. Project eligibility.
Sec. 107. Wisconsin substitute project.
Sec. 108. Use of recycled paving material.
Sec. 109. Work zone safety.
Sec. 110. Corrected projects.
Sec. 111. Rescissions.
Sec. 112. Additional projects.
Sec. 113. Study of radio and microwave technology for commercial and other motor vehicles.
Sec. 114. Foothill/Eastern Transportation Corridor Agency.
Sec. 115. Railway-highway crossings project.
Sec. 116. New River Parkway, West Virginia.
Sec. 117. National recreational trails.
Sec. 118. Coal Heritage.
Sec. 119. Limitations on funding of operating assistance.
Sec. 120. Intercity bus transportation.
Sec. 121. Repeals of existing projects.
Sec. 122. Miscellaneous transit projects.
Sec. 123. Multiyear contract for metro rail project.
Sec. 124. Metric system signing.
Sec. 125. Metropolitan planning.
Sec. 126. Statewide planning.
Sec. 127. High priority corridor feasibility study.

Sec. 128. Reevaluation.
Sec. 129. Funding.
Sec. 130. Nondivisible loans.
Sec. 131. Commercial motor vehicle accidents.

TITLE II—TECHNICAL CORRECTIONS TO ISTEA AND RELATED LAWS

Sec. 201. Definitions.
Sec. 202. References to Dwight D. Eisenhower System of Interstate and Defense Highways.
Sec. 203. Federal-Aid Systems.
Sec. 204. Apportionment.
Sec. 205. Programs of projects.
Sec. 206. Advance acquisition of rights-of-way.
Sec. 207. Standards.
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Sec. 210. Construction.
Sec. 211. Advance construction.
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Sec. 213. Certification acceptance.
Sec. 214. Availability of funds.
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Sec. 219. Emergency relief.
Sec. 220. Applicability of axle weight limitations.
Sec. 221. Toll roads.
Sec. 222. Rail-highway crossings.
Sec. 223. Surface transportation program.
Sec. 224. Metropolitan planning.
Sec. 225. Statewide planning.
Sec. 226. Control of junkyards.
Sec. 227. Nondiscrimination.
Sec. 228. Enforcement of requirements.
Sec. 229. Availability of rights-of-way.
Sec. 230. Highway bridge program.
Sec. 231. Great River Road.
Sec. 232. Hazard elimination program.
Sec. 233. Use of safety belts and motorcycle helmets.
Sec. 234. National maximum speed limit.
Sec. 235. Minimum allocation.
Sec. 236. National minimum drinking age.
Sec. 237. Revocation of drivers' licenses of individuals convicted of drug offenses.
Sec. 238. Reimbursement for segments of Interstate System constructed without Federal assistance.
Sec. 239. Federal lands highway program.
Sec. 240. Bicycle transportation and pedestrian walkway.
Sec. 241. State Highway Department.
Sec. 242. Management systems.
Sec. 243. State planning and research.
Sec. 244. Appropriation for highway purposes of Federal lands.
Sec. 245. International highway transportation outreach program.
Sec. 246. Highway safety programs.
Sec. 247. National Highway Safety Advisory Committee.
Sec. 248. Alcohol-impaired driving countermeasures.
Sec. 249. Public transit facilities.
Sec. 250. Roadside barrier technology.
Sec. 251. Pensacola, Florida.
Sec. 252. High cost bridge projects.
Sec. 253. Congestion relief projects.
Sec. 254. High priority corridors on National Highway System.
Sec. 255. High priority corridor projects.
Sec. 256. Rural access projects.
Sec. 257. Urban access and mobility projects.
Sec. 258. Innovative projects.
Sec. 259. Intermodal projects.
Sec. 260. Miscellaneous Intermodal Surface Transportation Efficiency Act amendments.
Sec. 261. Disadvantaged business enterprise program.
Sec. 262. Amendments to Surface Transportation and Uniform Relocation Assistance Act of 1987.
Sec. 263. Freeway service patrols.
Sec. 264. Pan American Highway.
Sec. 265. Section 3 program amendments.
Sec. 266. Metropolitan planning.
Sec. 267. Formula grant program.
Sec. 268. Mass transit account block grants.
Sec. 269. Grants for research and training.
Sec. 270. General provisions.
Sec. 271. Period of availability and reapportionment of section 16 funds.
Sec. 272. Rural transit program.
Sec. 273. Nondiscrimination.
Sec. 274. Authorizations.
Sec. 275. Project management oversight.
Sec. 276. Planning and research program.
Sec. 277. Needs survey and transferability study.
Sec. 278. State responsibility for rail fixed guideway system.
Sec. 279. National Transit Institute.
Sec. 280. Increased Federal share.
Sec. 281. Performance reports on mass transit systems.
Sec. 282. Cross reference to Federal Transit Act.
Sec. 283. Participation in International Registration Plan and International Fuel Tax Agreement.
Sec. 284. Intelligent vehicle-highway systems.
Sec. 285. Title 49, United States Code, amendments.
Sec. 286. Surface Transportation Assistance Act of 1982 amendments.
Sec. 287. Commercial Motor Vehicle Safety Act of 1986 amendments.
Sec. 288. Cleveland Harbor, Ohio.
Sec. 289. Other Intermodal Surface Transportation Efficiency Act technical amendments.

SEC. 2. SECRETARY DEFINED.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—NATIONAL HIGHWAY SYSTEM DESIGNATION AND OTHER PROVISIONS

SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

(a) DESIGNATION; MODIFICATIONS.—Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following:

"(c) INITIAL DESIGNATION OF NHS.—The National Highway System as submitted by the Secretary of Transportation on the map entitled 'Official Submission, National Highway System, Federal Highway Administration', and dated May 10, 1994, is hereby designated within the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

"(d) MODIFICATIONS TO THE NHS.—

"(1) PROPOSED MODIFICATIONS.—The Secretary may submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives proposed modifications to the National Highway System. The Secretary may only propose a modification under this subsection if the Secretary determines that such modification meets the criteria and requirements of subsection (b). Proposed modifications may include new segments and deletion of existing segments of the National Highway System.

"(2) APPROVAL OF CONGRESS REQUIRED.—A modification to the National Highway System may only take effect if a law has been enacted approving such modification.

"(3) REQUIRED SUBMISSION.—Not later than 2 years after the date of the enactment of the National Highway System Designation Act of 1994, the Secretary shall submit under paragraph (1) proposed modifications to the National Highway System. Such modifications shall include a list and description of additions to the National Highway System consisting of—

"(A) connections to major ports, airports, international border crossings, public transportation and transit facilities, interstate bus terminals, rail and other intermodal transportation facilities; and

"(B) any congressional high priority corridor or any segment thereof established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037) which was not identified on the National Highway System designated by subsection (c), subject to the completion of feasibility studies.".

(b) PROPOSED NTS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a proposal for a comprehensive National Transportation System using the National Highway System as the backbone for establishing the National Transportation System. In developing such proposal, the Secretary shall consult with and consider the views of States and metropolitan planning organizations.

SEC. 102. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) APPORTIONMENT FORMULA.—Section 104(b)(2) of title 23, United States Code, is amended—

(1) by inserting "in fiscal year 1994" after "State" each place it appears;

(2) by inserting "in fiscal year 1994" after "States" the first place it appears;

(3) in subparagraph (A) by inserting "in fiscal year 1994" after "Act";

(4) in subparagraph (B) by inserting "in fiscal year 1994" after "subpart";

(5) in subparagraph (C) by inserting "in fiscal year 1994" after "subpart";

(6) in subparagraph (D) by inserting "in fiscal year 1994" after "subpart";

(7) in subparagraph (E) by inserting "in fiscal year 1994" after "subpart";

(8) by inserting "in fiscal year 1994" after "carbon monoxide"; and

(9) by inserting "in fiscal year 1994" after "relative populations".

(b) ELIGIBLE PROJECTS.—Section 149(b) of such title is amended by inserting before "of a national ambient" each place it appears "or maintenance".

(c) STATES WITHOUT A NONATTAINMENT AREA.—Section 149(c) of such title is amended by inserting "in fiscal year 1994" after "Act".

SEC. 103. QUALITY IMPROVEMENT.

(a) LIFE-CYCLE COST ANALYSIS.—Section 106 of title 23, United States Code, is amended by adding at the end the following:

"(e) LIFE-CYCLE COST ANALYSIS.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to require States to conduct an analysis of the life-cycle costs of all projects on the National Highway System.

"(2) ANALYSIS OF LIFE-CYCLE COSTS DEFINED.—In this subsection, the term 'analysis of life-cycle costs' means a process for evaluating the total economic worth of one or more projects by analyzing both initial costs as well as discounted future costs, such as maintenance, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project or projects.".

(b) VALUE ENGINEERING.—Section 106 of such title is amended by adding at the end the following:

"(f) VALUE ENGINEERING FOR NHS.—

"(1) REQUIREMENT.—The Secretary shall establish a program to require States to carry out a value engineering analysis for all projects on the National Highway System.

"(2) VALUE ENGINEERING DEFINED.—For purposes of this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project or activity during its design phase by a multidisciplined team of persons not originally involved in the project or activity in order to provide suggestions for reducing the total cost of the project or activity and providing a project or activity of equal or better quality. Such suggestions may include a combination or elimination of inefficient or expensive parts of the original proposed design for the project or activity and total redesign of the proposed project or activity using different technologies, materials, or methods so as to accomplish the original purpose of the project or activity.".

(c) GUARANTEE AND WARRANTY CLAUSES.—Section 112 of such title is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) GUARANTEE AND WARRANTY CLAUSES.—The Secretary shall, by regulation, permit a State highway department, in accordance with standards developed by the Secretary in such regulations, to include a clause in a contract for the construction of any Federal-aid highway project requiring the contractor to warrant the materials and work performed in accordance with the contractor's obligations and responsibilities under the terms of the contract. The warranty or guarantee clause shall be reasonably related to the materials and work performed and in accordance with the contractor's obligations and responsibilities under the terms of the contract, and shall not be construed to require the contractor to perform maintenance.".

(d) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding for developing standards under section 112(f) of title 23, United States Code, as added by subsection (c) of this section.

SEC. 104. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

(a) PERMANENT PROGRAM.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

"(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(D) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(E) STATE OPTION.—Subparagraphs (C) and (D) shall take effect 2 years after the date of the enactment of this subparagraph with respect to all States; except that if a State, during such 2-year period, adopts by statute an alternative process intended to promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply with respect to such State.".

(b) REPEAL OF PILOT PROGRAM.—Section 1092 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 112 note; 105 Stat. 2024) is repealed.

SEC. 105. HIGHWAY SAFETY PROMOTION PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 312 the following new section:

"§ 313. Highway safety promotion program

"(a) ESTABLISHMENT.—The Secretary shall carry out education, research, development, and technology transfer activities to promote the safe operation and maintenance of commercial motor vehicles in interstate commerce.

"(b) GRANTS.—To carry out the purposes of this section, the Secretary shall make grants to, and enter into cooperative agreements with—

"(1) a not-for-profit membership organization that has been engaged exclusively in truck-related research and education since 1985; and

"(2) not-for-profit organizations engaged in commercial motor vehicle safety research.

"(c) FEDERAL SHARE.—The Federal share of the costs of activities carried out under this section shall be 100 percent.

"(d) FUNDING.—Out of administrative funds deducted under section 104(a) of this title for each of fiscal years 1995 through 1997, the Secretary shall make available—

"(1) for making grants and entering into cooperative agreements under subsection (b)(1) $1,000,000; and

"(2) for making grants and entering into cooperative agreements under subsection (b)(2) $500,000.

Such funds shall remain available until expended.

"(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

"(f) ANNUAL REPORT.—Annually, beginning on January 1, 1996, the Secretary shall transmit to Congress a report which provides information on the progress and activities of the programs conducted under this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 312 the following:

"313. Highway safety promotion program.".

SEC. 106. PROJECT ELIGIBILITY.

Section 108(b) of the Federal-Aid Highway Act of 1956 (23 U.S.C. 101 note) is amended—

(1) by striking "(1)" before "such costs may be further"; and

(2) by striking ", and (2) the amount of such costs shall not include the portion of the project between High Street and Causeway Street".

SEC. 107. WISCONSIN SUBSTITUTE PROJECT.

(a) FEDERAL ASSISTANCE.—Subsection (b) of section 1045 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1994) is amended to read as follows:

"(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—

"(1) GENERAL RULE.—Upon approval of any substitute project or projects under subsection (a)—

"(A) the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

"(B) a sum equal to the amount that would have been apportioned to the State of Wisconsin on October 1, 1994, under section 104(b)(5)(A) of title 23, United States Code, if the Secretary had not approved such project or projects shall be available to the Secretary from the Highway Trust Fund to incur obligations for the Federal share of the costs of such substitute project or projects.

"(2) AVAILABILITY.—Amounts made available under paragraph (1)(B) shall be available for obligation on and after October 1, 1994. Amounts made available under paragraph (1)(B) shall remain available until expended and shall be subject to any limitation on obligations for Federal-aid highways established by law.

"(3) APPLICABILITY OF TITLE 23 U.S.C.—Amounts made available under paragraph (1)(B) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project carried out with such funds shall be determined in accordance with section 103(e)(4)(D) of such title.".

(b) CONFORMING AMENDMENTS.—

(1) SUBSECTION (c).—The second sentence of subsection (c) of section 1045 of such Act is amended by striking "the authority of section 103(e)(4) of title 23, United States Code," and inserting "section 21(a)(2) of the Federal Transit Act".

(2) SUBSECTION (d)(1).—Subsection (d)(1) of section 1045 of such Act is amended by striking "project for" and all that follows through the period at the end thereof and inserting "transit project.".

(3) SUBSECTION (d).—Subsection (d) of section 1045 of such Act is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) REDUCTION OF INTERSTATE CONSTRUCTION AUTHORIZATION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by striking "$1,800,000,000 for the fiscal year ending September 30, 1996" and inserting "$1,800,000,000, reduced by the amount made available under section 1045(b)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991, for the fiscal year ending September 30, 1996".

SEC. 108. USE OF RECYCLED PAVING MATERIAL.

(a) DOT GUIDANCE.—Section 1038(c)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note) is amended by striking "an interest in the use of such asphalt" and inserting the following: "concern in fulfilling the minimum utilization requirements of subsection (d)(1). Such technology transfer activities and training programs shall be initiated without delay and shall include all eligible uses of recycled

rubber, alternative applications, and other materials and shall focus on achieving the best performance results for all eligible uses. Not later than 90 days after the date of the enactment of this sentence, the Secretary shall transmit to Congress a report detailing the plans to implement this subsection.

(b) STATE CERTIFICATION.—Section 1038(d)(1) of such Act is amended—

(1) by striking "established by this section." and inserting ", other materials, and alternative applications established by this section. Each State shall also annually certify its progress in its waste tire abatement program under paragraph (7).";

(2) by striking "1995" the first place it appears and inserting "1996";

(3) in subparagraph (A) by striking "1994" and inserting "1995";

(4) in subparagraph (B) by striking "1995" and inserting "1996";

(5) in subparagraph (B) by inserting "and" after the semicolon at the end;

(6) in subparagraph (C), by striking "1996; and" and inserting "1997."; and

(7) by striking subparagraph (D).

(c) OTHER MATERIALS.—Section 1038(d)(2) of such Act is amended by striking the period at the end and inserting the following: "; except that, of that amount, no more than ½ may be met with the use of asphalt containing reclaimed asphalt in fiscal years 1996 and 1997. For the purposes of this paragraph, cold in-place recycling technology shall be allowable.".

(d) PENALTY.—Section 1038(d)(4) of such Act is amended—

(1) by inserting before "The" the following: "(A) WITHHOLDING.—";

(2) by indenting subparagraph (A), as designated by paragraph (1) of this subsection, and moving such paragraph 2 ems to the right;

(3) by inserting before "utilization requirement" the following: "by which such State does not satisfy the"; and

(4) by adding at the end the following:

"(B) ESCROW ACCOUNT.—Apportionments withheld from a State by the Secretary under this subsection shall be placed in escrow for 2 years pending satisfaction of the minimum utilization requirement of paragraph (1) and pending satisfaction of the requirement for which the apportionments were originally withheld. Pending satisfaction of such requirements, the withheld apportionment shall be returned to the State.

"(C) SUNSET PROVISION.—If a State which has apportionments withheld under this paragraph has not satisfied current minimum utilization requirements of paragraph (1) within 2 years and has not fulfilled the previous requirements for which such apportionments were withheld, then the apportionments held in the escrow account shall be returned to the Highway Trust Fund.".

(e) INDIVIDUAL STATE REDUCTION.—Section 1038(d)(7) of such Act is amended—

(1) by striking "prior to disposal"; and

(2) by adding at the end the following: "The Secretary, in consultation with the Administrator, shall exempt from the requirements of paragraph (1), any State that has implemented a documented waste tire abatement program if such program will result in the elimination of tire stockpiles by 1997.".

(f) ALTERNATIVE APPLICATION.—Section 1038(d) of such Act is further amended by adding at the end the following:

"(8) ALTERNATIVE APPLICATIONS.—

"(A) IN GENERAL.—A State may for any year meet up to ½ of the minimum utilization requirement established by paragraph (1) (excluding any deduction a State may take pursuant to subsection (c)) by using an equivalent amount of recycled rubber for alternative applications, other than making asphalt pavement, if—

"(i) the State certifies that the alternative application does not present a threat to safety, human health, or the environment; and

"(ii) it is demonstrated that such alternative applications provide equal or enhanced engineering benefits.

"(B) GUIDELINES.—The Secretary, in consultation with the Administrator, shall issue guidelines with respect to compliance with alternative applications under the conditions set forth in clauses (i) and (ii).".

(g) DEFINITIONS.—Section 1038(e) of such Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) in paragraph (2) by inserting before "taken" the following: "(other than tire buffings defined as a byproduct of the retreading industry) or any products produced from the processing of whole scrap tires or tire materials";

(3) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(4) by adding at the end the following:

"(3) the term 'alternative applications' means uses of recycled rubber in such civil engineering applications such as noise and safety barriers, other safety hardware, fences, soil retaining walls, slope stabilization measures, subgrade insulation, and lightweight fill, where the product or material containing recycled rubber provides a benefit to the highway construction and is left in place as a result of the highway construction; such term does not apply to products or materials, such as traffic cones or vehicles, which are used only temporarily in construction of the highway;

"(4) the term 'Administrator' means the Administrator of the Environmental Protection Agency; and

"(5) the term 'State' has the meaning such term has under section 101 of title 23, United States Code.".

SEC. 109. WORK ZONE SAFETY.

Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 401 note) is amended—

(1) by inserting "technologies and services," after "appurtenances,";

(2) by inserting "training," after "traffic control plans,"; and

(3) by adding at the end the following new sentence: "The Secretary shall annually review, and provide to State and local governments, information and recommendations concerning safety practices that can enhance safety at highway construction sites, including information relating to new safety technologies, services, traffic control plans, training, and work zone-related bidding practices. The Secretary is directed to develop within the program a process for assuring that, for each project, there will be a person trained and certified who will have the responsibility and authority for assuring that the provisions of the traffic control plan and other safety aspects of the work zone are effectively administered.".

SEC. 110. CORRECTED PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for certain highway projects in order to correct errors and omissions in the Intermodal Surface Transportation Efficiency Act of 1991.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the projects described in this subsection. There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1995 to carry out each such project the amount listed for each such project:

City/State	Projects	Amount in millions
1. North Minnesota.	Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN.	8.5
2. Philadelphia, Pennsylvania.	Reconstruction of the Old Delaware Avenue Service Road.	1.6

(c) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(d) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(e) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(f) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 111. RESCISSIONS.

(a) RESCISSIONS.—Effective October 1, 1994, the following unobligated balances on September 30, 1994, of funds made available for the following provisions are hereby rescinded:

(1) $78,993.92 made available by section 131(c) of the Surface Transportation Assistance Act of 1982.

(2) $26,500,000 made available by section 404(a)(2) of the Surface Transportation Assistance Act of 1982.

(3) $1,500,000 made available by section 106(a)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(4) $942,249 made available for section 149(a)(66) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(5) $376,194.94 made available for section 149(a)(111)(C) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(6) $36,979.05 made available for section 149(a)(111)(J) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(7) $34,281.53 made available for section 149(a)(111)(K) of the Surface Transportation

and Uniform Relocation Assistance Act of 1987.

(8) $258,131.85 made available for section 149(a)(111)(L) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(9) $446,768 made available for section 149(a)(92) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(10) $2,058,323 made available for section 149(a)(94) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(11) $52,834 made available for section 149(a)(95) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(12) $427,340 made available for section 149(a)(99) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(13) $3,559,837 made available for section 149(a)(35) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(14) $797,800 made available for section 149(a)(100) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(15) $55.43 made available by section 149(c)(3) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(16) $49,700,000 made available by section 1012(b)(6) of the Intermodal Surface Transportation Efficiency Act of 1991.

(17) $29,300,000 made available by section 1003(a)(7) of the Intermodal Surface Transportation Efficiency Act of 1991.

(18) $150,000,000 made available by section 1036(d)(1)(A) of the Intermodal Surface Transportation Efficiency Act of 1991.

(19) $1,500,000 made available by section 1036(d)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991.

(20) $10,800,000 made available by section 21(a)(1) of the Federal Transit Act.

(b) REDUCTIONS IN AUTHORIZED AMOUNTS.—Section 1036(d)(1)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1986) is amended—

(1) by striking "$100,000,000" the second place it appears and inserting "$50,000,000"; and

(2) by striking "$125,000,000" each place it appears and inserting "$62,500,000".

SEC. 112. ADDITIONAL PROJECTS.

(a) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the projects described in this subsection. There is authorized to be appropriated for fiscal years 1995, 1996, and 1997 to carry out each such project the amounts listed for each such project:

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
1. Alabama	Birmingham Northern Beltline		2.900
2. Alabama	Black Warrior River Bridge Study		0.100
3. Alabama	I–759 Extension		20.000
4. Alabama	AL182/I–10 Evacuation Connector Improvements		4.000
5. Alabama	Patton Island Bridge Construction	9.000	
6. Alabama	Montgomery Outer Loop Beltway		3.000
7. Arizona	Gila River Crossing	6.000	
8. Arizona	US93 Upgrade: Kingman to Lake Mead		3.000
9. Arizona	Veterans Memorial Overpass		5.000
10. Arkansas	US71 Upgrade: Alma to Louisiana Border		3.000
11. Arkansas	US71 Upgrade: I–40 to Fayetteville	3.500	7.000
13. Arkansas	Lake Bull Shoals Bridge	0.400	
14. Arkansas	Van Buren Regional Intermodal Facility	0.100	
15. Arkansas	US63 Bypass Upgrade, Jonesboro		5.000
16. Arkansas	Conway Bypass Study and Design		3.000
17. California	CA84/I–580 Interchange Construction	4.000	
18. California	CA4 Freeway Expansion, Pittsburg		2.000
19. California	Galena Street Improvements/I–15 Interchange Construction		2.000
20. California	CA56 Extension: I–5 to I–15		3.000
21. California	Stocker Street/La Cienega Interchange		7.100
22. California	South Lake Tahoe Loop Road Reconfiguration		2.000
23. California	Bristol Street Improvement Project		3.000
24. California	CA30 Extension/Gap Closure	2.000	5.000
25. California	CA87 Corridor Construction	7.000	
26. California	CA113 Railroad Grade Separation		5.240
27. California	Third Feather River Bridge	1.500	
28. California	I–5/Highway 99W Interchange	0.500	
29. California	CA113/I–5 Interchange and Improvements		0.500
30. California	CA905 Congestion Mitigation	4.000	5.000
31. California	CA119/US101/Rice Avenue Interchange Upgrade		1.000
32. California	Humboldt Bay Port Access Enhancement	10.000	
33. California	CA7 Improvements: CA98 to I–8		2.000
34. California	Ontario Airport Ground Access	4.000	
35. California	CA71 Planning and Design, Riverside County		2.000
36. California	CA57 Interchange, Brea		0.950
37. California	CA41 Expansion		3.000
38. California	I–15 Widening: Victorville to Barstow	2.000	14.000
39. California	I–15 Access, George Air Force Base		1.000
40. California	Arden-Garden Connector		6.000
41. California	CA126 Improvements: I–5 to McBean Parkway	4.000	
42. California	CA138–Avenue P–8 Improvements: CA14 to 50th St, E		2.000
43. California	CA4 Upgrade	19.000	
44. California	Mare Island Access Study		1.000
45. California	CA237—Maude Avenue/Middlefield Road Interchange	13.500	
46. California	I–205 Widening: I–580 to I–5		3.000
47. California	I–710/Firestone Boulevard Interchange		5.800
48. California	CA58 Upgrade, Bakersfield	2.000	2.500
49. California	CA178 Crosstown Corridor: CA 178 to CA99	2.000	2.500
50. California	I–5 Capacity Enhancement		9.400
51. California	Alameda Corridor	4.000	5.000
52. California	Arbor Vitae Street Expansion		4.000
53. California	Pacific Coast Highway Palisades Bluff Stabilization		5.000
54. California	US101—Sonoma County Congestion Relief		4.000
55. California	US101—Marin County HOV Lanes		1.000
56. Colorado	Powers Boulevard Corridor		1.000
57. Colorado	120th Avenue Improvements	5.500	
58. Connecticut	Regional Transportation Center Improvements, Norwich		6.000
59. Connecticut	Hartford Riverfront Access		3.000
60. Connecticut	Seaview Avenue Reconstruction		2.000
61. District of Columbia	Constitution Avenue Rehabilitation	3.000	
62. District of Columbia	Independence Avenue Rehabilitation	0.590	
63. District of Columbia	First Street Rehabilitation	0.260	
64. Florida	Fuller—Warren Bridge	2.000	19.000
65. Florida	Jacksonville Airport Access Road		2.000

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
66. Florida	Midpoint Bridge and Corridor	2.000	5.000
67. Florida	FL7/US441 Widening		5.000
68. Florida	I–4/Greeneway Interchange	4.000	2.000
69. Florida	US301/University Parkway Intersection Upgrade		2.000
70. Florida	Palm Beach Port Road Relocations	0.265	5.000
71. Florida	Eller Drive/I–595 Improvements	2.600	
72. Florida	Northeast Dade Bike Path	1.135	
73. Georgia	GA61 Connector with I–20		7.200
74. Georgia	Appalachian Scenic Parkway		4.000
75. Georgia	GA92 Corridor Upgrade, Cherokee County	1.700	20.000
76. Georgia	GA9 Widening, Roswell	8.300	
77. Georgia	Sidney-Lanier Bridge Reconstruction	4.000	6.000
78. Georgia	University Center Pedestrian Corridor, Atlanta		12.960
79. Hawaii	Kuakini Street Improvements		1.500
80. Illinois	Sauget Road Extension	3.100	0.818
81. Illinois	West Boulevard Extension	0.900	
82. Illinois	IL159 Relocation, Edwardsville		6.000
83. Illinois	US67/IL267 Improvements		4.000
84. Illinois	Centennial Bridge Improvements		1.000
85. Illinois	Business Loop 55 Widening: I–55 to Clearwater Ave	5.000	
86. Illinois	Central Avenue Bypass, Chicago	15.000	
87. Illinois	US20 Improvements: East Dubuque to Galena		2.000
88. Illinois	Peoria—Chicago Highway	3.000	2.000
89. Illinois	Springfield Veterans Parkway	2.000	2.000
90. Illinois	Grand View Drive Improvements		3.000
91. Illinois	Heartland Riverfront Project		2.000
92. Illinois	US67: Macomb to Jacksonville		1.000
93. Illinois	Brush Creek Connector	3.000	
94. Illinois	Richton Road Improvements, Crete	1.720	
95. Illinois	Steger Roadway Improvements, Steger	0.720	
96. Illinois	Polk Avenue Extension, Richton Park	0.336	
97. Illinois	Minooka Street Improvements, Minooka	0.334	
98. Illinois	Rathje Road Improvements, Peotone	0.320	
99. Illinois	Main Street Improvements, Ottawa	0.312	
100. Illinois	Otter Creek Road Improvements, Streator	0.270	
101. Indiana	96th Street Upgrade	2.000	5.000
102. Indiana	Hoosier Heartland Corridor: Ft. Wayne to Lafayette		3.000
103. Indiana	I–265 Extension		10.000
104. Indiana	US231 Reconstruction		10.000
105. Indiana	Evansville—Bloomington Corridor		5.000
106. Indiana	Lafayette Rail Relocation	5.000	18.500
107. Indiana	Six Points Road Interchange		1.500
108. Indiana	City of Columbus "Front Door"		8.000
109. Indiana	IN67 Improvements		1.000
110. Indiana	East Chicago Marine Access Road		4.834
111. Indiana	Lake Shore Drive Extension Study		0.600
112. Iowa	I–29 Corridor Improvements, Sioux City		2.000
113. Iowa	IA330: Marshalltown to Des Moines		6.000
114. Iowa	Burlington Iowa Southern Arterial Connector	0.880	
115. Iowa	US 63: Bremer County to Minnesota Border		3.000
116. Iowa	IA5 Relocation		10.000
117. Kentucky	US231 Relocation	5.000	
118. Kentucky	US27 Improvements	1.000	3.000
119. Kentucky	KY114 Widening: Salyersville to US23	1.000	5.000
120. Louisiana	I–10/I–12 Baton Rouge Bypass		1.000
121. Louisiana	I–210/Nelson Access Road	3.000	
122. Louisiana	I–10: St. Charles Parish Line to Tulane Avenue	2.000	3.000
123. Maryland	MD5/MD373 Interchange		10.000
124. Maryland	MD235 Improvements		5.000
125. Maryland	MD237 Improvements	3.882	
126. Maryland	Beltway Advanced Traffic Monitoring		3.000
127. Massachusetts	Lincoln Square, Southbridge Street Gateways	2.400	
128. Massachusetts	I–90/MA146 Reconstruction	1.600	
129. Massachusetts	Franklin County Bikeway		2.250
130. Michigan	US23 Expansion	3.000	
131. Michigan	Bay City Road Interchange		3.000
132. Michigan	M–59 Corridor		20.000
133. Michigan	Highway Safety Improvements		20.000
134. Michigan	Ambassador Bridge Facilities	10.000	
135. Michigan	Monroe Rail Consolidation		10.000
136. Michigan	Detroit Airport Access Road		5.000
137. Michigan	US31 Improvements: Holland to Grand Haven	1.200	
138. Michigan	M–6: Grand Rapids South Beltline Construction	6.800	4.000
139. Michigan	M–102/Grand River Interchange Redesign		4.000
140. Michigan	McClellan Avenue		2.300
141. Michigan	US31 Upgrade, Berrien County	2.000	5.000
142. Minnesota	TH610–Crosstown Expressway	1.000	3.000
143. Minnesota	Trunk Highway 33 Improvements	9.680	
144. Minnesota	34th Street Corridor		2.000
145. Minnesota	TH212 Construction		3.000
146. Minnesota	77th Street Improvements	5.000	10.000
147. Minnesota	Wabasha Street Bridge Replacement	9.000	11.000
148. Mississippi	Norrell Road Interchange	3.000	
149. Missouri	Lindbergh Boulevard Relocation		5.000
150. Missouri	St. Joseph Loop Expressway	8.300	
151. Missouri	Chouteau Bridge Replacement		9.000
152. Missouri	Cape Girardeau Bridge Replacement	6.250	5.000
153. Missouri	MO21 Upgrade		13.400

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
154. Missouri	MO Highway M Relocation	3.000	
155. Missouri	I–255/MO231 Intersection		1.600
156. Missouri	Hannibal Bridge Replacement	1.000	2.000
157. Montana	MT323 Upgrade		5.000
158. Montana	Belgrade/I–90 Interchange	2.110	
159. Nebraska	Niobrara, NE/Springfield, SD Bridge		3.000
160. Nebraska	27th Street and Highway 2 Pedestrian Bridge		0.413
161. Nebraska	South and East Beltway Study, Lincoln		0.400
162. Nevada	Spring Mountain I–15 Interchange		5.000
163. Nevada	I–80/Sparks Road Pyramid Interchange	1.000	4.000
164. New Hampshire	Second Nashua River Crossing	3.000	1.500
165. New Hampshire	Manchester Airport Access Road Construction	5.000	
166. New Jersey	I–287 Improvements: I–78 to US22	4.000	
167. New Jersey	NJ21/McCarter Highway Improvements	5.000	
168. New Jersey	NJ17/NJ4 Interchange, Paramus		3.000
169. New Mexico	Santa Fe Relief Route		5.000
170. New Mexico	Sunport Boulevard East Corrdior		1.400
171. New Mexico	US70/Las Cruces Frontage Road System		3.000
172. New York	Utica-Rome Expressway	6.250	5.000
173. New York	Westchester/Putnam Intelligent Vehicle Highway Systems		2.000
174. New York	NY60 Reconstruction, Ellicott		3.000
175. New York	Quay Street Extension, Niagara Falls		2.240
176. New York	Delaware Street Reconstruction, Tonawanda		2.100
177. New York	Williams Road Widening, Wheatfield		1.060
178. New York	Lockport Corridor Study, Erie and Niagara Counties		0.800
179. New York	Rochester-Brockport Access Study		0.800
180. New York	NY531 Extension Study: Ogden to Sweden		0.400
181. New York	Jericho Turnpike Improvements: New York City to Herricks Road	4.000	2.000
182. New York	New York Thruway Upgrade		5.000
183. New York	US9 Reconstruction, Plattsburgh		1.750
184. New York	International Bridge Feasibility Study		.250
185. New York	New York Intermodal Facilities Study	1.000	
186. New York	NY277 Reconstruction, Cheektowaga	4.000	
187. New York	Main Street Bascule Bridge		2.000
188. New York	Bronx/North Manhattan Intelligent Vehicle Highway System		6.480
189. New York	Latta Road Improvements, Monroe County	6.000	
190. New York	Baldwinsville Bypass		5.000
191. North Carolina	US220 Construction		3.000
192. North Carolina	US17 Bridge Replacement		5.000
193. North Carolina	Charlotte Beltway East Segment		2.000
194. North Carolina	US64 Improvements		6.185
194A. North Carolina	Peace St. Crossing in Thomasville		2.415
194B. North Carolina	Unity St. Crossing in Thomasville		1.400
195. North Carolina	US74 Improvements		10.000
196. North Carolina	US19/23 Upgrade		1.000
197. North Carolina	Southern Charlotte Outer Loop		5.000
198. Ohio	Lorain Central Corridor		5.000
199. Ohio	US23–Fostoria Bypass		3.000
200. Ohio	US22/US33–Lancaster Bypass	1.000	5.800
201. Ohio	Boston Road Interchange		1.000
202. Ohio	Cleveland Gateway Project		1.000
203. Ohio	New Intermodal Terminal, Fearing Boulevard		5.000
204. Ohio	US30: OH235 to US68		4.000
205. Ohio	Alum Creek Drive Improvements	2.000	4.000
206. Ohio	US30 Widening: Wooster to Riceland	3.400	10.000
207. Ohio	Mt. Vernon to I–71 Connector Study	1.600	
208. Ohio	OH43 Improvements		3.920
209. Ohio	Cuyahoga River Bridge, Cleveland		4.320
210. Ohio	Cleveland Pedestrian Walkway		1.440
211. Ohio	Pomeroy to Ravenswood Access Improvements		8.900
212. Ohio	Youngstown-Hubbard Expressway	10.000	
212A. Ohio	Trotwood Connector in Montgomery Co., Ohio	.750	
213. Oklahoma	I–44 Widening: Arkansas River to Yale Avenue	6.250	5.000
214. Oregon	Jordon Cove Road Safety Improvements	0.529	
215. Oregon	Salem Bypass Improvements		4.471
216. Oregon	Columbia Slough Intermodal Projects		5.000
217. Pennsylvania	Philadelphia Traffic Signal Controllers	1.800	
218. Pennsylvania	Philadelphia Bicycle Network	0.472	
219. Pennsylvania	Tioga Marine Terminal	8.000	
220. Pennsylvania	US15 Upgrade—Tioga County	5.952	
221. Pennsylvania	US 219 Truck Route—Osterhout Street	2.880	
222. Pennsylvania	PA948 Improvements, Forest County	1.168	
223. Pennsylvania	Pennsylvania Pier 98, Philadelphia		1.000
224. Pennsylvania	PA2001 Improvements, Pike County	4.800	0.300
225. Pennsylvania	PA14 Improvements, Bradford County		4.800
226. Pennsylvania	PA3011 Improvements, Scranton		3.500
227. Pennsylvania	PA1069 Widening, Athens	0.200	1.400
228. Pennsylvania	US219 Improvements, Cambria County	10.000	
229. Pennsylvania	PA56 Improvements: Johnstown to Cessna	8.000	
230. Pennsylvania	US 22—Section B07 Reconstruction		8.000
231. Pennsylvania	US219 Improvements: Carrolltown to I–80	1.000	2.000
232. Rhode Island	Davisville Bridges		5.000
233. South Carolina	US17 Bridges	2.485	1.515
234. South Carolina	US301 Improvements	1.515	
235. South Dakota	Vermillion Bridge		4.600
236. Tennessee	Harding Place Extension	5.000	
237. Tennessee	Gay Street Bridge Rehabilitation	5.760	
238. Tennessee	Foothills Parkway—Missing Link	.490	10.000

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
239. Tennessee	Old Nashville Highway Bridge		4.000
240. Tennessee	Murfreesboro Alternative Transportation System		1.000
241. Tennessee	I–81 Interchange Construction	1.200	
242. Tennessee	Memphis Outer Loop Beltway		2.000
243. Texas	TX121 Upgrade Study	2.500	
244. Texas	Border Highway Extension		10.000
245. Texas	NASA Road 1 Upgrade	4.500	15.000
246. Texas	US59 Upgrade, Ft. Bend County	0.500	
247. Texas	US67 Widening	5.416	
248. Texas	Loop 12 Widening		2.200
249. Texas	TX36 Improvements	5.000	
250. Texas	Brownsville Navigation District Access		1.680
251. Texas	Brownsville 6th & 7th Streets Improvements		1.600
252. Utah	US89 Upgrade	4.000	
253. Utah	I–15/University Avenue Interchange		3.000
254. Utah	20th East Highway Project	6.000	
255. Utah	I–15 Corridor Improvements, Salt Lake County		6.000
256. Virgin Islands	Christiansted Bypass	5.000	
257. Virginia	Coleman Bridge Expansion		2.000
258. Virginia	I–95/Outer Connector/VA627 Interchange		2.000
259. Virginia	Coalfields Expressway	5.000	
260. Virginia	VA123 Philadelphia, Northern Virginia	10.000	
261. Virginia	Fairfax County Parkway/Franconia-Springfield Parkway		5.000
262. Virginia	I–81 to I–40 "I–83" Connector		5.000
263. Virginia	Pinners Point Connector		4.400
264. Virginia	S. Battlefield Boulevard/VA168		5.000
265. Virginia	14th Street Bridge Lane Addition	5.000	7.000
266. Washington	I–5/196th Street Interchange	3.336	
267. Washington	WA305 Improvements		0.672
268. Washington	Port Angeles Multi-Model Center		6.400
269. Washington	WA18 Improvements: 312th Way to Maple Valley	4.000	1.000
270. Washington	I–405/Northeast 8th Street Interchange		1.000
271. Washington	US12 Improvements		9.000
272. Washington	US395 Improvements		9.000
273. Washington	Chelan/Douglas Transportation Center		2.000
274. Washington	Mill Plain Extension		5.000
275. West Virginia	Fairmont Riverside Expressway	10.000	
276. West Virginia	New River Parkway	14.400	
277. Wisconsin	Janesville River Street Realignment	3.454	
278. Wisconsin	Main Street Bridge Replacement, Racine		2.000
279. Wisconsin	CTH P Improvements	0.480	
280. Wisconsin	WI29 Upgrade	10.000	
281. Wisconsin	Oshkosh Rail Relocation	6.000	
282. Wisconsin	US10 Upgrade: Anderson Road to CTH U	4.000	
283. Wisconsin	US41 Upgrade: Kaukauna to CTH F		3.000

(b) ALLOCATION PERCENTAGES FOR HTF FUNDS.—65.86 percent of the amount allocated by subsection (a) from the Highway Trust Fund for each project authorized by subsection (a) shall be available for obligation in fiscal year 1995. 17.07 percent of such amount shall be available for obligation in each of fiscal years 1996 and 1997.

(c) APPROPRIATIONS CAP.—Of the amounts authorized to be appropriated from the general fund of the Treasury by subsection (a), not more than $300,000,000 may be appropriated in any single fiscal year.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section from the Highway Trust Fund shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 113. STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.

(a) IN GENERAL.—Section 6057 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.—

"(1) IN GENERAL.—The Secretary shall conduct a research study to develop and evaluate radio and microwave technology for furtherance of safety in commercial and other motor vehicles.

"(2) EQUIPMENT.—Equipment developed under the study to be conducted under paragraph (1) shall be directed toward, but not limited to, warning drivers of obstructions in a highway or limited visibility conditions caused by snow, rain, fog, or dust.

"(3) SAFETY APPLICATIONS.—In conducting the study under paragraph (1), the Secretary shall determine whether the technology described in paragraph (1) has other safety applications consistent with the goals of this Act.".

(b) FUNDING.—Such section is further amended by adding at the end the following new subsection:

"(d) FUNDING.—Of the funds made available in fiscal year 1995 to carry out section 6058(b), $500,000 shall be used to conduct the study under subsection (b).".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the section heading by inserting "and other" after "commercial"; and

(2) in the heading to subsection (a) by inserting "OF SAFETY TECHNOLOGY FOR COMMERCIAL MOTOR VEHICLES" after "STUDY".

SEC. 114. FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY.

(a) FEDERAL LINE OF CREDIT.—For the purpose of carrying out a demonstration of the construction of public toll roads in Orange County, California, authorized by section 129(d) of title 23, United States Code, there is authorized to be appropriated $10,000,000 for the Secretary to enter into an agreement to

make a line of credit available, with a principal amount not to exceed $120,000,000 to the public entity or entities with the statutory authority to construct such facilities.

(b) EFFECTIVE PERIOD.—The line of credit under this section shall be available for draws during the period beginning on the date of completion of construction and ending on the last day of the tenth calendar year following the date construction of the facilities is completed.

(c) PURPOSES.—The line of credit under this section shall be available to pay the costs of extraordinary repair and replacement of the facilities, unexpected Federal or State environmental restrictions, operation and maintenance expenses of the facilities, and debt service on tax-exempt or taxable obligations financing the facilities.

(d) LIMITATIONS.—

(1) CAPITAL EXPENDITURES.—With respect to capital expenditures, draws on the line of credit under this section shall only be made if and to the extent proceeds from the sale of the obligations issued by the public entity or entities which otherwise would be available for such purposes are exhausted, or are otherwise unavailable for the payment of such capital expenditures.

(2) EXPENSES.—With respect to expenses, including operation and maintenance expenses and debt service, a draw on the line of credit under this section shall only be made if revenues from toll operations and capitalized interest are insufficient (or are otherwise unavailable) for such purposes.

(3) PER YEAR.—No more than 10 percent of the total principal amount of the line of credit under this section shall be available for draws in any one year.

(4) THIRD PARTY CREDITOR RIGHTS.—No third party creditor of the public entity or entities shall have any right against the Federal Government with respect to draws on the line of credit under this section.

(5) AVAILABILITY FOR PARTICULAR COSTS.—There is no guaranteed availability of proceeds of the line of credit under this section for the payment of any particular cost of the public entity or entities which might be financed under this section.

(e) INTEREST RATE AND REPAYMENT PERIOD.—Any draws (except for operation and maintenance expenses) on the line of credit under this section shall accrue interest at the 30-year United States Treasury bond rate beginning on the date such draws are made and shall be repaid in not more than 30 years; except that any draws under the line of credit for operation and maintenance expenses shall accrue interest at the 3-year United States Treasury note rate beginning on the date such draws are made and shall be repaid in not more than 3 years.

SEC. 115. RAILWAY-HIGHWAY CROSSINGS PROJECT.

Of the funds appropriated by Public Law 103-122 for railroad-highway crossings projects, $20,000,000 shall be made available for costs, not to exceed 80 percent, of a project to reduce rail-highway conflicts on M-59 near Pontiac, Michigan, and a project on Bristol Road near Flint, Michigan. From the $20,000,000 made available under the preceding sentence, $500,000 shall be made available to improve and upgrade Maple Road at Bishop Airport, Michigan.

SEC. 116. NEW RIVER PARKWAY, WEST VIRGINIA.

(a) PRIORITY CONSIDERATION.—

(1) COMPLETION OF STUDIES.—The Secretary shall require, as a matter of the highest priority, the completion of all remaining studies associated with the project authorized by section 149(a)(69) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191).

(2) SCHEDULE.—Notwithstanding any other provision of law, the Secretary is authorized and directed to establish a schedule—

(A) for the completion by other Federal agencies of any reviews required by law of such studies; and

(B) by which the reconciliation of any discrepancies among reviewing Federal agencies must be met.

(3) DEADLINE.—The schedule referred to in paragraph (2) shall provide for the project referred to in paragraph (1) to proceed to construction before December 31, 1995.

(b) VISITORS CENTER.—

(1) GRANTS.—The Secretary shall make grants to the Secretary of the Interior, acting through the Director of the National Park Service, for the planning, design, and construction of a visitors center, and such other related facilities as may be determined to be necessary, to facilitate visitor understanding and enjoyment of scenic, historic, cultural, and recreational resources accessible by the New River Parkway, West Virginia, and any related buildings as may be determined to be necessary for the administration of the parkway.

(2) SITE.—The visitors center, related facilities, and buildings referred to in paragraph (1) shall be located at a suitable location on a site for which title is held by the United States in the vicinity of the intersection of the New River Parkway and Interstate Route 64 or along the New River Parkway itself.

(3) CONSULTATION.—The Director of the National Park Service shall consult with the New River Parkway Authority and the State of West Virginia in the planning, design, and construction of the visitors center, related facilities, and buildings referred to in paragraph (1).

(4) FUNDING.—Of the amounts made available pursuant to section 1003(a)(6)(C) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) $1,300,000 for fiscal year 1995 and $1,200,000 for fiscal year 1996 shall be made available for the purposes of carrying out this subsection. Such funds shall remain available until expended.

SEC. 117. NATIONAL RECREATIONAL TRAILS.

(a) STATE ELIGIBILITY.—Section 1302(c) of the Intermodal Surface Transportation Act of 1991 (33 U.S.C. 1261(c)) is amended—

(1) by striking "Act" each place it appears and inserting "part";

(2) in paragraph (2) by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(3) by adding at the end the following:

"(3) SIXTH YEAR PROVISION.—On and after the date that is 5 years after the date of the enactment of this part, a State shall be eligible to receive moneys under this part in a fiscal year only if the State agrees to expend from non-Federal sources for carrying out projects under this part an amount equal to 20 percent of the amount received by the State under this part in such fiscal year.".

(b) ADMINISTRATIVE COSTS.—Section 1302(d)(1) of such Act (33 U.S.C. 1261(d)(1)) is amended—

(1) in subparagraph (C) by striking "national surveys" and inserting "a 1-time national survey";

(2) by striking "and" at the end of subparagraph (C);

(3) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) contracting for services with other land management agencies; and"; and

(4) by adding the end the following:

"The 3 percent limitation in the preceding sentence shall not apply to expenditures to pay the cost of conducting the 1-time national survey described in subparagraph (C).".

(c) ENVIRONMENTAL MITIGATION.—

(1) IN GENERAL.—Section 1302(e) of such Act (33 U.S.C. 1261(e)) is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and by inserting after paragraph (4) the following:

"(5) ENVIRONMENTAL MITIGATION.—

"(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, in complying with paragraph (4), a State shall give priority to project proposals which provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails in order to mitigate and minimize the impact to the natural environment.

"(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A).".

(2) CONFORMING AMENDMENT.—Section 1302(e)(4) of such Act (33 U.S.C. 1261(e)(4)) is amended by striking "paragraphs (6) and (8)(B)" and inserting paragraphs "(7) and (9)(B)".

(d) EXCLUSIONS.—Section 1302(e)(7) of such Act, as redesignated by subsection (c), is amended—

(1) by striking "(7) SMALL STATE EXCLUSION.—Any State" and inserting the following:

"(7) EXCLUSIONS.—

"(A) SMALL STATE.—Any State";

(2) by moving the text of subparagraph (A), as so designated, 2 ems to the right; and

(3) by adding at the end the following:

"(B) BEST INTEREST OF A STATE.—Any State which determines based on trail needs identified in its State Comprehensive Outdoor Recreation Plan that it is in the best interest of the State to be exempt from the requirements of paragraph (4) may apply to the Secretary for such an exemption. Before approving or disapproving an application for such an exemption, the Secretary shall publish in the Federal Register notice of receipt of the application and provide an opportunity for public comment on the application.".

(e) RETURN OF MONEYS NOT EXPENDED.—Section 1302(e)(9) of such Act, as redesignated by subsection (c), is amended—

(1) by inserting "the State" before "may be exempted"; and

(2) by striking "and expended or committed" and all that follows before the period.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1302 of such Act (16 U.S.C. 1261) is amended by adding at the end the following:

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section and section 1303 $6,000,000 for fiscal year 1995.

"(2) APPLICABILITY OF TITLE 23.—Funds authorized by paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted with such funds shall be as provided in this section, such funds shall not be subject to any obligation limitation other than subsection (d)(3), and such funds shall remain available until expended.

"(3) TREATMENT.—Funds authorized by paragraph (1) shall be treated as if such funds were part of the National Recreational Trails Trust Fund for purposes of making allocations to the States under subsection (d).".

(g) ADVISORY COMMITTEE.—Section 1303 of such Act (16 U.S.C. 1262) is amended—

(1) in subsection (b) by striking "11 members" and inserting "12 members";

(2) in subsection (b) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following:

"(2) 1 member appointed by the Secretary representing individuals with disabilities;".

SEC. 118. COAL HERITAGE.

(a) GRANTS.—The Secretary shall make grants to the State of West Virginia for the purpose of erecting signs or other informational devices depicting Coal Heritage along public roads identified as "Heritage Tour Routes" and "Tour Route Connectors" on the map entitled "Alternative Concept C" in the the study entitled "A Coal Mining Heritage Study: Southern West Virginia" (1993, United States Department of the Interior, National Park Service) and along additional public roads which provide access to the interpretive sites and areas identified on such map. Such signs or devices shall be devised by the West Virginia Division of Culture and History with the concurrence of the West Virginia Division of Highways and shall be subject to public comment.

(b) TECHNICAL ASSISTANCE.—With respect to areas along the roads referred to in subsection (a) which are administered by Federal, State, local, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities and in consultation with the State of West Virginia, provide technical assistance in the development of interpretive devices and information in order to contribute to public appreciation of the historical, cultural, natural, scenic, and recreational sites along such roads.

(c) FUNDING.—Of amounts made available pursuant to section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1998), there shall be available $1,000,000 per fiscal year for each of fiscal years 1995 and 1996 for the purposes of carrying out this section. Such sums shall remain available until expended.

SEC. 119. LIMITATIONS ON FUNDING OF OPERATING ASSISTANCE.

Section 9(k)(2) of the Federal Transit Act (49 U.S.C. App. 1607a(k)(3)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (E) and (F), respectively;

(2) in subparagraph (E), as redesignated by paragraph (1), by inserting "INCREASE.—" before "Beginning";

(3) in subparagraph (F), as redesignated by paragraph (1)—

(A) by inserting "CONSUMER PRICE INDEX DEFINED.—" before "As"; and

(B) by striking "(B)" and inserting "(E)";

(4) by moving subparagraphs (E) and (F), as redesignated by paragraph (1), 4 ems to the right; and

(5) by striking "(2)" and subparagraph (A) and inserting the following:

"(2) LIMITATIONS ON FUNDING OF OPERATING ASSISTANCE.—

"(A) IN GENERAL.—The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 percent of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(A), (2)(A), and (3)(A) of section 5(a) of this Act to an urbanized area with a population of 1,000,000 or more, 90 percent of funds so apportioned to an urbanized area with a population of 200,000 or more and less than 1,000,000 population; and 95 percent of funds so apportioned to an urbanized area of less than 200,000 population. Notwithstanding the preceding sentence, an urbanized area that first became an urbanized area under the 1980 census or thereafter may use each fiscal year for operating assistance not to exceed an amount equal to ⅔ of its apportionment during the first full year it received funds under this section.

"(B) SPECIAL RULE FOR CERTAIN URBANIZED AREAS WITH REDUCED POPULATIONS.—If an urbanized area had a population under the 1980 decennial census of the United States of more than 1,000,000 and has a population under the 1990 decennial census of less than 1,000,000, the maximum percentage of funds which may be used for operating assistance for purposes of subparagraph (A) shall be 90 percent of the amount of funds apportioned in fiscal year 1982 under such paragraphs (1)(A), (2)(A), and (3)(A) to such area.

"(C) SPECIAL RULE FOR URBANIZED AREAS OF LESS THAN 200,000.—If an urbanized area had a population under the 1990 decennial census of the United States of less than 200,000, 100 percent of the funds apportioned to such area under this section for each of fiscal years 1995, 1996, and 1997 may be used for operating assistance, notwithstanding any limitation otherwise imposed on operating assistance.

"(D) OFFSET.—The amount of funds apportioned under this section to each urbanized area with a population of 200,000 or more in each of fiscal years 1995, 1996, and 1997 which may be used for operating assistance but for this subparagraph shall be reduced by the amount determined by multiplying—

"(i) the aggregate amount of increases of operating assistance under subparagraph (C) in such fiscal year; by

"(ii) the quotient determined by dividing—

"(I) the amount of funds apportioned under this section to such area in such fiscal year which may be used for operating assistance but for this subparagraph; by

"(II) the aggregate amount of funds apportioned to all urbanized areas with a population of 200,000 or more under this section in such fiscal year but for this subparagraph which may be used for operating assistance.".

SEC. 120. INTERCITY BUS TRANSPORTATION.

(a) BASIC PROGRAM.—Section 18(i)(1) of the Federal Transit Act (49 U.S.C. App. 1614(i)(1)) is amended—

(1) by striking "and" before "15 percent";

(2) by inserting ", and 7.5 percent of such amounts in fiscal year 1995" after "1994"; and

(3) by inserting after "demonstration projects," the following: "the purchase of accessibility devices,".

(b) DISCRETIONARY PROGRAM.—Section 3 of such Act (49 U.S.C. App. 1602) is amended by adding at the end the following new subsection:

"(o) INTERCITY BUS TRANSPORTATION.—Of the amounts made available by subsection (k)(1)(C) in each fiscal year beginning after September 30, 1994, the Secretary shall make to operators of intercity bus transportation systems capital grants to support such systems, including the purchase of accessibility devices, an amount equal to 7.5 percent of the amounts made available under section 18 in such fiscal year. The Federal grant for any project under this subsection shall be 80 percent of the net project cost; except that the Federal grant for the purchase of accessibility devices under this subsection shall be 90 percent of the net project cost.".

SEC. 121. REPEALS OF EXISTING PROJECTS.

(a) LONG BEACH METRO LINK FIXED RAIL PROJECT.—Section 3035(o) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131) is repealed.

(b) HONOLULU RAPID TRANSIT PROJECT.—Section 3035(ww) of such Act (105 Stat. 2136) is repealed.

SEC. 122. MISCELLANEOUS TRANSIT PROJECTS.

(a) PORTLAND WESTSIDE LIGHT RAIL PROJECT.—Section 3035(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2129) is amended—

(1) by inserting "(1) IN GENERAL.—" after "WESTSIDE LIGHT RAIL PROJECT.—";

(2) by striking the last sentence;

(3) by indenting paragraph (1) and moving it 2 ems to the right; and

(4) by adding at the end the following:

"(2) AMENDMENT.—

"(A) NEGOTIATION.—Within 90 days after the date of the enactment of this paragraph, the Secretary shall negotiate and sign an amendment to the Westside Light Rail Project multiyear grant agreement authorized under paragraph (1) with the Tri-County Metropolitan Transportation District of Oregon to carry out the final design and construction of the locally preferred alternative for the Hillsboro extension, systems related costs as authorized in Public Law 102-240, and acquisition of low floor light rail vehicles, as set forth in Public Law 102-388.

"(B) ADVANCE CONSTRUCTION; CONTINGENT COMMITMENT.—The amendment negotiated under this paragraph shall provide for the use of advance construction authority under section 3(l) of the Federal Transit Act and for the use of contingent commitment authority under section 3(a)(4)(C) of the Federal Transit Act for the activities set forth in subparagraph (A) for an amount equivalent to the Federal share authorized under section 3 of the Federal Transit Act for each specific activity; except that the Federal share of the cost of the final design and construction of the Hillsboro extension shall not exceed ⅓.

"(C) SPECIAL RULE FOR ADVANCE CONSTRUCTION.—In the event that the Tri-County Metropolitan Transportation District of Oregon uses advance construction authority under this paragraph, the Secretary shall convert that authority into a grant and shall reimburse the Tri-County Metropolitan Transportation District of Oregon from funds made available under section 3 of the Federal Transit Act in fiscal years 1998 and 1999 for the Federal share of the amounts expended (plus any eligible financing costs).

"(D) INTEGRATED PROJECT FINANCING PLAN.—The amendment negotiated under this paragraph shall also include an integrated project financing plan to permit the interchangeable use of Federal funds for activities set forth in paragraph (1) and subparagraph (A) to maintain the entire project construction schedule.

"(3) TREATMENT AS A SINGLE PROJECT.—The Hillsboro extension to the Westside Light Rail Project shall be considered by the Federal Transit Administration as a single project extending from downtown Portland, Oregon, to downtown Hillsboro, Oregon, for the purposes of project review, evaluation, and approval of construction under section 3(i) of the Federal Transit Act and for the purpose of preparing a report under section 3(j) of such Act.".

(b) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122-2123) is amended—

(1) by inserting after "Hudson River Waterfront Transportation System" the following:

"(including corridor connections to and within the city of Bayonne)"; and

(2) by inserting after "Concourse," the following: "the West Shore Line,".

(c) NORTH BAY FERRY SERVICE.—Section 3035(c) of such Act (105 Stat. 2129) is amended by striking "$8,000,000" and all that follows through "1993" and inserting "$17,000,000".

(d) STATEN ISLAND-MIDTOWN MANHATTAN FERRY SERVICE.—Section 3035(d) of such Act is amended by striking "$1,000,000" and all that follows through "1993" and inserting "$12,000,000".

(e) CENTRAL AREA CIRCULATOR PROJECT.—Section 3035(e) of such Act is amended by striking the last sentence.

(f) SALT LAKE CITY LIGHT RAIL PROJECT.—Section 3035(f) of such Act is amended by inserting after "including" the following: "related high-occupancy vehicle lane, intermodal corridor design,".

(g) LOS ANGELES-SAN DIEGO RAIL CORRIDOR IMPROVEMENT PROJECT.—Section 3035(g) of such Act is amended by striking "not less than" and all that follows through "1994" and inserting "$20,000,000".

(h) ADDITIONAL TRACKAGE RIGHTS AND RIGHT-OF-WAY PURCHASE FOR GILROY SERVICE.—Section 3035(h) of such Act is amended—

(1) by striking "July 1, 1994" and inserting "September 30, 1996"; and

(2) by striking "August 1, 1994," and inserting "October 31, 1996,".

(i) DALLAS LIGHT RAIL PROJECT.—

(1) MULTIYEAR GRANT AGREEMENT.—Section 3035(i) of such Act is amended—

(A) by striking "6.4 miles" and inserting "9.6 miles";

(B) by striking "10 stations" and inserting "not to exceed 14 stations";

(C) by striking "such light rail line" and inserting "the program of interrelated projects identified in section 3(a)(8)(C)(vii) of the Federal Transit Act"; and

(D) by striking "of such elements" and inserting "element of such program of interrelated projects"

(2) PROGRAM OF INTERRELATED PROJECTS.—Section 3(a)(8)(C)(vii) of the Federal Transit Act (49 U.S.C. App. 1602(a)(8)(C)(vii)) is amended by striking "Camp Wisdom" and inserting "Interstate Route 20, L.B.J. Freeway".

(j) SOUTH BOSTON.—Section 3035(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2130–2131) is amended—

(1) by striking "$278,000,000" each place it appears and inserting "$323,000,000";

(2) by inserting "the second place it appears" after "striking '—' "; and

(3) by adding at the end the following: "Funds made available for the South Boston Piers Transitway in fiscal year 1994 for alternatives analysis may also be used for construction.".

(k) KANSAS CITY LIGHT RAIL LINE.—Section 3035(k) of such Act is amended by striking "$1,500,000 in fiscal year 1992, and $4,400,000 in fiscal year 1993" and inserting "$5,900,000".

(l) DOWNTOWN ORLANDO CIRCULATOR PROJECT.—Section 3035(l) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The";

(2) by striking "$5,000,000" and inserting "$12,000,000"; and

(3) by striking "for" the second place it appears and all that follows through the period at the end and inserting "and the completion of final design, construction, land and equipment acquisition, and related activities for the Downtown Orlando Circulator project.".

(m) DETROIT LIGHT RAIL PROJECT.—Section 3035(m) of such Act is amended by striking "not less than" the first place it appears and all that follows through "1993," and inserting "$20,000,000".

(n) LAKEWOOD-FREEHOLD-MATTAWAN OR JAMESBURG RAIL PROJECT.—Section 3035(p) of such Act is amended by striking "$1,800,000" and all that follows through "1994" and inserting "$7,800,000".

(o) CHARLOTTE LIGHT RAIL STUDY.—Section 3035(r) of such Act is amended by striking "$125,000" and all that follows through "1993" and inserting "$500,000".

(p) SAN DIEGO MID COAST FIXED GUIDEWAY PROJECT.—Section 3035(u) of such Act is amended—

(1) in the subsection heading by striking "LIGHT RAIL" and inserting "FIXED GUIDEWAY";

(2) by striking "No later than April 30, 1992, the" and inserting "The";

(3) by striking ", $2,000,000" and all that follows through "right-of-way," and inserting "$42,000,000"; and

(4) by striking "Light Rail" and inserting "Fixed Guideway".

(q) RAILTRAN COMMUTER RAIL PROJECT.—Section 3035(x) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The"; and

(2) by striking "$2,480,000" and all that follows through "1993" and inserting "$8,680,000".

(r) EUREKA SPRINGS, ARKANSAS.—Section 3035(z) of such Act is amended by striking the first sentence and inserting the following: "From funds provided under section 3(k)(1)(c) of the Federal Transit Act, the Secretary shall make available $63,600 to Eureka Springs Transit for the purchase of an alternative fueled vehicle, which is accessible to and usable by individuals with disabilities.".

(s) BALTIMORE-CENTRAL LIGHT RAIL EXTENSION.—Section 3035(nn) of such Act is amended—

(1) in paragraph (1) by striking "as follows:

"(A) Not less than $30,000,000 for fiscal year 1993.

"(B) Not less than $30,000,000 for fiscal year 1994."

and inserting "and shall be $60,000,000."; and

(2) in paragraph (2) by striking "as follows" and all that follows through the period at the end of subparagraph (C) and inserting "totaling $160,000,000.".

(t) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—Section 3035(vv) of such Act is amended to read as follows:

"(vv) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—Not later than December 31, 1994, the Secretary shall negotiate and sign an agreement which modifies the full funding agreement signed on September 27, 1991, with the Jacksonville Transportation Authority for phase 1–B of the north segment of the Automated Skyway Express project to make available $15,000,000 in already appropriated funds and $35,000,000 under section 3(k)(1)(B) of the Federal Transit Act to carry out construction of the locally preferred alternative for an operable segment of a not to exceed 1.8 mile extension to such project.".

(u) DULLES CORRIDOR RAIL PROJECT.—Section 3035(aaa) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The";

(2) by striking "$6,000,000" and inserting "$16,000,000"; and

(3) by striking "the completion" and all that follows through "engineering for".

(v) CENTRAL PUGET SOUND REGIONAL TRANSIT PROJECT.—Section 3035(bbb) of such Act is amended to read as follows:

"(bbb) CENTRAL PUGET SOUND REGIONAL TRANSIT PROJECT.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $300,000,000 for the Central Puget Sound Regional Transit Project.".

(w) CANAL STREET CORRIDOR LIGHT RAIL.—Section 3035(fff) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The"; and

(2) by striking "negotiate" and all that follows through "includes" and inserting "make available"; and

(3) by striking "$4,800,000" and all that follows through "statement for" and inserting "$44,800,000 to construct".

(x) ADDITIONAL PROJECTS.—

(1) SANTA CRUZ BUS FACILITY CONSOLIDATION.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $4,120,000 for the Santa Cruz Bus Facility Consolidation project.

(2) SANTA CRUZ FIXED GUIDEWAY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $4,750,000 for the Santa Cruz Fixed Guideway project.

(3) SAN FRANCISCO FERRY BUILDING RENOVATION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $1,250,000 for the San Francisco Ferry Building Renovation project.

(4) AC TRANSIT BUS IMPROVEMENTS.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $10,000,000 to the Alameda County Transit District for the purchase of buses.

(5) DENVER SOUTHWEST CORRIDOR LIGHT RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $13,000,000 for the Denver Southwest Corridor Light Rail project.

(6) GRIFFIN LINE TRANSITWAY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $4,900,000 for the Griffin Line Transitway project.

(7) TAMPA TO LAKELAND COMMUTER RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $16,300,000 for the Tampa to Lakeland Commuter Rail project.

(8) RAVENSWOOD RAPID TRANSIT LINE.—From funds provided under section 3(k)(1)(A) of the Federal Transit Act, and before the formula distribution of funds under such section, the Secretary shall make available $20,000,000 to the Chicago Transit Authority for the reconstruction of track on the Ravenswood Rapid Transit line between Kimball Terminal and Clark Junction and between Armitage Avenue and Tower 18.

(9) FITCHBURG INTERMODAL FACILITY.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,250,000 for the Fitchburg Intermodal Facility.

(10) EAST-WEST TRANSITWAY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the East-West Transitway project in Montgomery County, Maryland.

(11) MINNEAPOLIS.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $20,000,000 for the Minnesota Central Corridor Light Rail project.

(12) HOBOKEN TERMINAL FACILITY IMPROVEMENTS.—From funds provided under section

3(k)(1)(A) of the Federal Transit Act, and before the formula distribution of funds under such section, the Secretary shall make available $8,000,000 to rehabilitate the Hoboken Terminal and Yard Complex in Hoboken, New Jersey.

(13) WEST 72D STREET TRANSIT STATION.—From funds provided under section 3(k)(1)(A) of the Federal Transit Act, and before the formula distribution of funds under such section, the Secretary shall make available $9,500,000 to refurbish and expand the West 72d Street Transit Station in New York, New York.

(14) TREN URBANO LIGHT RAIL LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $40,000,000 for the Tren Urbano Light Rail project in Puerto Rico.

(15) MEMPHIS RIVERFRONT LOOP.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,900,000 for the Memphis Riverfront Loop Light Rail project.

(16) DART NORTH CENTRAL LIGHT RAIL EXTENSION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $18,628,000 for the DART North Central Light Rail Extension project.

(17) AUSTIN LIGHT RAIL PROJECT.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the Austin Light Rail project.

(18) EDMONDS MULTI-MODAL CENTER.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $400,000 for fixed guideway improvements in the vicinity of the Edmonds, Washington ferry terminal.

(19) MILWAUKEE BUS PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $10,000,000 to purchase transit buses in Milwaukee County, Wisconsin.

(20) TRI-STATE TRANSIT AUTHORITY PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $3,416,000 to the Tri-State Transit Authority in Huntington, West Virginia, for the purchase of transit vehicles, equipment, and related right-of-way facility costs.

(21) ALASKA MARINE TRANSPORTATION SYSTEM.—Notwithstanding section 3(a) of the Federal Transit Act, from funds provided under section 3(k)(1)(B), the Secretary shall make available $20,000,000 to the State of Alaska for the Alaska Marine Transportation System project.

(22) LONG BEACH BUS PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $3,000,000 to the Long Beach Public Transportation Company for the purchase of buses and spare parts.

(23) PALM DESERT PEOPLE MOVER.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the Palm Desert People Mover Project.

(24) LOS ANGELES/BURBANK/GLENDALE/SAN FERNANDO VALLEY LIGHT RAIL/INTERMODAL CONNECTION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 for the Los Angeles/Burbank/Glendale/San Fernando Valley Light Rail/Intermodal Connection project.

(25) ORANGE COUNTY TRANSITWAY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $15,000,000 for the Orange County Transitway Project, including the connector in Costa Mesa, California .

(26) GOLDEN EMPIRE TRANSIT LIGHT RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $2,000,000 for the Golden Empire Transit Light rail project.

(27) DELAWARE AREA RAPID TRANSIT BUS PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $5,000,000 to the Delaware Area Rapid Transit District for the purchase of buses.

(28) TRI-COUNTY COMMUTER RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $20,000,000 for capital improvements to Tri-Rail Commuter Rail Service.

(29) SAFETY AND SECURITY PILOT PROJECT.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,750,000 for a safety and security pilot project in Champaign-Urbana, Rock Island, and Springfield, Illinois.

(30) METRO WISCONSIN CENTRAL COMMUTER RAIL LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for capital improvements to provide commuter rail service between Antioch, Illinois, and Chicago Union Station.

(31) CINCINNATI NORTHEAST/NORTHERN KENTUCKY RAIL LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $6,000,000 for the Cincinnati Northeast/Northern Kentucky Rail Line project.

(32) WORCESTER INTERMODAL CENTER.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $20,000,000 for the Union Station Intermodal Center project.

(33) BOSTON COLLEGE ALTERNATIVE FUELS/ENVIRONMENTAL EFFICIENCY BUS DEMONSTRATION PROJECT.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $1,600,000 to Boston College for the alternative fuels/environmental efficiency bus demonstration project.

(34) SHADY GROVE TO FREDERICK CORRIDOR.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 to the State of Maryland for a corridor study of transit options in the Shady Grove to Frederick Corridor.

(35) BALTIMORE REGIONAL TRANSIT CORRIDOR STUDY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 to the State of Maryland for a study of transit corridors in the Baltimore and southern Maryland regions.

(36) WEST TRENTON LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 to make capital improvements for the West Trenton Commuter Rail Line.

(37) WHITEHALL FERRY TERMINAL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $20,000,000 for reconstruction of the Whitehall Ferry Terminal in New York, New York.

(38) BUFFALO CROSSROADS STATION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $9,000,000 to the Niagara Frontier Transportation Authority for the Crossroads Station project.

(39) COLUMBUS NORTH CORRIDOR/OSU LINK.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 for the Columbus North Corridor/OSU Link project.

(40) BAYFRONT CENTRE INTERMODAL COMPLEX.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $8,000,000 for the Bayfront Centre Intermodal Complex project.

(41) ST. LOUIS METRO LINK EXTENSIONS.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $16,000,000 for the St. Clair extension to the St. Louis Metro Link light rail transit system, $2,450,000 for the Cross-County extension to such system, and $3,450,000 for the St. Charles extension to such system.

(42) ALBANY MULTIMODAL TRANSPORTATION FACILITY.—From funds provided under section 3(k)(1)(C), the Secretary shall make available $590,000 for the multimodal transportation facility in Albany, Oregon.

(43) MIAMI METRORAIL NORTH CORRIDOR EXTENSION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $15,000,000 for the northern extension of the Metrorail rapid transit system in Miami, Florida.

(44) VALPARAISO-CHICAGO COMMUTER CORRIDOR STUDY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $56,000 to determine the feasibility of restoring commuter rail service between Valparaiso, Indiana, and Chicago, Illinois.

(45) AREA TRANSPORTATION AUTHORITY OF NORTH CENTRAL PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $3,434,000 for construction of a bus maintenance facility in Elk County, satellite garage in Potter County, and CNG fueling equipment in DuBois for the Area Transportation Authority of North Central Pennsylvania.

(46) JOHNSTOWN, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,700,000 for the purchase of buses and repair of a storage and repair facility and associated fuel storage tanks for the Cambria County Transit Authority, Pennsylvania.

(47) INDIANA COUNTY, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $600,000 for the purchase of buses for the Indiana County Transit Authority, Pennsylvania.

(48) ALTOONA, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $1,200,000 for the purchase of buses and spare parts, an electronic public information system and capital improvements to the Altoona Transportation Center to Altoona Metro Transit, Pennsylvania.

(49) DUBOIS/FALLS CREEK/SANDY TOWNSHIP, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $480,000 for the purchase of buses and lift-equipped vans for the DuBois/Falls Creek/Sandy Township Area Transit Authority, Pennsylvania.

(50) TACOMA EASTERN RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $4,000,000 to the city of Tacoma, Washington, for the Tacoma Eastern Rail project from Tacoma to Ashford.

(51) PITTSBURGH BUSWAY.—From funds provided under section 3(k)(1)(B) of the Federal

Transit Act, the Secretary shall make available $5,036,000 for the Pittsburgh Busway project.

(52) ILLINOIS BUS PROJECTS.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the purchase of buses in Peoria, Champaign-Urbana, Rockford, PACE in the suburban area of Chicago, and other nonurbanized area systems in Illinois.

(53) SOUTHWEST BROOKLYN TRANSIT STATION AND TRACK IMPROVEMENT PROJECT.—From funds provided under section 3(k)(1)(A) of the Federal Transit Act, and before formula distribution of funds under such section, the Secretary shall make available $4,000,000 to make station and track improvements in Southwest Brooklyn, New York.

(54) WISCONSIN BUS PROJECTS.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,600,000 for the purchase of buses, vans, and bus-related facilities to the State of Wisconsin.

(y) 1996 OLYMPIC AND PARA-OLYMPIC BUS GRANTS.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act in fiscal year 1995, the Secretary shall transfer $16,000,000 to the program being carried out under section 9 of such Act to make available $10,400,000 in capital and operating grants for the 1996 Olympic and Para-Olympic games and $5,600,000 in capital and operating grants for the 1996 Para-Olympic games. The Federal share of such grants shall be 100 percent.

(z) CALSTART CONSORTIUM.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $5,000,000 to the CALSTART Consortium to perform the services described in section 6071(c) of the Intermodal Surface Transportation Efficiency Act of 1991.

SEC. 123. MULTIYEAR CONTRACT FOR METRO RAIL PROJECT.

(a) IN GENERAL.—Section 3034 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2126–2129) is amended—

(1) in subsection (b)(3)(A) by striking "$695,000,000" and inserting "$720,000,000";

(2) by adding at the end of subsection (e)(3) the following:

"(D) SCOPE.—The amended contract under subparagraph (A) shall provide Federal assistance for the design and construction of an interim operable segment of the East Side Extension, consisting of a line running generally east from Union Station of approximately 3.7 miles in length or in accordance with the East Side Extension locally preferred alternative, when approved by the Board of the Los Angeles County Metropolitan Transportation Authority.

"(E) FUNDING.—The $25,000,000 increase in authorization provided for Minimum Operable Segment-3 under the National Highway System Designation Act of 1994 shall be made available by the Secretary for funding the scope of the East Side Extension described in subparagraph (D). These funds shall be in addition to the amounts provided for the East Side Extension in the contract executed in May 1993 pursuant to subsection (b) of this section.".

(b) DEFINITIONS.—Section 3034(i)(3) of such Act is amended—

(1) by striking "7 stations" and inserting "12 stations";

(2) by striking "11.6" and inserting "15.4"; and

(3) by striking subparagraph (C) and inserting the following:

"(C) One line, known as the East Side Extension locally preferred alternative, running generally east from Union Station for approximately 6.8 miles to the Whittier/Atlantic Station, with 6 intermediate stations.".

SEC. 124. METRIC SYSTEM SIGNING.

(a) PLACEMENT OF SIGNS.—Before September 30, 1997, the Secretary may not require the States to expend any Federal or State funds to construct, erect, or otherwise place any sign relating to any speed limit, distance, or other measurement on any highway for the purpose of having such sign establish such speed limit, distance, or other measurement using the metric system.

(b) MODIFICATION OF SIGNS.—Before September 30, 1997, the Secretary may not require the States to expend any Federal or State funds to modify any sign relating to any speed limit, any distance, or other measurement on any highway for the purpose of having such sign establish such speed limit, distance, or measurement using the metric system.

(c) DEFINITIONS.—For purposes of subsections (a) and (b), the following definitions apply:

(1) HIGHWAY.—The term "highway" has the meaning such term has under section 101 of title 23, United States Code.

(2) METRIC SYSTEM.—The term "metric system" has the meaning the term "metric system of measurement" has under section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

SEC. 125. METROPOLITAN PLANNING.

Section 134(g)(2)(A) of title 23, United States Code, is amended by inserting after "transit," the following: "airport, port, inland waterway,".

SEC. 126. STATEWIDE PLANNING.

(a) INTEGRATED STATE TRANSPORTATION SYSTEM FACILITIES.—Section 135(e) of title 23, United States Code, is amended by inserting after the first sentence the following: "The plan shall, at a minimum, identify transportation facilities (including major roadways, transit, airport, port, inland waterway, and multimodal and intermodal facilities) that should function as an integrated State transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.".

(b) MEETING FUNDING NEEDS OF INTERNATIONAL BORDER CROSSING COMMUNITIES.—Such section is further amended by inserting after the first sentence the following: "The State plan must consider the special transportation requirements created by international motor vehicle border crossings if applicable to such State.".

SEC. 127. HIGH PRIORITY CORRIDOR FEASIBILITY STUDY.

With amounts available to the Secretary under section 1105(h) of the Intermodal Surface Transportation Efficiency Act of 1991, the Secretary in cooperation with the States of Virginia and West Virginia shall conduct a study to determine the feasibility of establishing a route for the East-West Transamerica Corridor (designated pursuant to section 1105(c)(3) of such Act) from Beckley, West Virginia, utilizing a corridor entering Virginia near the city of Covington then moving south from the Allegheny Highlands to serve Roanoke and continuing east to Lynchburg. From there such route would continue across Virginia to the Hampton Roads-Norfolk area.

SEC. 128. REEVALUATION.

(a) INITIATION.—After completion of current construction on Interstate Route 10 and Gessner Road, Texas, the Secretary shall initiate a reevaluation in consultation with State and local officials of—

(1) a proposed exit ramp from the Sam Houston Tollway eastbound direct connector to the eastbound Interstate Route 10 frontage road between Beltway 8 and Gessner Road; and

(2) a proposed entrance ramp from the westbound Interstate Route 10 frontage road between Gessner Road and Beltway 8 to the westbound direct connector to the Sam Houston Tollway in Houston, Harris County, Texas.

(b) DEADLINE FOR DECISION.—The Secretary shall issue a decision on the proposed ramps referred to in subsection (a) within 6 months after completion of the construction referred to in subsection (a).

SEC. 129. FUNDING.

(a) STUDY.—The Secretary shall conduct a study of how the existing Federal-aid highway and transit funding is utilized by States and metropolitan planning organizations to address transportation needs.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under this section.

SEC. 130. NONDIVISIBLE LOADS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall institute a rulemaking proceeding to define the term "vehicles and loads which cannot be easily dismantled or divided" as used in section 127 of title 23, United States Code, including consideration of a commodity-specific definition of such term. The Secretary shall complete the proceeding required by this subsection not later than 270 days after the date of the enactment of this Act. The Secretary may apply such regulations to all vehicle loads operating on the National Highway System if the Secretary determines that it is in the public interest.

SEC. 131. COMMERCIAL MOTOR VEHICLE ACCIDENTS.

(a) STUDY.—The Secretary shall conduct a study of methods to reduce accidents on Federal-aid highways caused by drivers falling asleep while operating a commercial motor vehicle used to transport freight.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

TITLE II—TECHNICAL CORRECTIONS TO ISTEA AND RELATED LAWS

SEC. 201. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended by striking the 1st undesignated paragraph of such section that relates to public lands highways.

SEC. 202. REFERENCES TO DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) DECLARATION OF POLICY.—Section 2 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914–1915) is amended—

(1) in the 3d undesignated paragraph by striking "National System of" and inserting "Dwight D. Eisenhower System of"; and

(2) in the 7th undesignated paragraph by striking "Interstate and Defense Highway System" and inserting "Dwight D. Eisenhower System of Interstate and Defense Highways".

(b) COMPLETION OF INTERSTATE SYSTEM.—Section 1001 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1915–1916) is amended in each of subsections (a) and (b) by striking "National".

(c) DEFINITION OF INTERSTATE SYSTEM IN TITLE 23.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to the Interstate System, is amended by striking "National".

(d) CONFORMING AMENDMENT TO VEHICLE WEIGHT LIMITATIONS.—Section 127(a) of title 23, United States Code, is amended by striking "National" each place it appears and inserting "Dwight D. Eisenhower".

(e) VEHICLE LENGTH RESTRICTION.—Section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)) is amended in each of paragraphs (1), (5)(D), and (6)(A) by striking "National" and inserting "Dwight D. Eisenhower".

(f) LONGER COMBINATION VEHICLE DEFINED.—Section 4007(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2153) is amended by striking "National" and inserting "Dwight D. Eisenhower".

(g) COMMEMORATION.—Section 6012 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2180–2181) is amended—

(1) in the section heading by striking "national"; and

(2) in subsection (a) by striking "National".

SEC. 203. FEDERAL-AID SYSTEMS.

(a) INTERSTATE SYSTEM.—Section 103(e)(1) of title 23, United States Code, is amended by striking the next to the last sentence.

(b) SUBSTITUTE PROJECTS.—Section 103(e)(4) of such title is amended—

(1) in the last sentence of subparagraph (B) by striking "projects on the Federal-aid secondary system" and inserting "surface transportation program projects";

(2) in subparagraph (G) by inserting "and" before "$240,000,000"; and

(3) in subparagraph (J)(i) by inserting a comma after "October 1, 1991".

SEC. 204. APPORTIONMENT.

(a) SET-ASIDE.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "for the Federal-aid systems" and inserting "for this chapter"; and

(2) by striking "upon the Federal-aid systems" and inserting "under this chapter".

(b) CROSS REFERENCE TO INTERSTATE CONSTRUCTION PERIOD OF AVAILABILITY.—Section 104(b)(5)(A) of such title is amended by striking "118(b)(2)" and inserting "118(b)(1)".

(c) TECHNICAL AMENDMENT.—Section 104(b)(5)(B) of such title is amended by striking the comma following "1984" each place it appears.

(d) REPEAL OF URBAN SYSTEM APPORTIONMENT.—Section 104(b)(6) of such title is repealed.

(e) PLANNING SET-ASIDE.—Section 104(f)(3) of such title is amended by striking "(j)".

(f) TRANSFERABILITY AMONG SAFETY AND BRIDGE PROGRAMS.—Section 104(g) of such title is amended by striking "Not more than" and all that follows through "any other of such sections" the second place it appears and inserting the following: "Not more than 40 percent of the amount which is apportioned in any fiscal year to each State under section 144 or which is reserved for such fiscal year under section 133(d)(1) only for carrying out section 130 or 152 may be transferred from the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 percent of the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section".

SEC. 205. PROGRAMS OF PROJECTS.

(a) REPEAL OF REQUIREMENT.—Section 105 of title 23, United States Code, and the item relating to such section in the analysis for chapter 1 of such title are each repealed.

(b) CONFORMING AMENDMENTS.—Section 106(a) of such title is amended—

(1) by striking ", as soon as practicable after program approval,"; and

(2) by striking "included in an approved program".

(c) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—Section 1105(g)(7) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2036) is amended to read as follows:

"(7) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a plan or program under chapter 1 of title 23, United States Code, a State may give priority to high priority segments of corridors identified under subsection (c) of this section.".

SEC. 206. ADVANCE ACQUISITION OF RIGHTS-OF-WAY.

(a) INTERSTATE SYSTEM.—Section 107(a)(2) of title 23, United States Code, is amended by striking "subsection (c)" and inserting "subsection (a)".

(b) APPORTIONED FUNDS.—Section 108(a) of such title is amended—

(1) by striking "on any Federal-aid highway" and inserting "for any project eligible for assistance under this chapter";

(2) by striking "on such highway" and inserting "on such project"; and

(3) by striking "a road" and inserting "the project".

(c) RIGHT-OF-WAY REVOLVING FUND FUNDS.—Section 108(c) of such title is amended—

(1) in paragraph (2) by striking "highways and passenger transit facilities on any Federal-aid system" and inserting "any project eligible for assistance under this chapter"; and

(2) in paragraph (3) by striking "such project for the actual construction" and all that follows through "Secretary" the last place it appears and inserting "actual construction of such project on rights-of-way with respect to which funds are advanced under this subsection, whichever shall occur first, the right-of-way revolving fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of this title, out of any funds apportioned under this chapter to the State in which such project is located and available for obligation for such projects and the State shall reimburse the Secretary".

(d) EARLY ACQUISITION.—Section 108(d)(2)(F) of such title is amended by striking "this Act" and inserting "this title".

SEC. 207. STANDARDS.

Section 109 of title 23, United States Code, is amended—

(1) in subsection (h) by striking "Federal-aid system" and inserting "Federal-aid highway"; and

(2) in subsection (q) by striking "under sections" and inserting "under section".

SEC. 208. LETTING OF CONTRACTS.

Section 112(g) of title 23, United States Code, relating to applicability to contracts for projects on the secondary system, as redesignated by section 103(c) of this Act, is repealed.

SEC. 209. PREVAILING RATE OF WAGE.

Section 113 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highway projects on" and all that follows through "authorized under" and inserting "highway projects on Federal-aid highways authorized under";

(2) in subsection (a) by striking "upon the Federal-aid systems," and inserting "on Federal-aid highways,"; and

(3) in subsection (b) by striking "of the Federal-aid systems" and inserting "Federal-aid highway".

SEC. 210. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or portion thereof";

(2) in subsection (b)(1) by striking "highways or portions of highways located on a Federal-aid system" and inserting "a Federal-aid highway or portion thereof"; and

(3) in subsection (b)(3) by striking "highways or portions of highways located on a Federal-aid system" and inserting "any Federal-aid highway or portion thereof".

SEC. 211. ADVANCE CONSTRUCTION.

Section 115 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "PLANS, SPECIFICATIONS," and inserting "PROJECT APPROVAL"; and

(2) in subsection (c) by striking "134," and the second comma after "144".

SEC. 212. MAINTENANCE.

Section 116 of title 23, United States Code, is amended—

(1) by inserting "highway" before "project" the first place it appears in each of subsections (a) and (c);

(2) in subsection (a) by striking "no longer constitutes a part of a Federal-aid system" and inserting "is no longer a Federal-aid highway"; and

(3) in subsection (b) by striking "the Federal-aid secondary system" and inserting "a Federal-aid highway".

SEC. 213. CERTIFICATION ACCEPTANCE.

Section 117 of title 23, United States Code, is amended—

(1) in subsection (e) by striking "2000(d)" and inserting "2000d"; and

(2) by striking subsection (f), relating to discharge of the Secretary's responsibilities with respect to the secondary system.

SEC. 214. AVAILABILITY OF FUNDS.

(a) PERIOD OF AVAILABILITY.—Section 118(b)(1) of title 23, United States Code, is amended—

(1) in the first sentence by striking "Interstate construction in a State" and inserting "completion of the Interstate System in a State"; and

(2) in the second sentence by inserting "for completion of the Interstate System" after "shall be allocated".

(b) SET-ASIDE FOR INTERSTATE CONSTRUCTION PROJECTS.—Section 118(c)(1) of such title is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the second sentence and inserting "for obligation at the discretion of the Secretary for projects to complete the Interstate System.".

(c) SET-ASIDE FOR 4R PROJECTS.—Section 118(c)(2) of such title is amended by inserting "of" after "$64,000,000 for each".

SEC. 215. FEDERAL SHARE.

(a) INTERSTATE SYSTEM PROJECTS.—Section 120(a) of title 23, United States Code, is amended by inserting before "including a project" the following: "including a project the cost for which is included in the 1991 interstate cost estimate and".

(b) SAFETY PROJECTS.—Section 120(c) of such title is amended by striking "for all the Federal-aid systems".

(c) EMERGENCY RELIEF.—The first sentence of section 120(e) of such title is amended—

(1) by striking "system, including" and inserting ", including a highway on";

(2) by striking "on a project on such system";

(3) by striking "and (c)" and inserting "and (b)"; and

(4) by striking "90 days" and inserting "180 days".

(d) PLANNING PROJECTS.—Section 120 of such title is amended by adding at the end the following new subsection:

"(j) PLANNING PROJECTS.—The Federal share payable on account of any project to be carried out with funds set aside under section 104(f) of this title shall be 80 percent of the costs thereof unless the Secretary determines that the interest of the Federal-aid highway program would best be served by decreasing or eliminating the non-Federal share of such costs.".

(e) CONFORMING AMENDMENT.—Section 208(2) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3338(2)) is amended by striking "section 120(a) of title 23, United States Code;".

SEC. 216. PAYMENT TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "After" and inserting "Except as otherwise provided in this title, after"; and

(2) in subsection (c) by striking "Federal-aid system" and inserting "Federal-aid highway".

SEC. 217. RELOCATION OF UTILITY FACILITIES.

Section 123(a) of title 23, United States Code, is amended—

(1) by striking "on any Federal-aid system" and inserting "eligible for assistance under this chapter"; and

(2) by striking the last sentence.

SEC. 218. ADVANCES TO STATES.

Section 124(a) of title 23, United States Code, is amended by striking "projects on any of the Federal-aid systems, including the Interstate System, he" and inserting "a project eligible for assistance under this title, the Secretary".

SEC. 219. EMERGENCY RELIEF.

(a) TECHNICAL AMENDMENT.—The first sentence of section 125(b) of title 23, United States Code, is amended by striking all preceding "*Provided*" and inserting the following: "The Secretary may expend funds from the emergency fund herein authorized for projects for repair or reconstruction on Federal-aid highways in accordance with the provisions of this chapter:".

(b) CONFORMING AMENDMENTS.—Section 125(b) of such title is further amended—

(1) by striking "authorized" in the second sentence and all that follows through the period at the end of such sentence and inserting "authorized on Federal-aid highways."; and

(2) by striking "the Disaster Relief and Emergency Assistance Act (Public Law 93-288)" and inserting "The Robert T. Stafford Disaster Relief and Emergency Assistance Act".

SEC. 220. APPLICABILITY OF AXLE WEIGHT LIMITATIONS.

(a) WISCONSIN STATE ROUTE 78 AND UNITED STATES ROUTE 51.—Section 127 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a) of title 23, United States Code, the single axle, tandem axle, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the operation on such 104-mile portion of any vehicle which could legally operate on such 104-mile portion before the date of the enactment of this subsection.".

(b) VEHICLE WEIGHT LIMITATIONS IN THE STATE OF OHIO.—

(1) REVIEW.—The Secretary of Transportation shall review the Federal and State commercial motor vehicle weight limitations applicable to Federal-aid highways in the State of Ohio.

(2) WAIVER AUTHORITY.—If the Secretary of Transportation determines, on the basis of the review conducted under paragraph (1), that it is in the public interest, the Secretary may waive application of the vehicle weight limitations of section 127(a) of title 23, United States Code, and of the State certification requirements of sections 141(b) and 141(c) of such title, in whole or in part, to highways on the Dwight D. Eisenhower System of Interstate and Defense Highways in the State of Ohio for short wheel-base vehicles for such period as the Secretary determines may be necessary to permit a reasonable period of depreciation for short wheel-base vehicles purchased before October 1, 1991.

(3) MORATORIUM ON WITHHOLDING OF FUNDS.—Until the Secretary of Transportation makes a determination relating to the public interest under paragraph (2), the Secretary shall not withhold funds under section 127(a) or 141(c) of title 23, United States Code, from apportionment to the State of Ohio for failure to comply with such section with respect to short wheel-base vehicles.

(c) TECHNICAL AMENDMENTS.—Section 127 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "118(b)(1)" and inserting "118(b)(2)"; and

(2) in subsection (d)(1)(E) by striking "July 5, 1991" and inserting "July 6, 1991".

SEC. 221. TOLL ROADS.

(a) USE OF REVENUES.—Section 129(a)(3) of title 23, United States Code, is amended by striking "all toll revenues received" and all that follows through the period at the end of the first sentence and inserting the following: "toll revenues received from operation of the toll facility will be used for financing and any other obligations in respect of the facility, for reserves, for reasonable return to investors financing the project (as determined by the State), and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.".

(b) REFERENCE TO FEDERAL-AID HIGHWAYS.—The last sentence of section 129(a)(4) of such title is amended by striking "the Federal-aid system" and inserting "Federal-aid highways".

(c) LOANS.—Section 129(a)(7) of such title is amended—

(1) by inserting "or commit to loan" after "loan" the first place it appears;

(2) by striking "agency" each place it appears and inserting "entity";

(3) by inserting after "constructing" the first place it appears "or proposing to construct";

(4) by striking "all Federal environmental requirements have been complied with and permits obtained" and inserting "the National Environmental Policy Act of 1969 has been complied with";

(5) by inserting "to a private entity" after "Any such loan";

(6) by inserting after the fifth sentence the following new sentence: "Any such loan to a public entity shall bear interest at such rate as the State determines appropriate."; and

(7) by striking "the time the loan was obligated" and inserting "the date of the initial funding of the loan".

(d) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 129 of such title is amended—

(1) in the first sentence of subsection (b) by striking "the route of which" and all that follows through the period at the end of such sentence and inserting "the route of which has been classified as a public road and has not been designated as a route on the Interstate System."; and

(2) in subsection (c)(4) by striking "and" preceding "repair".

(e) PILOT PROGRAM.—Section 129(d) of such title is amended—

(1) in each of paragraphs (1) and (3) by striking "7" and inserting "9";

(2) in paragraph (3) by striking "State of Pennsylvania" each place it appears and inserting "States of Pennsylvania and West Virginia"; and

(3) in paragraph (3) by inserting "the" before "State of Georgia".

(f) TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.—For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110), shall be treated as if such agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified accordingly.

(g) TREATMENT OF I-95 AND PENNSYLVANIA TURNPIKE.—For purposes of section 129 of title 23, United States Code, the project for construction of an interchange between Interstate Route 95 and the Pennsylvania Turnpike shall be treated as a reconstruction project described in section 129(a)(1)(B) of such title.

SEC. 222. RAIL-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "Except as provided in subsection (d) of" and inserting "Subject to";

(2) in subsection (a) by striking "entire" each place it appears;

(3) in subsection (a) by striking "except as provided in subsection (d) of" and inserting "subject to";

(4) in subsection (e) by striking "authorized for and";

(5) in subsection (e) by striking the last sentence;

(6) by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively; and

(7) in subsection (f) as so redesignated by striking "railroad highway" and inserting "railroad-highway".

SEC. 223. SURFACE TRANSPORTATION PROGRAM.

(a) STATE CERTIFICATION.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "subsections (b) (3) and (4)" and inserting "subsections (b)(3) and (b)(4)";

(2) in subsection (d)(3)(B) by striking "tobe" and inserting "to be"; and

(3) in subsection (e)(2) by inserting after "each State" the following: "or the designated transportation authority of the State".

(b) TECHNICAL AMENDMENT.—Section 1007(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1930) is amended—

(1) by striking "104(b)(3)" and inserting "104(b)"; and

(2) by striking "to read as follows" and inserting "by inserting after paragraph (2) the following new paragraph".

SEC. 224. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 134 of title 23, United States Code, is amended—

(1) in each of subsections (b)(2), (b)(3), and (h)(4) by striking "the date of the enactment of this section" and inserting "December 18, 1991";

(2) in each of subsections (b)(3)(B) and (g)(2)(B) by striking "long-range" and inserting "long range";

(3) in subsection (f)(11) by inserting "passengers and" before "freight";

(4) in subsection (g)(5) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B); and

(5) in subsection (k) by striking "the Federal-Aid Highway Act of 1991" and inserting "this title".

(b) FACTORS TO BE CONSIDERED.—Section 134(f) of such title is amended by adding at the end the following new paragraphs:

"(16) Recreational travel and tourism.

"(17) Revitalization of the central urban core.".

(c) TRANSFER OF FUNDS.—Section 134(k) of such title is amended by striking the last sentence.

(d) CONFORMING CHAPTER ANALYSIS AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"134. Transportation planning in certain urban areas."

and inserting

"134. Metropolitan planning.".

SEC. 225. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended—

(1) in subsection (c) by striking paragraph (1) and inserting the following new paragraph:

"(1) The transportation needs identified through use of the management systems required by section 303 of this title.";

(2) in subsection (c)(5) by inserting after "nonmetropolitan areas" the following: ", including the identification of a rural priority local road and bridge system.";

(3) in subsection (c) by striking paragraph (15) and redesignating paragraphs (16) through (20) as paragraphs (15) through (19), respectively;

(4) in subsection (c)(18), as so redesignated, by striking "commercial motor vehicles" and inserting "passengers and freight";

(5) in subsection (d)(3) by striking "concerns" and inserting "transportation needs";

(6) in each of subsections (e) and (f)(1) by inserting "Indian tribal governments," after "private providers of transportation,"; and

(7) in subsection (h)—

(A) by striking "United States Code," and inserting "other Federal laws, and";

(B) by striking "this Act" and inserting "this title"; and

(C) by striking "or section 8 of such Act," and inserting "of this title, or section 8 of the Federal Transit Act,".

SEC. 226. CONTROL OF JUNKYARDS.

(a) STRICTER STATE STANDARDS.—Section 136(l) of title 23, United States Code, is amended by striking "the Federal-aid highway systems" and inserting "Federal-aid highways".

(b) PRIMARY SYSTEM DEFINED.—Section 136 of such title is amended by adding at the end the following new subsection:

"(n) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

SEC. 227. NONDISCRIMINATION.

(a) STATE ASSURANCES.—Section 140(a) of title 23, United States Code, is amended by striking "any of the Federal-aid systems" and inserting "Federal-aid highways".

(b) TRAINING.—Section 140(b) of such title is amended—

(1) by striking "for the surface transportation program"; and

(2) by striking "the bridge program".

SEC. 228. ENFORCEMENT OF REQUIREMENTS.

Section 141(b) of title 23, United States Code, is amended by striking "the Federal-aid primary system" and all that follows through "including" and inserting "Federal-aid highways, including highways on".

SEC. 229. AVAILABILITY OF RIGHTS-OF-WAY.

Section 142 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "the surface" and inserting "surface"; and

(2) in subsection (f) by striking "exits" and inserting "exists".

SEC. 230. HIGHWAY BRIDGE PROGRAM.

(a) SET-ASIDES.—Section 144(g) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "103" and inserting "1003";

(2) in paragraph (3) by striking "OFF-SYSTEM BRIDGES" and inserting "BRIDGES NOT ON FEDERAL-AID HIGHWAYS";

(3) in paragraph (3) by striking ", other than those on a Federal-aid system" and inserting "that are functionally classified as local or rural minor collectors"; and

(4) in paragraph (3) by striking "bridges not on a Federal-aid system" and inserting "such bridges".

(b) CROSS REFERENCE.—Section 144(i) of such title is amended by striking "307(e)" and inserting "307(h)".

(c) CONTINUATION OF EXISTING BRIDGE APPORTIONMENT CRITERIA.—The criteria for apportionment of funds used by the Department of Transportation under section 144 of title 23, United States Code, as in effect on September 30, 1991, shall remain in effect until September 30, 1997, or until changed by law, whichever occurs first.

SEC. 231. GREAT RIVER ROAD.

Section 148(a)(1) of title 23, United States Code, is amended by striking "centers of the State" and inserting "centers of the States".

SEC. 232. HAZARD ELIMINATION PROGRAM.

Section 152 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "authorized" and inserting "available"; and

(2) by striking subsections (d) and (e) and redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), respectively.

SEC. 233. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) REFERENCE TO DATE OF ENACTMENT.—Section 153 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "the date of the enactment of this section" and inserting "December 31, 1991"; and

(2) in subsection (i)(3) by striking "the date of the enactment of this section" and inserting "December 31, 1991,".

(b) ELIGIBILITY FOR GRANTS.—Section 153(f)(2) of such title is amended by striking "at all times" each place it appears.

(c) PENALTIES.—Section 153(h) of such title is amended—

(1) in paragraph (1) by striking "at any time in" and inserting "by the last day of";

(2) in paragraph (2) by inserting "by the last day of fiscal year 1995 or" after "If,";

(3) in paragraph (2) by striking "1994," and inserting "1995,"; and

(4) in paragraph (4)(A) by striking "under section 402" and inserting "by this subsection".

(d) DEFINITIONS.—Section 153(i) of such title is amended by adding at the end the following new paragraph:

"(5) STATE.—The term 'State' has the meaning such term has under chapter 4 of this title.".

SEC. 234. NATIONAL MAXIMUM SPEED LIMIT.

(a) EXISTING PROGRAM.—Section 154(a)(1) of title 23, United States Code, is amended by striking "on the Interstate System" and all that follows through "or more" and inserting "described in clause (2) or (3) of this subsection".

(b) NEW PROGRAM.—Section 1029 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1968–1970) is amended—

(1) in subsection (c)(1)(A) by inserting "of a State" after "apportionments";

(2) in subsection (c)(1)(A) by striking "if a State" and inserting "to the apportionment of the State under section 402 of such title if the State";

(3) in subsection (c) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(4) by inserting after paragraph (1) of subsection (c) the following new paragraph:

"(2) LIMITATION ON USE OF FUNDS.—

"(A) GENERAL RULE.—A State must obligate at least 50 percent of its funds transferred pursuant to this subsection for a fiscal year for speed limit enforcement and public information and education.

"(B) WAIVER.—Upon request of a State, the Secretary may waive the requirement of subparagraph (A) for any fiscal year if in the preceding fiscal year the State was in compliance with the speed limit requirements established pursuant to paragraph (1).".

SEC. 235. MINIMUM ALLOCATION.

Section 157 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "118(b)(2)" and inserting "118(b)(1)";

(2) in subsection (a)(3)(A) by striking "year 1989" and inserting "years 1989"; and

(3) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 236. NATIONAL MINIMUM DRINKING AGE.

Section 158 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "104(b)(5), and 104(b)(6)" each place it appears and inserting "104(b)(3), and 104(b)(5)";

(2) in subsection (b)(1)(A)(iii) by striking "104(b)(6)" and inserting "104(b)(3)";

(3) in subsection (b)(3)(B) by striking "104(b)(5)(B), or 104(b)(6)" and inserting "104(b)(3), or 104(b)(5)(B)"; and

(4) in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

SEC. 237. REVOCATION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.

Section 159 of title 23, United States Code, is amended in each of subsections (b)(3) and

(b)(4) by striking "118(b)" and inserting "118".

SEC. 238. REIMBURSEMENT FOR SEGMENTS OF INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

Section 160 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "The amount" and inserting "Subject to subsection (g), the amount"; and

(2) by adding at the end the following new subsection:

"(g) PUERTO RICO.—Notwithstanding any other provision of this section, Puerto Rico shall receive in a fiscal year ½ of 1 percent of the amounts appropriated pursuant to subsection (f) for such fiscal year. No State (including the District of Columbia) which has a reimbursement percentage in the table contained in subsection (c) of 0.50 shall have its reimbursement amount in fiscal years 1996 and 1997 reduced as a result of the enactment of the preceding sentence.".

SEC. 239. FEDERAL LANDS HIGHWAY PROGRAM.

(a) PUBLIC LANDS HIGHWAYS ALLOCATION.—Section 202(b) of title 23, United States Code, is amended by striking "66 percent of the remainder" and inserting "the remaining 66 percent".

(b) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking the comma preceding "forest development" each place it appears.

(c) PURPOSES FOR WHICH FUNDS MAY BE USED.—Section 204(b) of such title is amended—

(1) by striking "construction and improvement" each place it appears and inserting "planning, research, engineering, and construction"; and

(2) by striking "construction or improvement" and inserting "planning, research, engineering, or construction".

(d) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS.—Section 204(c) of such title is amended by inserting "of" after "15 percent".

(e) INDIAN RESERVATION ROADS PLANNING.—The first sentence of section 204(j) of such title is amended to read as follows: "An Indian tribal government receiving funds under the Indian reservation roads program may use up to 10 percent of its annual allocation under such program for transportation planning activities pursuant to the provisions of the Indian Self-Determination and Education Assistance Act.".

(f) OBLIGATION OF FUNDS.—Section 204 of such title is amended by adding at the end the following new subsection:

"(k) OBLIGATION OF FUNDS.—Notwithstanding any other provision of law, funds available for Federal lands highway programs shall be treated as obligated if—

"(1) the Secretary authorizes engineering and related work for a particular project; or

"(2) the Secretary approves plans, specifications, and estimates for procurement of construction under section 106 or 117 of this title.".

(g) SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF INDIAN TRIBES.—Section 204 of such title is further amended by adding at the end the following:

"(1) SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF INDIAN TRIBES.—

"(1) IN GENERAL.—Up to 1 percent of the funds made available for Indian reservation roads for each fiscal year shall be set aside by the Secretary of the Interior for transportation-related administrative expenses of Indian tribal governments.

"(2) DISTRIBUTION.—The Secretary of the Interior shall make available to each Indian tribal government with an approved application under paragraph (3) an equal percentage of any sum set aside pursuant to paragraph (1).

"(3) APPLICATIONS.—To receive funds under this paragraph, an Indian tribal government must submit to the Secretary of the Interior for approval an application in accordance with the requirements of the Indian Self-Determination and Education Assistance Act. The Secretary of the Interior shall approve any such application that demonstrates that the applicant has the capability to carry out transportation planning activities or is in the process of establishing such a capability.".

(h) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 204 of such title is further amended by adding at the end the following:

"(m) TRANSPORTATION ENHANCEMENT ACTIVITIES.—In making expenditures for transportation enhancement activities as required under section 133, a State shall consider any application submitted to the State by an Indian tribal government seeking assistance to conduct such activities.".

(i) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS BY THE SECRETARY.—Section 204 of such title is further amended by adding at the end the following:

"(n) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS BY THE SECRETARY.—

"(1) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall establish a pilot program (hereinafter in this subsection referred to as the 'program') for the purposes described in paragraph (2) and shall carry out such program in each of fiscal years 1995, 1996, and 1997.

"(2) PURPOSE.—The purpose of the program shall be to permit an Indian tribal government to apply directly to the Secretary for authorization to conduct projects on Indian reservation roads using amounts allocated to the Indian tribal government under the Indian reservation roads program.

"(3) TREATMENT AS STATES.—Except as otherwise provided by the Secretary, an Indian tribal government submitting an application to the Secretary under the program shall be subject to the same requirements as a State applying for approval of a Federal-aid highway project.

"(4) SELECTION OF PARTICIPANTS.—

"(A) APPLICATIONS.—An Indian tribal government seeking to participate in the program shall submit to the Secretary an application which is in such form and contains such information as the Secretary may require.

"(B) MAXIMUM NUMBER OF PARTICIPANTS.—The Secretary shall select not more than 10 Indian tribal governments to participate in the program.

"(5) TECHNICAL ASSISTANCE.—The Secretary, in cooperation with the Secretary of the Interior, shall provide technical assistance to Indian tribal governments participating in the program.

"(6) TRANSITIONAL ASSISTANCE.—Upon request of the Secretary, the Secretary of the Interior shall provide to the Secretary such assistance as may be necessary for implementation of the program.

"(7) REPORT.—Not later than September 30, 1997, the Secretary shall transmit to Congress a report on the results of the program. In developing such report, the Secretary shall solicit the comments of Indian tribal governments participating in the program.".

(j) REFERENCE TO PARK ROADS.—Section 1003(a)(6)(C) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) by striking "HIGHWAYS" in the subparagraph heading and inserting "ROADS"; and

(2) by striking "highways" the place it appears preceding "$69,000,000" and inserting "roads".

(k) TECHNICAL AMENDMENT.—Section 1032(b)(2) (A) of such Act (105 Stat. 1974) is amended by striking "improvements" and inserting "improvement".

SEC. 240. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAY.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b) by inserting "pedestrian walkways and" before "bicycle transportation facilities";

(2) in subsection (f) by striking "and the Federal share" and all that follows through "80 percent";

(3) by redesignating subsection (j) as subsection (k); and

(4) by inserting after subsection (i) the following new subsection:

"(j) INCLUSION OF PEDESTRIAN WALKWAYS AND BICYCLE TRANSPORTATION FACILITIES IN PLANNING.—

"(1) GENERAL RULE.—The Secretary may not approve under this chapter a highway project for new construction or reconstruction within the boundaries of a State along which a pedestrian walkway or bicycle transportation facility is required to be included under the State's transportation improvement plan developed under section 135 unless such pedestrian walkway or bicycle transportation facility is part of such highway project.

"(2) EXCEPTION.—The Secretary does not have to approve a project for construction of a pedestrian walkway or bicycle transportation facility under paragraph (1)—

"(A) if the Secretary determines that such construction is not feasible or that use of the walkway or facility would pose a safety risk to pedestrians or bicyclists, as the case may be; or

"(B) the Secretary determines that there will be no substantial transportation or recreation benefit resulting from the project.".

SEC. 241. STATE HIGHWAY DEPARTMENT.

Section 302(b) of title 23, United States Code, is amended by striking "on the Federal-aid secondary system, financed with secondary funds," and inserting "not on the National Highway System".

SEC. 242. MANAGEMENT SYSTEMS.

Section 303 of title 23, United States Code, is amended in each of subsections (a) and (b) by striking "1 year after the date of the enactment of this section" and inserting "December 18, 1992".

SEC. 243. STATE PLANNING AND RESEARCH.

Section 307 of title 23, United States Code, is amended—

(1) in subsection (c)(1) by striking "104" and inserting "104(b)";

(2) in subsection (e)(3)(C) by striking "climactic" and inserting "climatic";

(3) in subsection (e)(13) by striking the quotation marks preceding "$35,000,000";

(4) in subsection (f)(2) by striking "section" the first place it appears and inserting "paragraph";

(5) in the heading to subsection (f)(3) by inserting "EARTHQUAKE" after "NATIONAL"; and

(6) in subsection (f)(3) by inserting "Earthquake" after "National".

SEC. 244. APPROPRIATION FOR HIGHWAY PURPOSES OF FEDERAL LANDS.

Section 317(d) of title 23, United States Code, is amended by striking "system" and inserting "highway".

SEC. 245. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Section 325(a)(5) of title 23, United States Code, is amended by striking "the date of the enactment of this section" and inserting "December 18, 1991".

SEC. 246. HIGHWAY SAFETY PROGRAMS.

(a) IN GENERAL.—Section 402 of title 23, United States Code, is amended to read as follows:

"§ 402. Highway safety programs

"(a) IN GENERAL.—Each State shall have a highway safety program approved by the Secretary which is designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom.

"(b) UNIFORM GUIDELINES.—

"(1) REQUIREMENT.—The State highway safety programs approved under this section shall be in accordance with uniform guidelines promulgated by the Secretary.

"(2) PERFORMANCE CRITERIA.—The uniform guidelines shall be expressed in terms of performance criteria.

"(3) PURPOSES.—The uniform guidelines shall include, at a minimum, criteria relating to—

"(A) reducing injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

"(B) encouraging the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and increasing public awareness of the benefit of motor vehicles equipped with airbags;

"(C) reducing deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

"(D) reducing deaths and injuries resulting from accidents involving motorcycles;

"(E) reducing injuries and deaths resulting from accidents involving school buses; and

"(F) improving law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures.

"(4) EFFECTIVENESS DETERMINATION.—A State highway safety program relating to a guideline established pursuant to paragraph (3) shall be considered a most effective program for purposes of subsection (i) unless the Secretary determines, after a rulemaking process under subsection (i), that it should not be so considered and submits a report to Congress describing the reasons for the determination.

"(5) ADDITIONAL PURPOSES.—The uniform guidelines may include provisions to improve driver performance (including driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition the uniform guidelines may include provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services.

"(6) APPLICABILITY TO FEDERALLY ADMINISTERED AREAS.—The uniform guidelines which are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

"(7) LIMITATION ON STATUTORY CONSTRUCTION.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State.

"(8) COOPERATION IN PROMULGATION.—Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

"(9) ASSISTANCE OF OTHER FEDERAL DEPARTMENTS.—The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by this subsection and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

"(c) REQUIREMENTS FOR APPROVAL.—

"(1) IN GENERAL.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary under this section;

"(C) except as provided in paragraph (2), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(3) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.

"(d) DATA COLLECTION AND REPORTING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report to the Secretary such data as the Secretary may require.

"(2) PURPOSES.—The purposes of the program under this subsection are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs.

"(3) PROGRAM REQUIREMENTS.—The program under this subsection shall include information obtained by the Secretary under section 4004 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts.

"(4) REPORTING CRITERIA.—The Secretary shall establish minimum reporting criteria for the program under this subsection. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.

"(e) USE OF FUNDS.—

"(1) FOR HIGHWAY SAFETY PROGRAMS.—Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of traffic accidents and deaths and injuries resulting therefrom.

"(2) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States under subsection (f).

"(3) LIMITATION.—Nothing in this section authorizes the appropriation or expenditure of funds—

"(A) for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

"(B) for any purpose for which funds are authorized by section 403 of this title.

"(f) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—After the deduction under subsection (e)(2), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) MINIMUM PERCENTAGE.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(3) APPROVED HIGHWAY SAFETY PROGRAM.—The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section.

"(4) REDUCTION OF APPORTIONMENT.—Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 percent of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction.

"(5) APPORTIONMENT OF WITHHELD FUNDS.—The Secretary shall promptly apportion to the State the funds withheld from its apportionment if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

"(6) DETERMINATION OF PUBLIC ROAD MILEAGE.—For the purposes of this subsection, the term a 'public road' means any road under the jurisdiction of, and maintained by, a public authority and open to public travel. As used in this subsection, public road mileage shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(g) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying the provisions of chapter 1 of this title in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State for the purposes of this section.

"(h) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of the application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subsection (c)(1)(C), 95 percent of the funds transferred to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subsection (c)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purpose of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(i) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to determine those highway safety programs that are most effective in reducing traffic accidents, injuries, and deaths. Any rule under this subsection shall be promulgated taking into account consideration of the views of the States having a major role in establishing such programs. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing traffic accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this section.".

(b) SECTION 2005.—Section 2005(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by striking ", 1994," and inserting "and 1994, and $146,000,000 for each of fiscal years".

SEC. 247. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE.

Section 404(d) of title 23, United States Code, is amended by striking "Commerce" and inserting "Transportation".

SEC. 248. ALCOHOL-IMPAIRED DRIVING COUNTER- MEASURES.

(a) TECHNICAL AMENDMENT.—Section 410(d)(1)(E) of title 23, United States Code, is amended by striking "the date of enactment of this section" and inserting "December 18, 1991".

(b) BASIC GRANT ELIGIBILITY.—Section 410(d)(3) of such title is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following:

"(B) A State shall be treated as having met the requirement of this paragraph if—

"(i) the State provides to the Secretary a written certification that the highest court of the State has issued a decision indicating that implementation of subparagraph (A) would constitute a violation of the constitution of the State; and

"(ii) the State demonstrates to the satisfaction of the Secretary—

"(I) that the alcohol fatal crash involvement rate in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such rate are available; and

"(II) that the alcohol fatal crash involvement rate in the State has been lower than the average such rate for all States in each of such calendar years.".

SEC. 249. PUBLIC TRANSIT FACILITIES.

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking "this Act" each place it appears and inserting "the Department of Transportation and Related Agencies Appropriations Act, 1993".

SEC. 250. ROADSIDE BARRIER TECHNOLOGY.

Section 1058 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 2003) is amended—

(1) in subsection (a) by striking "median" and inserting "or temporary crashworthy";

(2) in subsection (a) by inserting "crashworthy" after "Innovative";

(3) in the heading of subsection (c) by inserting "CRASHWORTHY" after "INNOVATIVE";

(4) in subsection (c) by inserting "crashworthy" after "innovative";

(5) in subsection (c) by striking "median";

(6) by inserting "or guiderail" after "guardrail"; and

(7) by inserting before the period at the end of subsection (c) ", and meets or surpasses the requirements of the National Cooperative Highway Research Program 350 for longitudinal barriers".

SEC. 251. PENSACOLA, FLORIDA.

Section 1086(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2022) is amended by striking "Not later than 2 years after the date of the enactment of this Act," and inserting "On or before June 18, 1995,".

SEC. 252. HIGH COST BRIDGE PROJECTS.

The table contained in section 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027–2028) is amended—

(1) in item number 5, relating to Gloucester Point, Virginia, by inserting after "York River" the following: "and for repair, strengthening, and rehabilitation of the existing bridge"; and

(2) in item number 10, relating to Shakopee, Minnesota, by inserting "project, including the bypass of" after "replacement".

SEC. 253. CONGESTION RELIEF PROJECTS.

The table contained in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2029–2031) is amended—

(1) in item number 10, relating to San Diego, California, by striking "1 block of Cut and Cover Tunnel on Rt. 15" and inserting "bridge decking on Route 15"; and

(2) in item number 43, relating to West Virginia, by striking "Coal Fields" and inserting "Coalfields".

SEC. 254. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) EAST-WEST TRANSAMERICA CORRIDOR.—Section 1105(c)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by inserting before the period at the end the following: ", including (A) a Kentucky corridor centered on the cities of Paducah, Benton, Hopkinsville,

Bowling Green, Columbia, Somerset, London, Hazard, Jenkins, and Pikeville, Kentucky, to Williamson, West Virginia, and (B) a West Virginia corridor from Williamson to the vicinity of Welch, West Virginia, sharing a common corridor with the I-73/74 corridor (referred to in item 12 of the table contained in subsection (f)), and from the vicinity of Welch to Beckley, West Virginia, as part of the Coalfields Expressway described in section 1069(v)".

(b) INDIANAPOLIS TO HOUSTON CORRIDOR.—Section 1105(c)(18) of such Act (105 Stat. 2032) is amended by inserting before the period at the end the following: ", including a Kentucky corridor centered on the cities of Henderson, Sturgis, Smithland, Paducah, Bardwell, and Hickman, Kentucky".

SEC. 255. HIGH PRIORITY CORRIDOR PROJECTS.

The table contained in section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2033-2035) is amended—

(1) in item 1, relating to Pennsylvania, by inserting after "For" the following: "the segment described in item 6 of this table and, after completion of such segment, for"; and

(2) in item number 26, relating to Indiana, Kentucky, Tennessee, by striking "Newberry" and inserting "Evansville".

SEC. 256. RURAL ACCESS PROJECTS.

(a) PROJECT DESCRIPTIONS.—The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037-2042) is amended—

(1) in item number 34, relating to Illinois, by striking "Resurfacing" and all that follows through "Omaha" and inserting "Bel-Air Road improvement from south of Carmi to State Route 141 in southeastern White County";

(2) in item number 52, relating to Bedford Springs, Pennsylvania, by striking "and Huntington" and inserting "Franklin, and Huntingdon";

(3) in item number 61, relating to Lubbock, Texas, by striking "with" and inserting "with Interstate 10 through";

(4) in item number 75, relating to Pennsylvania, by striking "Widen" and all that follows through "lanes" and inserting "Road improvements on a 14-mile segment of U.S. Route 15 in Lycoming County, Pennsylvania";

(5) in item number 92, relating to Ohio, by striking "Minerva, Ohio" and insert "Lisbon, Ohio";

(6) in item number 93, relating to New Mexico, by striking "Raton-Clayton Rd., Clayton, New Mexico" and inserting "U.S. Rt. 64/87 from Raton, New Mexico, through Clayton to the Texas-New Mexico State line"; and

(7) in item number 111, relating to Parker County, Texas (SH199)—

(A) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(B) by striking "to four-" and inserting "in Tarrant County, to freeway standards and in Parker County to a 4-".

(b) ADDITIONAL FUNDING.—Section 1106(a) of such Act is amended by adding at the end the following:

"(8) ADDITIONAL FUNDING.—In addition to funds otherwise made available by this subsection for the project described in item number 52 of the table contained in paragraph (2), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for carrying out such project $5,000,000 for fiscal year 1995 and $1,300,000 per fiscal year for each of fiscal years 1996 and 1997.".

SEC. 257. URBAN ACCESS AND MOBILITY PROJECTS.

The table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2043-2047) is amended—

(1) in item number 13, relating to Joliet, Illinois, by striking "and construction and interchange at Houbolt Road and I-80"; and

(2) in item number 36, relating to Compton, California, by striking "For a grade" and all that follows through "Corridor" and inserting "For grade separations and other improvements in the city of Compton, California".

SEC. 258. INNOVATIVE PROJECTS.

The table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2048-2059) is amended—

(1) in item 20, relating to Holidaysburg, Pennsylvania—

(A) by striking "Holidaysburg," the first place it appears; and

(B) by inserting ", or other projects in the counties of Bedford, Blair, Centre, Franklin, and Huntingdon as selected by the State of Pennsylvania" after "Pennsylvania" the second place it appears;

(2) in item number 29, relating to Blacksburg, Virginia, by inserting "methods of facilitating public and private participation in" after "demonstrate";

(3) in item number 35, relating to Alabama, by striking "to bypass" and all that follows through "I-85" and inserting "beginning on U.S. Route 80 west of Montgomery, Alabama, and connecting to I-65 south of Montgomery and I-85 east of Montgomery";

(4) in item number 52, relating to Pennsylvania, by striking "off Interstate" and all that follows through "Pennsylvania" and inserting "and other highway projects within a 30-mile vicinity of Interstate Route 81 or Interstate Route 80 in northeastern Pennsylvania";

(5) in item number 61, relating to Mojave, California, by striking "Mojave" and inserting "Victorville" and by inserting "Mojave" after "reconstruct";

(6) in item number 76, relating to Tennessee—

(A) by inserting after "I-81" the following: "interchange at"; and

(B) by striking "Interchange" and inserting "or Kendrick Creek Road";

(7) in item number 100, relating to Arkansas, by striking "Thornton" and inserting "Little Rock";

(8) in item number 113, relating to Durham County, North Carolina, by inserting after "Route 147" the following: ", including the interchange at I-85"; and

(9) in item number 114, relating to Corpus Christi to Angleton, Texas, by striking "Construct new multi-lane freeway" and inserting "Construct a 4-lane divided highway".

SEC. 259. INTERMODAL PROJECTS.

The table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2060-2063) is amended—

(1) in item number 5, relating to Pennsylvania, by striking "Upgrading" and inserting "To study the need to upgrade" and by inserting "to a 4-lane limited access highway" after "Airport";

(2) in item number 9, relating to E. Haven/Wallingford, Connecticut—

(A) by striking "$8.8" and inserting "$7.5";

(B) by striking "$2.4" and inserting "$2.0"; and

(C) by striking "$0.7" and inserting "$0.6";

(3) in item 38, relating to Provo, Utah, strike "South" and all that follows through "Airport" and insert "East-West Connector from United States Highway 89-189, Provo, Utah"; and

(4) in item 51, relating to Long Beach, California, by inserting "(including a grade separation project for the Los Alamitos traffic circle at Lakewood Boulevard and Pacific Coast Highway)" after "Access".

SEC. 260. MISCELLANEOUS INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT AMENDMENTS.

(a) CROSS REFERENCE IN HIGHWAY USE TAX EVASION PROGRAM.—Section 1040(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is amended by striking "(e)" and inserting "(f)".

(b) REPORT TO CONGRESS ON QUALITY IMPROVEMENT.—Section 1043(b) of such Act (105 Stat. 1993) is amended by inserting "General" after "Comptroller".

(c) COALFIELDS EXPRESSWAY.—Section 1069(v) of such Act (105 Stat. 2010) is amended by striking "97, 10, 16, and 93" and inserting "16, and 83".

(d) PERIOD OF AVAILABILITY OF FUNDS FOR MISCELLANEOUS PROJECTS.—Section 1069 of such Act is amended—

(1) by striking the last sentence of subsection (y); and

(2) by adding at the end the following new subsection:

"(ii) PERIOD OF AVAILABILITY.—Funds provided to carry out this section shall remain available until expended.".

(e) FINAL RULE FOR ROADSIDE BARRIERS AND SAFETY APPURTENANCES.—Section 1073(b) of such Act (105 Stat. 2012) is amended by striking "1 year" and inserting "2 years".

(f) INTERSTATE STUDY COMMISSION.—Section 1099 of such Act (105 Stat. 2026) is amended—

(1) by striking "bill" and inserting "Act";

(2) by striking "passage of this legislation" and inserting "the enactment of this Act";

(3) by inserting after "Columbia" the second place it appears the following: "appointed by the Governors of the States of Maryland and Virginia and the Mayor of the District of Columbia, respectively"; and

(4) by striking "appointed by the Governors and the Mayor" and inserting ", 1 each for Maryland, Virginia, and the District of Columbia appointed by the Governors and the Mayor, respectively".

(g) DRUG RECOGNITION EXPERT TRAINING PROGRAM.—Section 2006(b) of such Act (23 U.S.C. 403 note; 105 Stat. 2080) is amended by inserting "Federal" before "Advisory".

(h) APPLICABILITY OF OBLIGATION CEILING TO CERTAIN HIGHWAY SAFETY PROGRAMS.—Section 2009 of such Act (105 Stat. 2080) is amended—

(1) by striking "(a) IN GENERAL.—";

(2) by striking "211(b)" the first place it appears and inserting "211";

(3) by striking "102" and inserting "1002"; and

(4) by striking subsection (b).

SEC. 261. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

In administering section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991, the limitation on annual gross receipts of a small business concern set forth in paragraph (2)(A) of such section shall be the only limitation on annual gross receipts which applies to small business concerns.

SEC. 262. AMENDMENTS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987.

(a) SECTION 149.—Section 149(a)(69) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191), relating to Burbank-Glendale-Pasadena Airport, California, is amended—

(1) in the first sentence by striking "highway";

(2) in the first sentence by striking "and construction of terminal and parking facilities at such airport"; and

(3) by striking "by making" in the second sentence and all that follows through the period at the end of such sentence and inserting: "by preparing a feasibility study and conducting preliminary engineering, design, and construction of a link between such airport and the commuter rail system that is being developed by the Los Angeles County Metropolitan Transportation Authority.".

(b) SECTION 317.—Section 317(b) of such Act (49 U.S.C. App. 1608 note; 101 Stat. 233) is amended—

(1) in paragraphs (2) and (3) by inserting "or cooperative agreement" after "contract" each place it appears; and

(2) by adding at the end the following new paragraph:

"(7) CONVERSION OF CONTRACTS.—The Secretary may convert existing contracts entered into under this subsection into cooperative agreements.".

SEC. 263. FREEWAY SERVICE PATROLS.

(a) GENERAL RULE.—Except to the extent that the Secretary shall find that it is not feasible, any funds expended in a fiscal year directly or indirectly for freeway service patrols from amounts made available to a State under titles I and III of the Intermodal Surface Transportation Efficiency Act of 1991 shall be expended with privately owned or privately operated business concerns. The preceding sentence shall not apply to any publicly owned or operated freeway service patrol that was in operation before the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "freeway service patrol" means automotive road service vehicles and automotive towing vehicles operated in a continuous, dedicated service as part of an incident management program.

SEC. 264. PAN AMERICAN HIGHWAY.

(a) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

(b) ELEMENTS.—The study to be conducted under subsection (a) shall at a minimum include the following elements:

(1) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

(2) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

(3) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

(4) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

(5) Findings on the benefits to United States industry through the use of United States technology and equipment in construction of improvements to the Pan American Highway.

(6) Findings on environmental considerations, including environmental considerations relating to the Darien Gap.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 265. SECTION 3 PROGRAM AMENDMENTS.

(a) LETTERS OF INTENT.—Section 3(a)(4)(E) of the Federal Transit Act (49 U.S.C. App. 1602(a)(4)(E)) is amended—

(1) in the first sentence by striking "letters of intent" and all that follows through "shall not exceed the" and inserting "letters of intent, early systems work agreements, and full funding grant agreements shall not exceed the"; and

(2) in the second sentence by striking "new letters issued" and all that follows through "shall not exceed any" and inserting "new letters issued and contingent commitments included in early systems work agreements and full funding agreements shall not exceed any".

(b) ASSURED TIMETABLE FOR FINAL DESIGN STAGE.—Section 3(a)(6)(C) of the Federal Transit Act (49 U.S.C. App. 1602(a)(6)(C)) is amended by inserting before the period at the end the following: "or, if an environmental impact statement is not required for such project, the date of completion of an environmental assessment for such project or of a finding of no significant impact".

(c) OREGON LIGHT RAIL PROGRAM.—Section 3(a)(8)(C)(v) of such Act is amended—

(1) by striking "Westside" the first place it appears;

(2) by striking "and" following "101-584;"; and

(3) by inserting before the period at the end the following "; and the locally preferred alternative for the South/North Corridor Project between Clackamas County, Oregon, Portland, Oregon, and Clark County, Washington".

(d) RAIL MODERNIZATION.—Section 3(h) of such Act is amended in paragraph (6) by striking "paragraph" and inserting "subsection".

(e) NONAPPLICABILITY.—Section 3(i)(5)(C) of such Act is amended by striking "the Federal-Aid Highway Act of 1991" and inserting the following: "title 23, United States Code,".

(f) TRANSITIONAL PROVISION FOR PROGRAMS OF INTERRELATED PROJECTS.—Section 3011(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. App. 1602 note; 105 Stat. 2098) is amended by inserting after "interrelated projects" the following: "but excluding any project for which a timetable for project review or for Federal funding is provided for by a provision of law other than section 3(a)(6) of the Federal Transit Act and for which such timetable is different than the timetable established by such section".

(g) CONFORMING AMENDMENTS.—Section 3007 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2091) is amended—

(1) in paragraph (5)(B) by striking the comma which precedes the closing quotation marks and the semicolon; and

(2) in paragraph (6) by striking the comma which precedes the closing quotation marks and the final period.

SEC. 266. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 8 of the Federal Transit Act (49 U.S.C. App. 1607) is amended—

(1) in subsection (f)(5) by inserting "of title 23, United States Code" after "133";

(2) in subsection (f)(9) by striking "of this title" and inserting "of such title";

(3) in subsection (f)(11) by inserting "passengers and" before "freight";

(4) in subsection (g)(5) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B), respectively;

(5) in subsection (i)(3) by striking "this title and the Federal Transit Act" and inserting "title 23, United States Code, and this Act";

(6) in subsection (i)(4) by striking "or pursuant to the Federal Transit" and inserting ", or pursuant to this";

(7) in subsection (i)(5) by inserting "of title 23, United States Code," after "section 134";

(8) in subsection (i)(5) by inserting "of such title" after "104(b)(3)";

(9) in subsection (i)(5) by inserting "of such title" after "133(d)(3)" each place it appears;

(10) in subsection (i)(5) by striking "the Federal Transit" the first 2 places it appears and inserting "this";

(11) in subsection (i)(5) by striking "section 8(o) of the Federal Transit Act" and inserting "subsection (o) of this section";

(12) in subsection (m)(1) by striking "or the Federal Transit" and inserting ", or this";

(13) in each of subsections (p)(2) and (p)(4) by striking "section 8" the first place it appears and inserting "this section";

(14) in subsection (p)(2) by striking "section 8 of this Act" and inserting "this section";

(15) in subsection (p)(3) by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(16) in subsection (p)(5) by striking "paragraph" and inserting "section".

(b) FACTORS TO BE CONSIDERED.—Section 8(f) of such Act is amended by adding at the end the following new paragraph:

"(16) Recreational travel and tourism.".

(c) LONG RANGE PLAN.—Section 8(g)(2)(B) of such Act is amended by striking "long-range" and inserting "long range".

(d) TRANSFER OF FUNDS.—Section 8(k) of such Act is amended by striking the last sentence.

(e) NONATTAINMENT AREA REQUIREMENTS.—Section 8(l) of such Act is amended by striking "transit" and inserting "highway".

SEC. 267. FORMULA GRANT PROGRAM.

(a) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3) of the Federal Transit Act (49 U.S.C. App. 1607a(e)(3)) is amended by inserting before "and any other" in the last sentence the following: "employing law enforcement or security personnel in areas within or adjacent to such systems;".

(b) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Section 9(s)(2) of such Act is amended by striking "fiscal year 1993," and inserting "each of fiscal years 1993 and 1994,".

(c) FERRYBOAT OPERATIONS.—For purposes of calculating apportionments under section 9 of the Federal Transit Act for fiscal years beginning after September 30, 1994, 50 percent of the ferryboat revenue vehicle miles and 50 percent of the ferryboat route miles attributable to service provided to the city of Avalon, California, for which the operator receives public assistance shall be included in the calculation of "fixed guideway vehicle revenue miles" and "fixed guideway route miles" attributable to the Los Angeles urbanized area under sections 9(b)(2) and 15 of such Act.

SEC. 268. MASS TRANSIT ACCOUNT BLOCK GRANTS.

Section 9B(a) of the Federal Transit Act (49 U.S.C. App. 1607a-2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 269. GRANTS FOR RESEARCH AND TRAINING.

(a) NATIONAL CENTER.—Section 11(b)(10)(A) of the Federal Transit Act (49 U.S.C. 1607c(b)(10)(A)) is amended by striking "technology" and inserting "Technology".

(b) APPLICABILITY OF OBLIGATION CEILING TO FUNDING FOR UNIVERSITY TRANSPORTATION

CENTERS.—Section 11(b)(12) of such Act is amended by striking "102" and inserting "1002".

(c) UNIVERSITY RESEARCH INSTITUTES.—Section 11(c) of such Act is amended—

(1) in the heading to paragraph (1) by striking "INSTITUTE FOR NATIONAL" and inserting "INTERNATIONAL INSTITUTE FOR";

(2) in paragraph (1) by striking "an institute for national" and inserting "an international institute for";

(3) in paragraph (3) by striking "through the Institute for Transportation Research and Education and" and inserting a comma;

(4) in paragraph (3) by inserting a comma after "South Florida";

(5) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively;

(6) by inserting after paragraph (5) the following:

"(6) INSTITUTE FOR TRANSPORTATION POLICY AND MANAGEMENT.—

"(A) GRANTS.—The Massachusetts State highway department shall make grants under this section jointly to the University of Massachusetts, Harvard University, and the Massachusetts Institute of Technology to establish and operate an interdisciplinary institute to carry out research and training on issues and operations in urban transportation policy and on strategies for the improvement of urban transportation management and to disseminate the findings thereof.

"(B) FUNDING.—The Massachusetts State highway department shall expend, from amounts made available to it for each of the fiscal years 1995 through 1997 under section 307(c) of title 23, United States Code, $1,000,000 per fiscal year to carry out the purposes of this paragraph"; and

(7) in paragraph (7) by striking "through the Institute for Transportation Research and Education".

SEC. 270. GENERAL PROVISIONS.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 12(b) of the Federal Transit Act (49 U.S.C. App. 1608(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR ENGINEERING AND DESIGN CONTRACTS.—

"(A) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with paragraph (4), whether funded in whole or in part with Federal transit funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(B) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with paragraph (4) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(C) STATE OPTION.—Subparagraphs (A) and (B) shall take effect 2 years after the date of the enactment of this paragraph with respect to all States; except that if a State, during such 2-year period, adopts by statute an alternative process intended to promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply with respect to such State.".

(b) RAIL TRACKAGE RIGHTS AGREEMENTS.—Section 12(c)(1) of such Act is amended by inserting "payments for the capital portions of rail trackage rights agreements," after "rights-of-way,".

(c) TECHNICAL AMENDMENT.—The first sentence of section 12(f)(1) of such Act is amended by striking "such State of local" and inserting "such State or local".

(d) TURNKEY SYSTEM PROJECT.—Section 12(l) of such Act is amended—

(1) in paragraph (1)(C) by striking "is" and inserting "may be"; and

(2) in paragraph (3) by striking "the date of the enactment of this Act" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991".

(e) SALE OF CAPITAL ASSETS.—Section 12 of such Act is further amended by adding at the end the following new subsection:

"(n) SALE OF CAPITAL ASSETS.—

"(1) IN GENERAL.—If a recipient of assistance under this Act determines that facilities and equipment and other assets (including land) acquired, in whole or in part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary shall authorize the sale of the assets with no further obligation to the Federal Government if the Secretary determines that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used; and

"(B) the proceeds from the sale of the asset will be used by the recipient to procure items eligible for capital assistance under this Act.

"(2) RELATIONSHIP TO OTHER LAWS.—The provisions of this subsection shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 271. PERIOD OF AVAILABILITY AND REAPPORTIONMENT OF SECTION 16 FUNDS.

Section 16 of the Federal Transit Act (49 U.S.C. App. 1612) is amended—

(1) in subsection (b) by inserting "and" after the semicolon at the end of paragraph (1);

(2) in subsection (b) by striking "; and" at the end of paragraph (2) and inserting a period;

(3) in subsection (b) by striking paragraph (3) and inserting the following:

"Eligible capital expenses under this subsection may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.";

(4) in subsection (c)(4) by striking "the enactment of the Federal Transit Act" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991";

(5) by adding at the end of subsection (c) the following new paragraph:

"(5) PERIOD OF AVAILABILITY.—Sums apportioned under this subsection shall be available for obligation by the State for a period of 2 years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.";

(6) in subsection (e) by striking "handicapped and elderly individuals" and inserting "elderly persons and persons with disabilities"; and

(7) in subsection (e) by striking "such individuals" and inserting "such persons".

SEC. 272. RURAL TRANSIT PROGRAM.

The second sentence of section 18(a) of the Federal Transit Act (49 U.S.C. App. 1614(a)) is amended by striking the final period.

SEC. 273. NONDISCRIMINATION.

Section 19 of the Federal Transit Act (49 U.S.C. App. 1615) is amended—

(1) by striking "(1)" each place it appears;

(2) by redesignating paragraphs (2), (3), (4) and (5) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) as so redesignated—

(A) by striking "(A)" and inserting "(1)";

(B) by striking "(B)" and inserting "(2)";

(C) by striking "paragraph (a)" and inserting "paragraph (1)";

(D) by striking "(i)" and inserting "(A)";

(E) by striking "(ii)" and inserting "(B)";

(F) by striking "(iii)" and inserting "(C)"; and

(G) by striking "(iv)" and inserting "(D)"; and

(4) in subsection (d) as so redesignated by striking "(a)(3)(B)(ii)" and inserting "(c)(2)(B)".

SEC. 274. AUTHORIZATIONS.

(a) FORMULA GRANT PROGRAM FROM TRUST FUND.—Section 21(a)(1) of the Federal Transit Act (49 U.S.C. App. 1617(a)(1)) is amended—

(1) by striking "8 9B," and inserting "6, 8, 9B, 10,"; and

(2) by inserting "20," after "18,".

(b) FORMULA GRANT PROGRAM FROM GENERAL FUND.—Section 21(a)(2) of such Act is amended—

(1) by striking "8 9," and inserting "6, 8, 9, 10,"; and

(2) by inserting "20," after "18,".

(c) SETASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Section 21(c) of such Act is amended—

(1) by inserting "beginning after September 30, 1992," after "each fiscal year";

(2) by striking "or appropriated" each place it appears;

(3) in paragraph (3) by striking "the State program under"; and

(4) in paragraph (4) by striking "the national program under".

(d) OTHER SETASIDES.—Section 21(d) of such Act is amended by striking "or appropriated" each place it appears.

(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Section 21(e) of such Act is amended by striking "$160,000,000" and all that follows through the period at the end and inserting "for fiscal years beginning after September 30, 1991, not to exceed $324,843,000. Such sums shall remain available until expended.".

SEC. 275. PROJECT MANAGEMENT OVERSIGHT.

Section 23 of the Federal Transit Act (49 U.S.C. App. 1619) is amended—

(1) in subsection (a) by striking "or 18" and inserting "and 18"; and

(2) in subsection (h) by striking "subsections (a) (1) through (5)" and inserting "subsection (a)".

SEC. 276. PLANNING AND RESEARCH PROGRAM.

(a) STATE PROGRAM.—Section 26(a) of the Federal Transit Act (49 U.S.C. App. 1622(a)) is amended to read as follows:

"(a) ALLOCATION OF PLANNING FUNDS.—

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Fifty percent of the funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend such transit research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas in all the States, as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this subsection. In any case in which a statewide transit agency is responsible under State law for the financing, construction, and operation, directly, by lease, contract, or otherwise, of statewide public transportation services, such agency shall be the recipient for receiving and dispensing funds under this paragraph.

"(3) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under paragraph (2) to be used to supplement funds available under paragraph (1), as the State deems appropriate.".

(b) NATIONAL PROGRAM.—Section 26(b) of such Act is amended—

(1) in paragraph (1) by striking "section 21(c)(4)" and inserting "sections 21(b)(3)(E) and 21(c)(4)"; and

(2) in paragraph (2) by inserting "annually" after "$2,000,000".

(c) PILOT PROJECT.—Section 26(c)(4) of such Act is amended by striking "the date of the enactment of this Act" each place it appears and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991".

SEC. 277. NEEDS SURVEY AND TRANSFERABILITY STUDY.

Section 27(b) of the Federal Transit Act (49 U.S.C. App. 1623(b)) is amended—

(1) in paragraph (1) by striking "(3)";

(2) in paragraph (2) by striking "such sections" and inserting "section 9(j) of this Act"; and

(3) in paragraph (2) by striking "With" and inserting "with".

SEC. 278. STATE RESPONSIBILITY FOR RAIL FIXED GUIDEWAY SYSTEM.

Section 28 of the Federal Transit Act (49 U.S.C. App. 1624(b)) is amended—

(1) in the section heading by inserting "rail" before "fixed guideway"; and

(2) in subsection (b)(1) by inserting "rail" before "fixed guideway".

SEC. 279. NATIONAL TRANSIT INSTITUTE.

Section 29 of the Federal Transit Act (49 U.S.C. App. 1625) is amended in the heading to subsection (b) by striking "FUNDING" and inserting "TRAINING OF STATE AND LOCAL GOVERNMENT TRANSPORTATION PERSONNEL".

SEC. 280. INCREASED FEDERAL SHARE.

The Federal Transit Act (49 U.S.C. App. 1601–1625) is amended by adding at the end the following new section:

"SEC. 30. INCREASED FEDERAL SHARE.

"(a) STATES WITH LARGE AREAS OF INDIAN AND CERTAIN PUBLIC DOMAIN LANDS.—In the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area.

"(b) STATES WITH LARGE AREAS OF INDIAN AND PUBLIC DOMAIN LANDS AND NATIONAL FORESTS, PARKS, AND MONUMENTS.—In the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area.

"(c) MAXIMUM SHARE.—Notwithstanding subsections (a) and (b) of this section, the Federal share for any construction project under this Act shall not exceed 95 percent of the total cost of such project.

"(d) GRANT RECIPIENT AGREEMENT.—In any case where a grant recipient elects to have the Federal share provided in subsection (b) of this section, the grant recipient must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring grant recipient to use solely for purposes eligible for assistance (other than operating assistance) under this Act (other than paying its share of projects approved under this Act) during the period covered by such agreement the difference between the grant recipient's share as provided in subsection (b) and what its share would be if it elected to pay the share provided in subsection (a) for all projects subject to such agreement.".

SEC. 281. PERFORMANCE REPORTS ON MASS TRANSIT SYSTEMS.

Section 308(e)(1) of title 49, United States Code, is amended by striking "January of each even-numbered year" and inserting "January 1994, January 1995, and January of each odd-numbered year thereafter".

SEC. 282. CROSS REFERENCE TO FEDERAL TRANSIT ACT.

Section 176 of the Clean Air Act (42 U.S.C. 7506) is amended in each of subsections (c)(2) and (d) by striking "Urban Mass Transportation" each place it appears and inserting "Federal Transit".

SEC. 283. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Section 4008(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2155) is amended by striking "102" in the second sentence and inserting "1002".

SEC. 284. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) OPERATIONAL TESTING PROJECTS.—Section 6055(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2192–2193) is amended by inserting "and enter into cooperative agreements and contracts with" after "The Secretary may make grants to".

(b) FUNDING.—Section 6058 of such Act (105 Stat. 2194–2195) is amended—

(1) in the second sentence of subsection (d) by striking "projects undertaken pursuant to subsection (c) of this section" and inserting "activities undertaken with funds made available under subsection (b) and activities undertaken with funds subject to subsection (c)";

(2) in subsection (e) by striking "102" and inserting "1002"; and

(3) by adding at the end the following new subsection:

"(f) NONAPPLICABILITY OF OTHER REQUIREMENTS OF LAW.—A person (including a public agency) that does not receive assistance under title 23, United States Code, the Federal Transit Act, or any provision of this Act (other than the Intelligent Vehicle-Highway Systems Act of 1991) shall not be subject to any Federal design standard, law, or regulation applicable to persons receiving such assistance solely by reason of such person receiving assistance under this section.".

SEC. 285. TITLE 49, UNITED STATES CODE, AMENDMENTS.

The analysis for chapter 1 of title 49, United States Code, is amended—

(1) by striking "Sec. 110. Saint Lawrence Seaway Development Corporation."; and

(2) by striking "Sec. 111." and inserting "111.".

SEC. 286. SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 AMENDMENTS.

(a) MOTOR CARRIER SAFETY GRANT PROGRAM.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302) is amended—

(1) by moving each of subparagraphs (H) through (N) (including any clauses therein) 2 ems to the left;

(2) in subsection (b)(1)(N) by striking "give" and inserting "gives"; and

(3) in subsection (d) by striking "3" and inserting "5".

(b) CARGO CARRYING UNIT LIMITATION.—Section 411(j)(5)(D) of such Act (49 U.S.C. App. 2311(j)(5)(D)) is amended by striking "prohibited under" and inserting "subject to".

SEC. 287. COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 AMENDMENTS.

(a) SECTION 12011.—Section 12011 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710) is amended—

(1) in each of subsections (a) and (b) by striking "104(b)(5), and 104(b)(6)" and inserting "104(b)(3), and 104(b)(5)"; and

(2) in subsection (c)(1)(A)(ii) by striking "104(b)(6)" and inserting "104(b)(3)".

(b) SECTION NUMBER REDESIGNATION.—Such Act is further amended by redesignating the second section 12020, relating to violation of out-of-service orders, as 12021.

SEC. 288. CLEVELAND HARBOR, OHIO.

Section 1079 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2018–2019) is amended—

(1) by striking the semicolon at the end of subsection (b) and inserting a period; and

(2) in subsection (d)—

(A) by striking "279.31 feet" and inserting "269.31 feet";

(B) by striking "127.28 feet" and inserting "137.28 feet";

(C) by striking the comma following "Grid System";

(D) by striking "33°–53′–08″ east" the first place it appears and inserting "33°–53′–08″ west";

(E) by striking "north-westerly" and inserting "northwesterly"; and

(F) by striking "174,764 square feet (4.012 acres)" and inserting "175,143 (4.020 acres)".

SEC. 289. OTHER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT TECHNICAL AMENDMENTS.

(a) SOUTHERN FLORIDA COMMUTER RAIL.—Section 3014 of Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2108) is amended by striking "(49 U.S.C. 1607a)".

(b) ROAD TESTING OF LCV'S.—Section 4007(d)(1) of such Act (49 U.S.C. App. 2302 note) is amended by striking "on board" and inserting "onboard".

(c) NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.—Section 5005 of such Act (49 U.S.C. 301 note; 105 Stat. 2160-2162) is amended—

(1) in subsection (d)(1) by striking "11 members" and inserting "15 members";

(2) in subsection (d)(1)(A) by striking "3 members" and inserting "7 members"; and

(3) in subsection (i) by striking "1993" and inserting "1994".

(d) SECTION 6017.—Section 6017 of such Act (105 Stat. 2183) is amended by striking "502(a)" and inserting "5002(a)".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4385) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to S. 1887 and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. MINETA, OBERSTAR, RAHALL, SHUSTER, and PETRI.

There was no objection.

MAKING A TECHNICAL CORRECTION TO AN ACT PREEMPTING STATE ECONOMIC REGULATION OF MOTOR CARRIERS

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 5123) to make a technical correction to an act preempting State economic regulation of motor carriers, and ask for its immediate consideration.

The Clerk read the title of the bill.

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

Mr. SHUSTER. Reserving the right to object, Mr. Speaker, I do not intend to object, but I yield to my distinguished colleague, the gentleman from West Virginia [Mr. RAHALL] for an explanation.

Mr. RAHALL. Mr. Speaker, I appreciate the distinguished ranking member yielding to me.

Mr. Speaker, last month Congress passed the Federal Aviation Administration Authorization Act of 1994, which included a provision in section 601 to preempt State economic regulation of intrastate trucking.

The pending measure would make one technical correction to that act to address an item which Congress did not intend to be within the scope of section 601.

The purpose of section 601 was to address issues relating to the intrastate transportation by motor carrier of general freight and express small packages.

We now find that the act would also affect the ability of a State to regulate tow trucks in those States which engage in such regulation.

This clearly was not our intention. And, in fact, many States regard the regulation of tow trucks as a matter of consumer protection.

For this reason, the pending measure would provide for continued State economic regulation of intrastate tow and wrecker services where such regulation exists.

That completes my explanation.

Mr. SHUSTER. Mr. Speaker, continuing my reservation of objection, I would appreciate it if the gentleman would confirm, first, that this exemption would be only for 2 years, and at the end of 2 years, tow trucks will fall within the deregulation which will not apply to the other modes, is that correct?

Mr. RAHALL. If the gentleman will continue to yield, the gentleman is accurate, pending the adoption of the amendment I will shortly offer.

Mr. SHUSTER. Mr. Speaker, further continuing my reservation of objection, it is my understanding from the gentleman that we have his commitment that should the Senate attempt to change our language here and add to it, the gentleman would then oppose any such action to expand this and we would not permit the legislation to become law?

Mr. RAHALL. If the gentleman will yield further, the gentleman is accurate, and certainly we would continue to work with him.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 5123

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 "Intrastate Tow and Wrecker Truck Transportation Technical Correction Act of 1994".

SEC. 2. TECHNICAL CORRECTION.

Section 11501(h)(2) of title 49, United States Code, is amended as follows:

(1) Strike "and" after subparagraph (A).

(2) Strike the period at the end of subparagraph (B) and insert in lieu thereof "; and".

(3) Insert the following new subparagraph at the end thereof:

"(C) does not restrict the regulatory authority of an agency with statewide jurisdiction with respect to tow trucks or wreckers providing for-hire services.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RAHALL: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intrastate Tow and Wrecker Truck Transportation Technical Correction Act of 1994".

SEC. 2. TECHNICAL CORRECTION.

Section 11501(h)(2) of title 49, United States Code, is amended as follows:

(1) Strike "and" after subparagraph (A).

(2) Strike the period at the end of subparagraph (B) and insert in lieu thereof "; and".

(3) Insert the following new subparagraph at the end thereof:

"(C) does not restrict the regulatory authority of an agency with statewide jurisdiction, insofar as such authority relates to tow trucks or wreckers providing for-hire services.".

SEC. 3. EXPIRATION.

The amendment made by section 2 shall cease to be in effect on January 1, 1997.

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

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

There was no objection.

Mr. RAHALL. Mr. Speaker, this amendment is being offered to address the concerns of our distinguished ranking minority member of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation, the gentleman from Wisconsin [Mr. PETRI]. It would provide for the amendment made by the bill to expire on January 1, 1997.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from West Virginia [Mr. RAHALL].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE COMING DEBATE IN CONGRESS ON AMERICA'S OCCUPATION 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, on this eleventh day of the occupation of Haiti by the American armed services, I think it is appropriate that people in this country know that we in Congress have not given up our determination to have a debate on this subject here, and to deliberate what is going on, what is at risk, what are the costs involved, what are the likely standards of measure of what we have achieved anything, and the question of the way we get out of the quagmire we have gotten ourselves into.

Mr. Speaker, this debate will be coming forward, I think in a more formalized fashion next week. We have been promised that by the Majority Leader in response to a colloquy from the gentleman from California [Mr. COX]. I understand that there is now a bill coming forward from the Committee on Foreign Affairs, which is also going to come up to the Committee on Rules, so we are finally beginning to get the mechanisms of Congress focused on this situation where, in a friendly neighboring country of the United States of America, we have about 16,000 or so men and women in our armed services in a hazardous situation. It is not outright combat, of course, as we all know, but it is deadly serious situation, and in fact, there are casualties.

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I have just come from a meeting with a person who has been in contact with family and friends and relatives in Haiti this afternoon, and the situation is becoming much more unstable in terms of the extremes that exist in Haiti. The pro-Aristide forces are sort of manifesting themselves more regularly and more intensely because there is an understanding that the military, the Haitian military, is not there to resist and this is like sort of a great venting exercise, and old scores are being threatened to be settled. We have found that in places like Cap-Haitien up on the north coast, there is a real feeling of anxiety and we are told yesterday that in the northern departments, things have become even more chaotic, particularly in the Department of the Northwest. That is the northern rim of Haiti. We are told there that the military has virtually disappeared, gone into the woods. Five anti-Aristide supporters were killed by pro-Aristide supporters either yesterday or today. Stores are being looted, particularly the food stores because people see this as not only the opportunity to get even but the opportunity to get some food which they need as the result of the embargo we have had on that country for so long which has made things so difficult in that country.

Also, I have not read any news accounts or heard on the media yet, but we are informed also that the pro-Aristide people suffered casualties at the installation of the mayor who came out of hiding and was reinstalled, the mayor of Port-Au-Prince, somebody apparently threw a grenade into a crowd there and five pro-Aristide supporters were killed.

Every day as we go back and we look at the violence and the escalation of violence, we discover first we are talking about 1 or 2, then we are talking about 5 or 10, and presumably it is going to keep escalating that way, a little bit at a time, a little bit at a time, as people get even.

The problem here is that it is our Armed Forces that are in the middle of all this and we do not have a firm understanding of when they are coming back or exactly what it is they are going to accomplish. We all are fervently behind them, in protecting them in every possible way with the best equipment, the best training, all of the things we want our men and women in harm's way to have so that they can take care of themselves and carry out their mission. But this mission is a little different. These folks are standing around in the middle of what are about to be riots all over the country with no clear orders of how they cope with all of that. Perhaps in some cases not even manpower. But up on the north coast of Haiti, we are now told that our forces have been asked to provide police protection for the stores and to, in fact, replace the Haitian army which has disappeared, gone off into the woods across the cities of the north. That mission, of taking on that role in addition to other chores of protecting themselves, is an extremely important concern.

The anarchy that is beginning to grow in Haiti I think is something that we cannot fail to address. It would be bad enough if there were not American forces there. It is something we should attend to, because we have an interest in a friendly neighboring country having this kind of difficulty. But the fact that our troops are there and the fact that the U.S. Congress has not yet had a vote on that or deliberated on the issue of the safety of our troops and when they are coming back is to me unpardonable and unconscionable.

Sooner or later there will be accountability to the American people for the policy that the Clinton administration has used and the lack of justification for why this House has not debated and not executed our responsibilities to the people we represent on behalf of our armed service personnel there.

CALL FOR WITHDRAWAL OF AMERICAN TROOPS FROM HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes.

Mr. LIVINGSTON. Mr. Speaker, as our military forces remain bogged down in Haiti, and as the morale of our troops stretches to the breaking point—and past it, in the case of one unfortunate soldier who apparently took his own life—and as we use more and more of our resources in support of the mission in Haiti, I become increasingly concerned that we will be bogged down there, and may not be able to respond to a real emergency.

I am particularly concerned with American interests in regions which are always unstable, such as Korea or in the Persian Gulf, where radicals still rule Iran and Iraq.

For example, if a crisis erupts in the Persian Gulf, once again threatening the world's oil supplies, will America be as ready to act as we were when George Bush told Saddam Hussien that his aggression would not stand? Or will our military be too busy policing the streets of Port-au-Prince in order to make Haiti safe for a radical leftist anti-American named Aristide?

Will soldiers who already have seen duty and witnessed death in both Somalia and Haiti be at their best if rapidly redeployed back to the desert? Would there be any other choice than to redeploy the same brave soldiers, sailors, airmen, and Marines? Or has our President cut our forces so far, so fast, that we don't have enough other troops to rotate into duty?

I fear that this Haitian experiment could be very costly, because the evidence indicates that our forces have indeed been spread too thin. That's a dangerous position at any time, but being distracted by this voodoo to-do makes the danger to our real national interests far greater still.

More than a year ago, in a September 1, 1993 speech at the Heritage Foundation, I warned about just such circumstances. I said then, and I repeat today, that the morale of our sailors, soldiers, Marines, and airmen is essential to an effective fighting force. Yet, by not diminishing the calls on our service people, while at the same time reducing the size of our forces, we directly threaten that morale by ensuring longer and more frequent deployment of a smaller number of ships, planes, and armament.

In that same speech, more than a year before we deployed not one but two aircraft carriers to subdue the great Haitian superpower, I warned against just such an invasion. I quoted Mr. Aristide, accurately, as encouraging the necklacing of opponents with burning, gasoline-soaked tires, calling it chic, classy, elegant and snappy. "It smells good," he said, "and wherever

you go you want to smell it." Then I asked the key questions, which still reverberate around this mission:

Is Aristide worth the risk of a single American life? Will President Clinton wish to explain the death of an American serviceman or woman killed on this mission to his or her mother?

The answer, then and now, is a resounding no.

Two weeks ago, on the day before the planned invasion, I repeated my arguments on a national radio response to President Clinton. I said that even if Mr. Aristide were more to our liking, Haiti still would be a quagmire not worth hundreds of millions of dollars of our tax money, much less American lives.

Mr. Speaker, now, though, our troops are there watching as Haitians kill Haitians, themselves being forced to kill Haitians when provoked, aware of the comparison to Somalia, and risking their own lives in the process.

For the RECORD, I submit three columns, including one by former Secretary of State Henry Kissinger and another by Donald Lambro of the Washington Times, both of which argue that we should exit from Haiti as soon as is humanly possible. I endorse their reasoning and add my own strong belief that Haiti is a dangerous distraction and a waste of military resources already spread too thin.

The third article suggests, unfortunately, the likelihood of civil war in Haiti once Aristide returns.

Mr. Speaker, Mr. Aristide has $39 million left in his bank account. Instead of wasting it on his own comfort and his slew of high-priced lobbyists, he should use it to hire his own soldiers. Meanwhile, we in America should withdraw our fighting men from Aristide's island, before the civil war begins, and save them for causes more worthy of the world's only remaining superpower.

If we don't, America can become a paper tiger, incapable of confronting other more meaningful challenges on the geopolitical stage.

We must not let that happen. Let's remedy this foolish mistake and get our troops out fast.

Mr. Speaker, the documents referred to in my remarks are as follows:

OUT OF HAITI—FAST

(By Henry Kissinger)

The ink was barely dry on the agreement negotiated by President Carter's team in Haiti when second-guessing developed. It came as a shock to many that the administration postponed its proclaimed goal of overthrowing the junta and that the landing in Haiti was brought about with the cooperation of leaders described by President Clinton as mass murderers only 72 hours earlier.

But the criticism should focus not so much on the culmination of the crisis as on the policy that left no other option except military invasion by a high-tech superpower of a practically unarmed country and the poorest nation of the Western Hemisphere. The agreement negotiated by the Carter team saves American and Haitian lives, removes the Haitian junta, albeit with a slight delay, and returns the deposed elected leader, Jean-Bertrand Aristide, to power, sacrificing only grandiloquent statements that should never have been made. Most important, the brief interval in which these changes take place provides an opportunity for sober reflection about just how deeply America should launch itself into the Haitian morass.

In my view, any prolonged military occupation must be avoided; another attempt at nation-building will trap us in an endless enterprise before it ends in a fiasco. Too much has already been staked; some relationship between means and ends must be reestablished.

The basic dilemmas of postwar American foreign policy have been the result of enterprises undertaken lightly, with little if any opposition and from which extrication proved hellishly difficult. The Carter mission has eased the entry of American troops—a success that is also an admission ticket to the far more complex danger of American forces finding themselves engulfed in the passions and conflicts of Haitian factions much more practiced in violence than in pluralism and which may yet undermine the agreement. A prolonged U.S. military occupation of Haiti would almost guarantee that the hatreds accumulated over decades would overwhelm the purposes for which we entered.

I have always had grave doubts about military intervention to restore Aristide. That America should favor an elected president over the murderous junta was inherent in our values, and justified diplomatic pressure and embargoes of the kind that had, after all, contributed to the overthrow of the Duvalier dictatorship. But American lives should be risked only when there is a demonstrable threat to the national security, on behalf of clearly defined objectives and with forces proportionate to the objective.

The administration policy failed all three tests. Haiti posed no conceivable direct threat. Contrary to administration statements, the junta represented no model any Western Hemisphere nation might be tempted to follow. The stated objectives were vague, and the force deployed was disproportionate to any sensible goal. When CNN shows daily briefings by the press officer of the American Embassy in Port-au-Prince describing locations from which to view the planned invasion of the country to which he was accredited and promising the arrival of additional personnel to handle the overflow demand for invasion coverage, the argument that the threat represented by Haiti cannot wait for the operation of less drastic measures becomes hardly plausible. (Moreover, it raises the question of how to curb public relations efforts whose proconsular character undermines America's relations with the other nations of this hemisphere.)

Ambassador Madeleine Albright's invocation of moral absolutes that transcend all practical considerations is belied by the actual record. The administration did not intervene in Bosnia or Rwanda, where the atrocities were far greater; in Rwanda, President Clinton stood apart from genocide with the argument that America could not serve as the world's policeman and that it had no national interest in that part of Africa. The current administration, like any other, cannot escape the need for selectivity.

Thus the principal achievement of the Carter mission is that it provides a graceful exit from becoming engulfed in the vortex of Haitian domestic politics. It is senseless to talk of the "restoration" of democracy in a country that has never known democracy, or to equate the fact that Aristide was elected with a certificate of democratic practices—as Sen. Nunn has wisely pointed out. To turn Haiti into a pluralistic society may take a decade or more and cannot be achieved by military occupation.

Even the limited task of disarming Haiti's armed forces implies difficult decisions: How, when and by whom is the army to be disarmed or restrained? To whom do we provide protection once Aristide is back in power? What precisely are the terms of the amnesty and which parliament approves it—the existing one or that emerging from future elections? Will Aristide abide by the amnesty despite his opposition, and what is America's obligation to enforce the Carter agreement?

Nor can the dilemmas of a prolonged military operation be avoided by turning nation-building over to the United Nations. I hope that President Clinton was speaking euphemistically when he presented America's policy on Haiti as relfecting some kind of international political consensus. For the international support we elicited was a tribute to America's power, not to its purposes. With the exception of Argentina, it included not a single major country of Latin America. Most of the nations participating from outside the hemisphere do so because of the economic strength of the United States, as a quid pro quo for past or future American security assistance, or to gain some influence over actions they far from approve. Neither Bangladesh nor Israel has heretofore exhibited any major political and security interests in the Caribbean. Thus there is no other group to which this assignment can be turned over. International support of a military occupation may provide a few auxiliaries and a modicum of financial help. But in the real world, the military occupation of Haiti will remain America's problem.

The artificial nature of this international support has already levied an exorbitant toll. One of the most hallowed principles of American foreign policy has been to keep the military power of other continents out of the Western Hemisphere. From the Monroe Doctrine to the 1947 Rio Treaty setting up a collective security system for the Western Hemisphere and in the decades since, every U.S. administration has insisted that hemispheric problems be settled by the nations of this hemisphere. Yet the administration recoiled from involving the institution specifically designed for that purpose—the Organization of American States—because it realized that our partners in this hemisphere would never approve military intervention, though they would and did support diplomatic and economic measures short of it. Appealing for the military assistance of nations outside the hemisphere on an inter-American issue sets a precedent that future American administrations may well come to regret.

Another such booby trap is inherent in the Security Council resolution authorizing the use of force for the purpose of replacing the Haitian junta, a resolution that passed with Russian support. The precedent for Moscow's ambitions in what Russia calls the "near abroad" is hard to miss—the worrisome policy of forcing the republics of the former Soviet Union to return to the imperial fold. That this tacit quid pro quo is understood in Washington is reflected in pronouncements by Ambassador Albright and President Clinton stating that each major power has a special responsibility for peace-keeping and stability in "its own back yard."

It is a dangerous doctrine. America's actions in Haiti, however ill-advised, do not affect overall security. America's interventions in this hemisphere have been short-lived; Russia's military advances have tended to be permanent. They are certain to rekindle ancient fears and tensions. Three conclusions follow.

America's military presence in Haiti ought to be brought to a rapid conclusion, preferably by the end of this year. We will have restored an elected president. By then, we will have disarmed or neutralized those Haitian armed forces threatening his rule. Aristide should be able to maintain himself after that by his own efforts, helped by generous American economic aid.

If our armed forces stay beyond this mandate, they will either become spectators in a bloody spectacle or participants in struggles where it may not be easy to tell which side to back—rebellious crowds or forces appearing in the guise of law and order. In the end, even Aristide will turn on the United States, if only to demonstrate that he is a genuine nationalist and not America's instrument—a tendency already implicit in his conduct.

Once American forces—except for a small training mission—are withdrawn, the remaining tasks can be assigned to inter-American institutions, which, when freed of the Latin American fear of U.S. military intervention, could prove quite effective. Governmental reform could be assigned to the OAS, economic assistance to the inter-American financial institutions—backed up, of course, by a continuing U.S. interest.

The Haitian crisis provides an occasion for the administration to review the practices that have produced such stark alternatives and such an obsession with public relations. Symbolic of these tendencies is the decision to launch the 82nd Airborne Division while American emissaries were still on the ground in Haiti. Given the possibility of glitches in any military operation, what was the hurry? What if the Haitian junta had not yielded, the attack had proceeded, and Carter's plane had blown a tire on takeoff? What if the junta, learning of the launch—as it is said to have done—had taken the American delegation as hostages? Surely there was no need for surprise when the projected landing sites could be seen on television. If the purpose was to land before Congress could pass a resolution of disapproval the next day, the enterprise marked an astonishing disintegration of the executive-congressional relationship.

It is painful to come to such conclusions while a military operation is underway. But the greatest risk we now face is an open-ended commitment of military forces to tasks for which they are not designed. The greatest need is a bipartisan reassessment of our foreign policy and above all a prudent definition of the circumstances in which American power is to be engaged.

IF PAST COMMENTS ARE PROLOGUE

(By Donald Lambro)

As debate over Bill Clinton's long-term military occupation of Haiti intensifies, little attention is being paid to what will happen when exiled Haitian President Jean-Bertrand Aristide is restored to power.

Now, as the countdown nears the Oct. 15 deadline when Haiti's military rulers must relinquish power, some long overdue attention may begin to focus on this leftist revolutionary whose heroes include Fidel Castro's henchman Che Guevara, Chile's Marxist President Salvador Allende and the French Revolution's Maximilien Robespierre.

Most Americans are justifiably opposed to occupying a nation that has been a hotbed of political turmoil and bloodshed over its nearly 200 years of independence. We have no national security interests in Haiti and do not belong there.

But beyond the obvious risks to young U.S. servicemen in Haiti, we might also consider the disastrous economic consequences that are certain to flow from the anticapitalist, class-struggle policies that Mr. Aristide intends to impose on his country.

Haiti is one of the most impoverished countries in our hemisphere, made even poorer by Mr. Clinton's misguided economic sanctions.

What will likely follow will be years of continued poverty, desperation and further unrest, only this time the United States will be the one imposing the sentence upon the poor people of Haiti.

Only someone like Mr. Clinton, who has played the politics of class envy and believes there is a government solution to every problem, could put the United States in the position of supporting such a bizarre and radical figure who loves socialism and hates capitalism.

Most Americans know little about the man we are putting back into power because the Clinton administration has chosen to keep the focus away from his past, and the national news media has gently treated him as a benign political figure.

But an examination of Mr. Aristide's past statements "raises serious questions about whether the United States should be betting the lives of Americans and its international credibility on him," says foreign policy specialist Lawrence Di Rita in an eye-opening analysis for the Heritage Foundation.

He is bitterly anti-American and has spoken lovingly of incinerating his political enemies with gasoline-filled tires placed around their necks, a tactic known as "necklacing."

Consider these coldblooded remarks from an address that Mr. Aristide gave at the National Palace that was broadcast over Radio Nationale in Port-au-Prince on Sept. 27, 1991:

"What a nice tool! [Necklacing] What a nice instrument! [Loud cheers from crowd.] 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. [The crowd cheers.]"

Little wonder that this former Roman Catholic priest was dismissed from his order in 1988 for "incitement to hatred and violence." His passion for hate did not change when he went into politics.

"Although elected democratically, Aristide governed quite undemocratically," says Mr. Di Rita. "He established a reputation, in the words of New York Times correspondent Howard French, as 'an insular and menacing leader who saw his own raw popularity as a substitute for the give and take of politics.'"

His far-left brand of economics also tells us much about his hatred for the United States and the direction in which he wants to take Haiti. Consider these statements from his autobiography:

"Socialism in Haiti is not a new thing: Its practice is rooted in the period of our first independence."

"The colonial powers, including the United States, must make amends for the wrong inflicted on the colony or protectorate in those days. The debt experts, when they speak of our liabilities, need to add up the second column of their own accountability."

"Economic efficiency is not compatible with justice, except at the price of a permanent struggle against all the seeds of corruption."

"Economic liberalism, which democrats and technocrats have made a panacea, I find intolerable."

"The wealthy have often become what they are by virtue of exploiting others."

Here is Mr. Aristide on the men he most admires:

"I did not invent class struggle, no more than Karl Marx did. . . . But who can avoid encountering class struggle in the heart of Port-au-Prince.

"I . . . welcome those ideas that rest on the values of beauty, dignity, respect and love. Che Guevara . . . certainly incorporated some of those values, as did Allende. . . . I feel more affection and sympathy for them than I do for many others."

"There is no question that there are common denominators between us and the makers of the French Revolution. . . . How much I owe to the makers of the French Revolution!"

Is this the man and are these the ideas that are worth risking one American life? Apparently Bill Clinton thinks so. What do you think?

ARISTIDE OPPOSES BLANKET AMNESTY; CEDRAS SAYS HE SEES CIVIL WAR POSSIBILITY

Haitian President Jean-Bertrand Aristide said today he opposes blanket amnesty for the military rulers who overthrew him. Aristide said on CNN that he holds Haiti's military responsible for thousands of deaths and he urged the Haitian parliament not to grant blanket amnesty for those crimes. Aristide said he favors amnesty only for political crimes committed against him at the time of the coup in September 1991.

Meanwhile, Lt. Gen. Raoul Cedras said on CNN: "I see the specter of civil war in this country now. . . . People in this country are very scared. Many people do not want peace, do not want reconcilation."

□ 1950

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DORNAN. Mr. Speaker, I ask unanimous consent to vacate my special order for 60 minutes tonight and request a 5-minute special order following the gentleman from Indiana [Mr. BURTON].

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

There was no objection.

LOBBYING DISCLOSURE BILL

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, I come before the House this evening to talk for a few minutes about the lobbying disclosure bill that was passed by the House today. I had just 2 minutes to speak very rapidly when the measure was before the House and I made some points there that I wanted to elaborate on this evening.

First of all, the title of the bill, as I said, is the Lobbying Disclosure Act of

1994. The American people really deserve under our system to know that a piece of legislation that passes this body does indeed do what the title says. As I pointed out in those remarks, and I want to point out again tonight, that bill that passed this House really does not do what the title states. It does not provide more disclosure.

For example, let us just take a few minutes here and look at what the bill does. Is it more or less disclosure if you decrease the reporting periods from four times a year, that is quarterly under the current law, to two times per year? What is the intent of this disclosure law?

The intent is to know more about how money is spent to influence or pass legislation in this Congress. Does this bill in fact provide more information and more disclosure or less, reporting twice a year instead of four times a year? I submit very simply it gives less information, gives the public, the media and others who are interested in how legislation is influenced and passed in this body less information, less disclosure.

Let us take the second point that I raised today, a criminal versus civil penalty. Under current law there are criminal penalties. Unfortunately, there are also weak enforcement provisions in the current law. But which is stronger, criminal or civil penalties? In the bill that passed this House today, there are civil penalties that are replacing criminal penalties, so we have actually less enforcement potential and less penalties under this bill that was passed by the House today.

Now let us look at the final issue here of disclosure. Are we going to have more people report or less people report? There is a 10 percent of your time expended in lobbying provision in this bill. That provides in my estimation a great loophole, and I said it some months ago when this was before us, that it is big enough to drive a lobbyist's limousine through. There are 23,000 attorneys in this town, and they are looking for relief from this bill. So what did they do? They put in here a little provision that said 10 percent of your time. The larger the law firm the better advantage this type of legislation.

I said then and I say now if you get 10 cents, a simple dime for lobbying or influencing legislation and you are paid for it, why not report it? But this bill does not do that.

Then let me talk also about the trips that have been on television and before the public. This only defines the amount of time. This does not eliminate those trips. If you can do a golf exercise or whatever you do, and fortunately I am not a golfer, but those that golf can still go. Do not be fooled into thinking that that is banned by this bill. It is just confined in the amount of time.

So there is less disclosure, there is less information, there is less reporting, and there is less penalty.

The gift ban I agree with, and I said I agree with it. If we want to ban all gifts, I think that that sets a fine standard for this body and is acceptable. But this is the Lobby Disclosure Act of 1994. It does not disclose, it again, and I heard this repeated here today that we have to do something about perception, it only deals with perception. It does not deal with real reform, and it will create even more cynicism toward this body and toward this institution that I have grown to love and respect during my 2 short years as a Member here.

So Mr. Speaker, I submit this additional evidence that we made a mistake in judgment here, and it is a sad mistake because this institution is a great institution and we should be doing a better job to reinforce its standing with the American people.

LOBBYING DISCLOSURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, I rise to speak about this Lobbying Disclosure Act today, and I want to share with the House and with the public a couple of ideas I really think ought to be pointed out.

It is a fact that somewhere between 25, 30, and 35 Members at the most in this House do not accept any contributions from political action committees, special interests for their campaigns. So it is a very small number of us. I am one of them that refused to accept these campaign contributions.

But all of this talk that we have heard today about lobbying reform and gift reform, while some of it is good, some of the legislation is good, some of the legislation is bad, the fact is that it really is a side show to the real problem with respect to who owns influence buying and influence peddling in the United States Congress, and that is the mechanism that has been set up through political action committees which actually do in fact purchase over a period of time first of all access, second of all influence, and finally, ultimately votes on very narrow, specific pieces of legislation that they want to see passed. And when we spend all of this time and energy and effort talking about lobbying reform and gift reforms for $20 gifts, it may very easily have the tendency to confuse the American public about what the real problem is.

The fact is that $200 million was spent in the 1992 cycle on special interest contributions to political campaigns in the U.S. Congress. That is $200 million, an average of a quarter of a million dollars per candidate per campaign, a quarter of a million dollars. That is where the real problem is. That is where the influence gets purchased. That is why special interests have such a death grip stranglehold on this House of Representatives, and that is why, in part, this House is able to continue to bring across legislation that is so unreflective and unrepresentative of the wishes, the hopes, the desires and the aspirations of the American public.

□ 2000

So let us call it what it is. Let us be truthful about the situation. The situation is that, yes, it is probably just as well we eliminate gifts completely. Yes, we should not be in the business of taking trips, and that is good legislation, as well; and, yes, there should be some tightening down of lobbyists' ability to entertain, perhaps.

But that is not the real problem; $20–$30 meals are not where the influence is purchased. Because every single Member of this House wants one thing more than anything else, and it is very bipartisan, and that is to get reelected, to come back here. When you have that motivation combined with the kind of money that is paid to campaigns in order to get people reelected, and as we have become more and more dependent upon the political action committee function of special interests for the financing of these campaigns, that has a very insidious influence and a very insidious impact on the way that legislation gets fashioned, crafted, and finally voted on in this House.

I think that it is very important for all of us in this house to be reminded of that fact, and it is even more important for the American people to know that while, yes, there is probably on balance more good than bad in the bill that was passed today, and, yes, there are some technical things that need to be done to fix it, the fact is we have not begun to go after the real problem, and that is political action committee influence that is purchased for special interests every single election cycle.

IN HARM'S WAY IN HAITI

The SPEAKER pro tempore (Mr. ROEMER). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today a hand grenade was exploded outside the mayor's residence in Port-au-Prince, Haiti; five people were killed, and a large number were injured, and very close by was an American unit. I understand, fortunately, none of those people were maimed or killed.

But the fact of the matter is they are in harm's way down there, and it is just a matter of time until American young men and women are killed or maimed. The number is something we

just cannot predict right now. But there are going to be some young Americans killed or maimed down there, and it is unnecessary.

The thing that is most disturbing to me today is an item brought to my attention by my colleague, the gentleman from California [Mr. DORNAN], in an article that was in the Washington Times, and it is very disturbing, because it infers very clearly, in fact, it states very clearly that the President put our troops in harm's way for political purposes.

Let me read what was said. Dante Caputo, the former Special U.N. Envoy on Haiti, said that he had talked to Strobe Talbott, the Deputy Secretary of Defense, and Strobe Talbott had indicated they were going to put troops in Haiti because they had to get the President's political ratings up, and it would show he had some expertise in foreign affairs, which the press and others had said he did not have because of Somalia and other things.

Let me just read a couple of things that were in the article. The story said:

> Mr. Caputo had reported back to his boss, U.N. Secretary General Boutros Boutros-Ghali, that the administration had made up its mind in the spring,

in the spring,

> to invade Haiti and believed it would help Mr. Clinton to stem the criticism of his foreign policy. Mr. Caputo, in memos to Mr. Boutros Boutros-Ghali and later in a meeting with Canadian Foreign Minister Andre Ouellet, reported on meetings he had with Mr. Talbott. He said United States positions such as laid out by Mr. Strobe Talbott, "Haiti represents a test case for which the United States has to have found a solution before November." He went on to say in another memo administration considers that an invasion is its best option. He went on to say the lesser evil and a chance to show after the strong media criticism of the administration the President's decisionmaking capability and the firmness of leadership in international political matters.

Now, this gentleman, I understand, has impeccable credentials, and he is a man of integrity. That being the case, he is not lying; he is telling the truth.

Now the gentleman from Pennsylvania [Mr. WELDON], our colleague who I was hoping would be back here by now, has put into the CONGRESSIONAL RECORD several copies of these memos, I just alluded to.

Mr. DORNAN. Will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN. I went over to my office and got them, and they are going to be placed in the RECORD at the conclusion of this special order by the gentleman from Indiana [Mr. BURTON], and although they have "Confidential" at the top, they are not confidential anymore. They have been published in the New York Times and other papers. We will put in all of them at this point.

[Confidential]

Attention: The Secretary General.

From: Dante Caputo, RSSC

Over the past fifteen days, I had the pleasure of meeting several times with Strobe Talbott and other officials of the American State Department. I also had some meetings in Paris with M. Alain Juppé, Minister of Foreign Affairs and in Ottawa with Mr. André Cueller, Minister of Foreign Affairs. Moreover, I was able to have some informal conversations with other areas of American political life.

The conclusions that I am drawing today are as follows:

1. The U.S. administration considers that an invasion of Haiti is its best option.

2. The principal objection to this type of action comes from the act that "if it is easy to initiate this type of action, it is more difficult to exit from it."

3. In order to resolve this dilemma, the U.S. administration will seek to act in the following manner:

(a) set up a unilateral action, a surgical action, with the eventual participation of several countries in the region so as to give it a certain legitimacy;

(b) put President Aristide back in power;

(c) It will seek a quick replacement of the armed intervention forces by the [illegible] whose mandate and structure will have been redefined beforehand.

4. This strategy would allow it to capitalize on the experience with such an operation, transferring the political cost on the UN.

5. In the same fashion, the President of the United States' main advisers are of the opinion that not only does this option constitute the lesser evil, but that is politically desirable. Thus we think that the current opposition of public opinion to an armed intervention will change radically, once it will have taken place. The Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decision making capability and the firmness of leadership in international political matters.

6. The position of the friendly countries vis a vis this strategy is the following:

FRANCE

France is opposed to the use of force be it multilateral or unilateral. It is ready to participate in a MINUAH under the terms foreseen in July, 1993, that is to say, technical assistance and participation in forming a police force. In an explicit manner, France is opposed to participating in whatever activity that would imply direct police action.

France considers that it is urgent that a meeting of the Four Friends take place at the department head or under secretary level, preferably in New York.

France insists as well on Argentina's participation as a fifth friendly country given that it is a member of the Security Council.

CANADA

Canada does not wish to participate in a multilateral armed intervention force. Canada thinks that in the present situation, there is probably no other alternative to that which the U.S. administration will adopt. In this perspective, according to Minister Quellet, our problem will consist of knowing how to "manage" this new reality. Canada seems equally disposed to participate in a MINUAH whose mandate will have been redefined. Canada also considers it urgent to call a meeting of the Four Friends.

7. The permanent U.S. Mission has undertaken the necessary steps so that the Security Council comes to a decision very soon on the MINUAH's mandate and structure.—May 23, 1994.

REPORT OF A DISCUSSION OF THE SECRETARY GENERAL WITH HIS SPECIAL REPRESENTATIVE FOR HAITI AT THE UNITED NATIONS HEADQUARTERS, TUESDAY, MAY 24, 1994 AT 6:30 PM

Present: The Secretary General, Mr. Gharekhan, Mr. de Soto, Mrs. Green, Mrs. Seguin-Horton.

Subject: The situation in Haiti. Possibilities for a military intervention by the United States.

The Secretary General says to Mr. Caputo that he's well aware of his last summary report.

Mr. Caputo explains that he did not dare present any options and policies to the Secretary General in this report. The fact is that he had lately a large number of informal consultations that are all going in the same direction: The Americans will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something; they are going to try to intervene militarily.

The Secretary General wonders if President Aristide could invoke Article 51 of the Charter in order to call for a military intervention.

Mr. de Soto says that the constitution prevents him from doing so.

Mr. Caputo thinks that after having asked for the intervention, Mr. Aristide will condemn it. Moreover, the United States, that wants to obtain the Security Council's blessing, is now actively studying the means to accord a legal protection to this affair.

Mr. de Soto recalls that this idea recently provoked a general protest among the OAS.

What can the United Nations Secretariat do, either to avoid or to encourage this intervention?, asks the Secretary General.

Mr. Caputo predicts a disaster. The United States will make the UN bear the responsibility to manage the occupation of Haiti. "With Aristide as President during two or three years, it will be Hell!" It is not so much the armed intervention itself that we have to avoid. What we do not want, is to inherit a "baby". For the Americans' are fixing to leave quickly. They would not intervene if they had to remain.

Mr. Gharekhan asks Mr. Caputo what he understands by leaving "quickly". One month, replies Mr. Caputo. Who is going to replace the Americans?, asks the Secretary General.

"Us", replies Mr. de Soto. The Americans will be applauded and the dirty work will come back to the U.N. The only thing that could discourage the United States would be to not obtain any contributing countries for mounting a multinational operation.

France, according to Mr. Juppé, is opposed to it, confirms Mr. Caputo. As for Canada, it is committed to strictly limiting its contribution to the formation of a new Haitian police.

The Secretary General believes that in making an effort, the United States will be able to manage to obtain 2,000 French-African troops and a few troops from the Caribbean.

Mr. Caputo says that the United Nations would have to work with a complex force and that it would be difficult for it to mount an operation in a one-month period. The Latin American countries are not ready to contribute. Mr. Caputo knows that Argentina, for example, is not very favorable to this idea. He also doubts that Mexico, Brazil or Venezuela would be tempted.

This scenario would be fraught with consequences for the United Nations as well as for this region of the world. Dante Caputo emphasizes that it is harmful that at the conclusion of the cold war, no other answer can be found for such a crisis.

In answer to the Minister's question about the consequences of the American intervention in Panama, Dante Caputo replies that it concerned a different time where the cold war was still taking place. Today, we are right in expecting that other types of means be activated. The United Nations will be perceived as being impotent before the region's problems. They will have to face up to a particularly difficult post-intervention situation.

To the Minister's question about the existence of another alternative, Dante Caputo replies that the United States acted as a brake to a diplomatic solution, creating a situation where the intervention became nearly inevitable.

The Minister remarks that actually, despite the goodwill of the United Nations, its credibility is jeopardized and the [Haitian] military leaders are "laughing at us." The Minister stresses the difficulties of a strict and effective implementation of planned sanctions and expresses its doubt over the possibility of a complete closing of the border.

The Minister shares Dante Caputo's appreciation of the need to make some arrangements in the event of a unilateral intervention. However, the Minister continues to affirm that Canada will not commit itself to hostile activities in Haiti. Canada is ready to favorably consider a United Nations request favoring a peace keeping operation with the view of consolidating a democratic regime, aid programs, and participation in a better equipped MUNUHA. Basically, the Minister concedes that only the United States can wrestle with the [Haitian] military leaders.

To improve our image relative to President Aristide, the Minister believes that the President should participate in the next meeting of the Four Friends. Regarding this meeting, Dante Caputo maintains that it would be preferable if it be held first of all without the President, and that he not participate except after the meeting. In the perspective of managing the post intervention situation, Dante Caputo thinks that it is important that President Aristide can consider himself to be an integral part of the Four Friends' action.

According to the Minister, President Aristide's credibility risks to be stained, if he restored after the U.S. intervention.

The Minister questions himself over the composition, nature and on the willingness of the countries that would be ready to participate in the MINUHA.

Dante Caputo emphasizes that France expressed the wish to participate in the formation of a police force in Haiti and is reticent to do "monitoring". Ambassador Préchette then recalls the difficulties encountered at the moment of recruiting the components of the operation's police force in 1993. Dante Caputo remarks that the question of this police force's role and mandate should be determined as a function of the whole and notes that the countries interested in taking part remain few, in addition to Canada, the United States, Argentina, and France.

The fundamental question remains the post-intervention role, multilateral action being put aside, indicates Dante Caputo. Ambassador Préchette replies that in effect, the United Nations will not vote for this type of action, but could be in favor of a "green light" for a coalition of States that would invite countries interested in toppling the [Haitian] military leaders if a very serious incident unfolded. Dante Caputo adds that this American initiative could be blocked by an internal decision process.

The Minister concludes the meeting by recalling that this is an emergency, that Canada wants to play a role, and that he will be guided by the advice and suggestions of Dante Caputo. In the probable case where sanctions would have no immediate effect and would act in the military leaders' favor, the Minister remarks that it would then be necessary to explain why sanctions are being maintained against Haiti.—Juliette Rémy, May 23, 1994.

The Secretary General recalls that in the past, the United States was able to show that it could mount a multinational force, if only in appearance. "Must we say that we think that a military intervention in Haiti would be negative?"

Mr. de Soto thinks that insinuating the possibility of an armed intervention is working to produce a certain effect in Haiti. The [Haitian] military leaders are nervous. * * * It would thus be politically dangerous to publicly discourage this menace.

According to Mr. Caputo, it must first be proposed that the President of the Security Council ask for a closing of the border between Haiti and the Dominican Republic. This measure will have a certain economic and psychological impact.

The Secretary General wonders how it is possible to really close this border. A very clear commitment on the part of the Dominican authorities must be required, replies Mr. Caputo. The Secretary General thinks that the Dominican government does not have the means to prevent infiltration.

Mr. Caputo considers that the land or sea routes can be controlled if the authorities accept to play the game. In this regard, Mr. Caputo informs the Secretary General that the Americans have proposed to him to accompany them tomorrow to meet President Balaguer in Santo Domingo. Mr. Caputo has not yet replied, but he thinks that he must accept this offer in order to show that he is being active on the diplomatic front.

Replying to a question from the Secretary General, Mr. Gharckhan makes the point that the Security Council specifically mentioned the border in his presidential declaration.

Mr. de Soto thinks that the other friends of Haiti must be made to participate at this meeting, if only through their ambassadors in Santo Domingo.

Moreover, Mr. Caputo pointed out that the Republicans have the tendency to keep their distance vis a vis the idea of intervening thinking that President Clinton would be committing a monumental error there.

Nobody can tell if such an operation will succeed or fail, notes the Secretary General. In addition to closing the border, continues Mr. Caputo, we will have to keep the same political framework set up two months ago if the United States requests.

The Secretary General asks Mr. Caputo if he still believes that after 17 month spent in his position, if the United States can conduct diplomacy. The Americans are still deeply divided on the Haitian question; there are supporters and detractors of President Aristide.

Mr. Caputo thinks that it is now or never to show the Americans that there is a political alternative to American intervention.

Mr. de Soto wonders if in fact Mr. Caputo should not go to Port au Prince to challenge the military leaders and try to convince Mr. Cedras, who pretends to be a "negotiator".

Mr. Caputo affirms that he is ready to go to Haiti. The problem is that if his visit fails, and that if it is accompanied by demonstrations by the BRAPH and by a definite "no" from Mr. Cedras, we risk provoking an armed intervention.

Mr. Gbarekahan thinks that, in effect, the Americans could feel justified to intervene.

According to Mr. de Soto, this would be the case if it were already August, but if we try now, we still have time, he says.

Mr. Caputo declares that he likes this idea because the United Nations seems to be making every possible effort on the diplomatic front on the condition, of course, of obtaining a meeting with Mr. Cedras. In reply to a question from the Secretary General, he has the means to contact him.

Moreover, Mr. Caputo points out that the French insist a lot on including Argentina in the Group of the Secretary General's Friends. Argentina, who was rather tepid two or three months ago, now seems interested in the question.

The French find in effect that the Argentina's presence would allow a better balance * * * Security Council, among the Group of Friends. Venezuela would not be excluded for as much.

Aware of the risk of displeasing Brazil who is also a member of the Security Council, the Secretary General proposes to use the criteria of Argentina's active participation in the search of a solution to the Haitian problem. Isn't Argentina a frigate that sails in the region to check on the embargo's enforcement?

Mr. Gharekton believes that he remembers that Mr. Goulding was totally opposed to this idea.

In answer to the Secretary General's question, Mr. de Soto says that Mr. Goulding thinks that including Argentina would bother Brazil.

Mr. Caputo suggests consulting Brazil.

Mr. de Soto points out that Mr. Lula da Silva, Brazil's presidential candidate, has come out in favor of intervention . . .

Summarizing the situation, the Secretary General proposes to act in the following manner: 1) Mr. Caputo reports tomorrow at Santo Domingo to discuss the border; 2) He makes contact with Mr. Cedras to set up an appointment with him; 3) He goes to Haiti to strengthen his credibility; 4) The Secretariat contacts Brazil to announce the decision to invite Argentina to be part of the Group of Friends, 5) The Secretariat invites Argentina.

Evoking the role of the United Nation's mission in Haiti (MINUAH), Mr. Caputo recalls that the American plan is to intervene, leave quickly and pass the torch to the U.N. But, if they saw how difficult it is to mount a UN operation on the spot, they would perhaps reflect some more before intervening.

Mr. de Soto emphasizes that the MINUAH mandates exists. The United States has met with officers from the [illegible] Department for Peace Keeping to study means of renewing, redefining, and strengthening the Mission. Replying to the Secretary General, Mr. de Soto indicates that the initial mandate foresees 700 to 800 men. The United States is in the process of broadening the scope of MINUAH to a mission, not only of technical assistance, but also one peace keeping. This would thus be a way to discourage the United States to intervene in showing them how difficult it is to set up the Mission that it would like to see following its intervention.

Mr. Gharakhan thinks that the Secretariat cannot highlight this difficulty since the

United States has the means to obtain the necessary troops.

The Secretary General fears that the United States will take a unilateral decision and that it will repeat the Somalian experience. The main question remains knowing what to do to avoid this unpleasant role for the United Nations.

According to Mr. de Soto, the Security Council's backing can be politically costly to the United States in so far as it will cause the United States to make concessions.

The Secretary General points out that the United States can even choose to leave forces behind.

Mr. de Soto says that the closest analogy is the one of Panama. The United States knows that the Latin American countries will protest out of principle while at the same time they will be relieved to get rid of Mr. Cédras.

Suggesting to proceed by stages, the Secretary General concludes that they agree on the five points mentioned above. These points already will allow for movement. Mrs. Green, having asked if Mr. Aristide was going to be contacted, the Secretary General replies in the affirmative. He agrees to telephone Mr. Aristide. He suggests to put off until later the more substantial reflections on the question, but keeps in mind the fact that there is a risk of escalation. It should not be forgotten that the Haitian people suffer because of those sanctions.—Fabienne Seguin-Horton, May 25, 1994.

[Confidential]

Note for the File—MEETING BETWEEN MR. DANTE CAPUTO, SREG FOR HAITI WITH MR. ANDRE QUELLET, FOREIGN AFFAIRS MINISTER OF CANADA, OTTAWA, MAY 19, 1994

Present: Mr. Stanley E. Gooch, Assistant Vice Minister, Latin American and Caribbean Desk, Mrs.; Louise Préchatte, Permanent Canadian Representative at the United Nations.

After being warmly welcomed by the Minister. Dante Caputo stresses, first of all, the different options for a solution and relates, for the Minister's benefit, the reactions observed in Paris and Washington. The first option consists of waiting for sanctions put in place to produce the desired effect: the military leaders' departure. In this regard, France and the United States have the same worry of seeing that the border between the Dominican Republic and Haiti be hermetically sealed.

However, stresses Dante Caputo, the United States would not be ready to wait several months for this to produce the desired effect. The second option, consists of using the sanctions as an instrument to support a political strategy. France is in favor of such a scenario and, in this regard, supports the idea of a high level meeting of the Secretary General's Four Friends Countries. The third option consists of using unilateral force, multilateral force, or a combination of the two. France is opposed to this. Concerning the United States position, such as laid out by Strobe Talbot, Dante Caputo thinks that time is short, and that the situation today cannot last beyond July. Dante Caputo emphasizes that Haiti represents a test case for which the United States has to have found a solution before November. The United States supports the return of a reinforced MINUAH (self defense, protecting sites) without specifying the probable means for the [Haitian] military leaders' departure.

Dante Caputo gives his personal impression of the strategy that the United States would get ready to implement. According to him, the United States cannot wait any longer to obtain the benefits of an action in favor of Haiti for a just cause; it would intervene punctually in order to then cede its place to the MINUAH.

This scenario would be fraught with consequences for the United Nations as well as for this region of the world. Dante Caputo emphasized that it is a shame that at the end of the Cold War, another response cannot be given to a crisis of this type.

To the minister's question on the consequences of the American intervention in Panama, Dante Caputo responded that it was a different time, when the Cold War was still a reality. Today, one has the right to expect other types of means to be implemented. The United Nations will be perceived as being powerless regarding the problems of the region. It would have to deal with a particularly difficult post-intervention situation.

To the minister's question on the existence of another alternative, Dante Caputo answered that the U.S. has served as a restraint for a diplomatic solution, creating a situation where intervention has become almost inevitable.

The minister remarked that in fact, despite the good will of the United Nations, its credibility is being questioned and the military is laughing at us." The minister underlined the difficulties of a strict and effective implementation of the sanctions planned and shared his doubt regarding the possibility of a total closure of the border.

The minister shared Dante Caputo's view regarding the need to take steps in the case of a unilateral intervention. Nevertheless the minister stated that Canada will not engage in activities hostile to Haiti. Canada is ready to favorably study a U.N. request for a peace-keeping operation, with a view to consolidating a democratic regime, assistance programs, and participation of a better equipped U.N Mission for Haiti. Basically, the minister conceded that just the U.S. can engage in arm wrestling with the military.

In order to improve our image regarding President Aristide, the minister felt that the president should participate in the upcoming meeting of the four friendly nations. Regarding this meeting, Dante Caputo stated that it would be preferable for it to take place initially without the president and that he not participate except subsequent to the meeting. In the perspective of the question of the post-intervention situation, Dante Caputo felt that it is important that President Aristide be able to consider himself an integral part of the action of the four friendly nations.

According to the minister, if he is reestablished after the U.S. intervention, President Aristide's credibility risks being blemished.

The minister asked about the composition, nature and will of the countries that would be willing to participate in the U.N. Mission for Haiti.

Dante Caputo emphasized that France has expressed the desire to participate in the formation of the police in Haiti and shows a reluctance to doing monitoring. Ambassador Frechette then recalled the difficulties encountered at the time of recruitment of the elements of the police for the 1993 operation. Dante Caputo remarked that the question of the role and mandate of these policemen should be determined according to the panorama and noted that the countries interested in participating are few, namely Canada, the U.S., Argentina and France.

The basic question is the post-intervention rule, multilateral action being rejected, Dante Caputo indicated. Ambassador Frechette responded that in fact, the U.N. will not vote for this type of action but it could be in favor of a "green light" for a coalition of states that would invite the countries interested in removing the military from government, if a very serious incident took place. Dante Caputo added that this American initiative could be blocked by an internal decision-making process failing.

The minister concluded the meeting by recalling that there is urgency, that Canada is anxious to play a role and that it will be guided by the advice and suggestions of Dante Caputo. In the probable case where the sanctions did not have an immediate effect and worked in favor of the military, the minister remarked that it would then be necessary to explain why the sanctions are being maintained against Haiti.—Juliette Rémy, May 23, 1994.

Mr. BURTON of Indiana. I appreciate my colleague bringing those to the floor. As I said before, the gentleman from Pennsylvania [Mr. WELDON] put them in the RECORD, I believe, previously.

Let me just say this, if this is true, if this is true, Strobe Talbott, the Deputy Secretary of State, should be summarily fired, removed from his position, because they have intentionally put our young people in harm's way for political purposes and for no other reason.

Almost 80 percent of the American people did not want our young people sent to Haiti, because there was no national interest. Over 75 percent of the Congress did not want our young people in Haiti, and yet the President went to the United Nations and got the approval of Boutros Boutros-Ghali without coming to the Congress and decided by himself to send our troops down there.

Now we find out that he did it for political purposes, and it was planned back in the spring of this year.

I want to tell you, Strobe Talbott should be fired. I am going to send a letter to the President tomorrow signed by many of my colleagues, I am sure, asking for his resignation.

Mr. DORNAN. I will sign it.

Mr. BURTON of Indiana. In addition to that, the President should be taken to task if that was his purpose in putting our troops down there. They are in harm's way. Some of them undoubtedly are going to be killed or maimed, and this guy is doing it for political purposes. That is unthinkable, unthinkable.

Mr. DORNAN. Here, I say to the gentleman from Indiana [Mr. BURTON], is a line from these memos. Some of these memos are meetings with Mr. Caputo and the French Ambassadors up at the United Nations their staff. By the way, everybody up there is paid their massive salaries tax-free from every country in the world including the United States of America; actually, to get around theirs being tax-free, we pay their taxes, the U.S. taxpayer.

UNITED STATES TROOPS IN HARM'S WAY IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, we will just continue the colloquy started by the gentleman from Indiana [Mr. BURTON].

One of the memos that I put in before, and the gentleman from Pennsylvania [Mr. WELDON] has put in, here is a meeting between Daniel Caputo, who by the way answers to Boutros-Ghali as one of our American professional U.N. people up there, and he has a job, or, no, with Mr. Andre Ouellet, Foreign Affairs Minister of Canada, so he is meeting with big people up there.

Mr. BURTON of Indiana. If the gentleman will yield, as I understand it, Mr. Caputo has resigned his position at the United Nations because of this affair.

Mr. DORNAN. Yes; yes. I do not know he got around the confidentiality of these memos unless he was the one who declared them confidential, but the one with the French representatives up there is very definitive. The French say they do not want an invasion or occupation of their former French colony, two centuries ago, 1804, but it is the only French-speaking nation in all of this hemisphere except two little Canadian islands in the mouth of the St. Lawrence, and then the two colonies, Guadalupe and Martinique that answer directly with independent departments, the French call them, to Paris.

But listen to this again:

> The Americans will not be able to stand for much longer press criticism until August at the latest the criticism of their foreign policy on the domestic front. They want to do something. They are going to try and intervene militarily. Mr. Caputo predicts a disaster. The United States will make the U.N. bear the responsibility to manage the occupation. With Aristide as President, doing 2 or 3 years, there will be a hell. It will not be so much the armed intervention itself that we have to avoid. What we do not want to do is inherit a "baby" for the Americans are fixing to leave quickly. They would not intervene if they had to remain.

Clinton himself said on the news the other night we are going to be out fast. I am not going to give out names or even hint with States or titles, but a senior, senior high-ranking Democrat chairman, and I am not going to say subcommittee or committee, in the corner of the House in my presence, with two other Democrats that I respect were all there together, that he thinks we are in an absolute disaster, that Americans will be killed, and he says, "My party," the Democrat Party, "will take a bath in the elections on November 8 like we cannot believe." He looks right at me, and he does not care. I am not giving out any names. That is a fact. What a horrible thought to contemplate.

I am praying for a miracle that Plato is wrong that only the dead have seen the end of war. I am praying that with Aristide saying no amnesty on today's ticker tape, and I have got it right here, Raoul Cedras predicting a civil war in and around our young men and women, a civil war. I am praying for a miracle that God will not harm, allow to be harmed, or killed, one American soldier. It is going to have to be a miracle.

Fifteen thousand-sixteen thousand people from Cap-Haitien out on those two long peninsulas, on Gonave Island, and not have some American hit by a grenade or some loose fire from some wild firefight? This is a ghastly situation. I called it yesterday the La Brea tar pits. This mammoth superpower is like a woolly mammoth caught in the tar in a firefight. It is unbelievable.

Mr. WELDON. If the gentleman will yield, there are two points I wanted to make. I apologize for being late.

The first is we have been getting nothing but misinformation on the situation in Haiti, which really offends me.

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This mammoth superpower is like a wooly mammoth caught in the tar pit within a fire fight. It is unbelievable.

I yield to my colleague.

Mr. WELDON. There are two points I want to make. And I apologize for being late.

The first is that we have had nothing but misinformation on the situation in Haiti, which really offends me. As a member of the Committee on Armed Services, we have been asking for a closed briefing. Yesterday we finally got it. Strobe Talbott never showed up despite the fact he was listed as a witness. Many of us think it was because he thought we were going to caution him on the Caputo memos.

Mr. DORNAN. We sat there for 2 hours with an empty seat in front of the sign marked Strobe Talbott.

Mr. WELDON. Representing the Secretary of State.

The most damaging statement by Dante Caputo—and you have heard some of them. I have put these in the RECORD twice, once in July and once in September. Now, is when he is talking, and this is on May 23rd of this year, talking about another alternative to armed intervention. Dante Caputo replies, and I quote:

> The U.S. acted as a brake to a diplomatic solution, creating a situation where military intervention became nearly inevitable.

So here we are telling the American people we really want to have a diplomatic solution, when the United Nations special envoy to Haiti is telling Boutros-Ghali that the United States is putting a brake on diplomatic solutions. They wanted to go to military solutions. Then he predicts the actual timeframe when it will take place.

Now, as a member of the Armed Services Committee, what offends me is we would lose American lives in a military situation.

CONTINUATION OF UPDATE ON HAITIAN SITUATION

The SPEAKER pro tempore (Mr. ROEMER). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] will be recognized for 5 minutes.

Mr. WELDON. I thank the Speaker.

Mr. Speaker, the situation here is very grave because we have young people in harm's way.

We know there is conflict right now. We know there is going to be loss of life.

The other major thing that we have been misled on, that the American people have been misled on, is the actual number of coalition forces in there with U.S. troops. In yesterday's closed briefing I asked Secretary Deutch, Deputy Secretary of Defense, at this point in time, 10 days after we entered Haiti, how many American troops are in Haiti? He said 19,000. I said, "How many coalition forces are there?" President Clinton told the American people it is a 24-nation coalition. He hemmed and he hawed. I said, "How many Mr. Secretary?" He said about two dozen. Where are they? I said, "Do you mean as in 24?" He said, "Yes. There are 24 coalition forces in Haiti," 11 days after we sent our troops in. And I said, I asked him where they were, and he said the coalition troops are inside the command headquarters. They are not out there with our troops on the streets.

I yield to the gentleman from California.

Mr. DORNAN. Listen to this statement we both have put into the CONGRESSIONAL RECORD of these Dante Caputo memos: "In the same fashion, the President of the United States' main advisers, led by Strobe Talbott," and this is important. Clinton's roommate in Oxford, he was actually sleeping on Strobe Talbott's floor. Going through the third dodging-the-draft process which is described, and I submit the article for the RECORD.

CLINTON AND THE DRAFT: A PERSONAL TESTIMONY

(By Strobe Talbott)

> This is a glimpse into the past—the fall of 1969—and into the lives of two Americans abroad, Frank Aller and Bill Clinton. I shared with them a sparsely furnished row house in Oxford. Frank was there to learn about Chinese history and culture; Bill's field, not surprisingly, was political science. But in addition to our formal studies, we were enrolled in a permanent, floating, teacherless seminar on Vietnam. Like many of our contemporaries, we felt that the war was profoundly wrong. Many of us had to decide what to do if we were ordered by our government to fight, kill, perhaps die for a cause we did not believe in. We talked about

that more than anything else among ourselves.

We were also engaged, although from a distance, in an angry, ugly debate that was going on back home. In the polarized climate of those days, each side impugned the motives of the other. Those of us who opposed the war didn't just disagree with those who conducted it—we often denounced them as fools, knaves, even criminals. I'm not proud of having marched to the cadence of "Hey, hey, L.B.J.! How many kids did you kill today?" For their part, supporters of U.S. policy were quick to charge dissenters with selfishness, cowardice, even treason.

I recall all this now, 23 years later, because that whole messy, divisive issue is back, along with the tendency toward cynicism and name-calling. This is happening because Clinton may become the first member of the Vietnam generation to be a candidate in a general election for the post of Commander in Chief.

Clinton and I have remained close since Oxford. I've always suspected that eventually his prominence as a political figure would require me to write about him. Readers are entitled to know if a journalist has personal ties to a subject of public attention. Therefore I've been prepared to acknowledge the bias of friendship the first time Clinton's name appeared under my byline.

But now that the day has come, I find that what also requires full disclosure is my knowledge of Clinton's attitude and conduct during the Vietnam War. What I know is quite different from what the electorate has been led to believe.

"Draft questions still plague Clinton," reported the Wall Street Journal on its front page last Friday. The item added that to fend off Republican attacks on this score, Clinton may feel compelled to pick as his running mate his erstwhile rival Bob Kerrey, who lost a leg and won the Congressional Medal of Honor in Vietnam.

Since shortly before the New Hampshire primary, Clinton has been accused of having dodged the draft. His opponents are hoping that impression will resonate with attacks on his character. That's politics, I suppose. But I've been disappointed to see how many of my colleagues in the press, in their coverage of Clinton, have referred to the matter as though draft dodging were proved. Well, it's not, and it can't be, because it's not true.

In the summer of 1969, after the first year of his Rhodes scholarship, Clinton was indeed casting about for some way to avoid going to Vietnam—not by evading the draft, but by taking advantage of one of a number of special deals that the system offered to young men who were well connected. One way was to enlist in the National Guard. That's how Dan Quayle was able to do military duty in his home state of Indiana.

An alternative was to join a Reserve Officers Training Corps program in graduate school. Clinton signed up for ROTC at the University of Arkansas Law School, which he intended to enter the following year: That would have exempted him from being sent to Vietnam for several years, by which time the war would probably be over.

As the summer went on, Clinton was increasingly unsure about the course he had chosen. He and I talked about his situation on a number of occasions by phone that August, when I was home in Cleveland and he in Hot Springs, Ark. He was troubled that while he would be earning an officer's commission and a law degree, some other, less privileged kid would have to go in his place to trade bullets with the Viet Cong.

In September 1969 he decided to withdraw from ROTC—specifically in order to put himself into the pool of young men liable to call-up. Back at Oxford, he asked his stepfather in Arkansas to notify his draft board of this decision. He was reclassified as 1-A or draftable, in late October.

In early December, Clinton explained his decision in a letter to Colonel Eugene Holmes, the ROTC director at the University of Arkansas: "I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been."

The letter to Colonel Homes, which was released two months ago, has only fueled the controversy. Ironically, it turns out that Clinton opened himself to the charge of draft dodging by doing just the opposite—by making himself subject to the draft.

A number of articles have argued, in essence, that giving up the ROTC option was a disingenuous, self-serving gesture, since Clinton was already safe from the draft. The heart of the case was summed up in the headline on a front-page article by David E. Rosenbaum in the New York Times on Feb. 14: Clinton could have known draft was unlikely for him.

Why? Supposedly because during that period, the Nixon Administration lowered draft quotas, decreasing the risk to those in the pool, and announced that graduate students would be able to finish their current academic year before being called. Furthermore, on Dec. 1, two days before Clinton wrote colonel Holmes, the government has held a lottery based on birth dates—the higher the number the lower the chance of being called. Clinton had drawn a lucky 311.

Against that backdrop, his letter to Colonel Holmes has been disparaged as an after-the-fact gimmick intended to establish a noble-sounding alibi for his maneuvering during the preceding months. The incident is being treated as evidence of how slick "Slick Willie" was even in his salad days.

At issue here is what lawyers call state of mind; How real was Clinton's concern that he might be drafted? The surmise that Clinton had nothing to worry about is based on more than 20 years' hindsight. It's a perfect example of how a partial recitation of the fact can lie, especially if it fails to take into account the tenor of the time when the facts occurred.

In the autumn of '69, no one who was at the mercy of the draft knew for sure who would be called up when and according to what procedures. The Administration's policy was constantly shifting, and its pronouncements were, from the standpoint of an antiwar 23-year-old, far from trustworthy.

Clinton showed up in Oxford that fall so uncertain about his future that he didn't even arrange in advance for a place to live. He camped out with various friends, including Richard Stearns, a Rhodes scholar from California who is now a superior court judge in Massachusetts. After living the life of an off-campus nomad, Clinton moved in with Aller and me.

Aller had already decided to resist the draft and remain in England as a fugitive from American justice. Clinton later referred to him, although not by name, in his letter to Colonel Holmes. "One of my roommates is a draft resister who is possibly under indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity."

I sat in on many long, intense discussions between Frank and Bill that fall. One particularly sticks in my mind. That November, we had a houseful of visitors, including a young woman from the U.S., whom I subsequently married. She found a turkey in a local market and prepared it for Thanksgiving. She used a recipe that required basting the bird every 15 minutes for four hours. She organized the crowded household for the task. Frank and Bill shared what was supposed to be the first shift and ended up so deep in conversation that they did the whole job. Perhaps because it was such an American holiday and they felt so far from home in so many ways, they talked on and on about whether real patriotism required submitting to the draft or resisting it.

The hell of it was, there was no right answer. If you obeyed your country, as Bill had concluded he should do, you'd be contributing to its greatest folly. If you followed your conscience and defied the law—Frank's choice—you would be causing pain, even disgrace, to your family and outrage in your community back home.

Those, like myself, with medical deferments had our own, less muscular demons to wrestle with. My gimpy knee was enough to keep me out of the Mekong Delta but not off the squash courts and playing fields of Oxford. As a beneficiary of the capriciousness of the system. I felt relief, of course, but also a moral discomfort that bordered on guilt, specially when I listened to Frank and Bill discuss the ethical implications of their 1-A classifications.

While very clear in my mind, these are recollections from more than 20 years ago. But there's at least one document that has not come to light before. It is a letter Clinton wrote to Stearns on Sept. 9, 1969. It's full of articulate ambivalence, expressing confusion, self-doubt, even self-recrimination. The principal reason for the anguish is the one he stressed to me in our phone conversations during the preceding weeks: after arranging to go to the University of Arkansas (which he mocks in the letter as "The thing for aspiring politicos to do"), he spent the summer in his hometown, "where everyone else's children seem to be in the military, most of them in Vietnam." He felt he was "running away from something maybe for the first time in my life." As a result, he describes himself as being in "mental torment," adding that "if I cannot rid myself of it, I will just have to go into the service and begin to root out the cause."

He writes that he is on the brink of a decision to abandon the ROTC shield from the draft: "I am about resolved to go to England come hell or high water and take my chances." He is not referring to the risk of being run over by a double-deck bus on the Oxford High Street.

In tone and content, this letter is totally consistent with the now famous one that Clinton wrote to Colonel Holmes three months later. Together, the two letters bracket the period when Rosenbaum and others suggest Clinton as confident that he had successfully dodged the draft.

After withdrawing his name from the University of Arkansas, Clinton applied to Yale Law School. In the spring of 1970, the Rhodes administrators circulated a questionnaire to determine which scholars were planning to return for a third year at Oxford. Clinton's answer: "Perhaps. If not, will be entering Yale Law School, or getting drafted."

Such was his state of mind. Frank's was even more tormented. Like Bill, he had initially decided on one way of coping with the dilemma posed by the war and the draft, then had second thoughts. After a miserable

year, he concluded that it was a mistake to cut himself off from his family and his country, so he went home to Spokane to sort out his life. He was unable to do so. On Sept. 12, 1971, he killed himself. I called Bill with the news. There was nothing slick in his grief.

It completely weaves a false tale involving this whole period. Here is what Caputo continues to say:

The President of the United States's main advisers, led by Strobe Talbott, are of the opinion that not only does this option constitute the lesser evil but is politically desirable, and we think the current opposition of public opinion to nonintervention will change radically once it has taken place.

Now, there was a short bounce, and now the American people are going, "Oh, oh," they are seeing the bloody carnage which looks like a mortar shell in Bosnia—this is the biggest grenade I ever heard of—to kill 5 and maim 9 or 10 others. We are doing this for a politically desirable option, and then we are going to get out, dump it in the United Nations. It goes on to say this will end the talk that Clinton is indecisive.

Mr. BURTON of Indiana. Another big problem is that Strobe Talbott lied to a congressional committee. Now, he is the Deputy Secretary of State, and he came up here and lied to a congressional committee. He ought to be summarily fired. If he is really doing what the President wanted and he did mislead the American public, the President should be taken to task.

I would ask my two colleagues tomorrow to join me in a letter to President Clinton asking about these issues, and if they are true, that Strobe Talbott either resign or be removed summarily.

Mr. WELDON. I do not disagree with the gentleman. I think we owe Strobe Talbott the ability to respond. But I can tell you in a closed briefing with eight Members who are in JACK FIELDS's office in late August about the Coast Guard situation, the representative of the National Security Council in the White House, in direct response to my question about these memos, said, "We have no comment." He did not say we deny them, he did not say they were false. He said, "We have no comment." This was in August of this year.

Now all of a sudden we look at these memos and I sent about 300 copies of these across the country to people who have asked for them. Two different memos and two notes of meetings that were held. These memos lay out exactly what is happening. So the United Nations knew back in May we were going to go in there with our troops. The United Nations knew we were going to not allow sanctions to work. Here we are and now we find out we are also paying all of the costs. When these other troops come in, the American taxpayers are going to pay the full bill, 100 percent of all the costs. We are paying for the guns they are buying back.

Mr. DORNAN. At $50 a pop.

Mr. WELDON. The United States is sustaining the bill up to $1.5 billion.

Under questioning yesterday, Secretary Deutch said, "Well, the estimate is $800 million, but that is high. Internal Pentagon documents have shown that this could cost us $1.5 billion, American money only, not U.N. money, American money." This is an outrage.

Mr. DORNAN. The gentleman and I as of the midafternoon were supposed to be going with one of the leaders on the other side that we think very highly of, going to Haiti on Saturday. Now I understand it is iffy, that they may only take one Republican, a freshman. And I think he should go. He has the 10th Mountain Division.

I want to go down there to understand where all these foreign nations are down there that are supposed to politically take up the heat once we are out of there. And nobody in this country can give us a price tag, as the gentleman just said. They are paying $300 for rockets; not one has been turned in, not a single one; $100 for automatic weapons; none have been turned in. Just old rusty rifles so far.

If Cedras is right, and there are those who would take vengeance, he has $39 million in the bank. What Catholic priest, excommunicated or self-excommunicated, has $39 million to spend?

FEE SPEECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

Mr. EHLERS. Mr. Speaker, today in the House of Representatives we passed a bill dealing with lobbying. There has been a lot of criticism of this bill, much of it justified. I voted for the bill because I believe it is necessary for us to remove any perception of wrongdoing on the part of the Congress in any dealings with lobbyists or with friends, others who may in some way give us gifts or assist us with travel.

I think we have to have a squeaky clean operation in the Congress, and I support that. I rise tonight to speak briefly about something else that I believe is an important issue which must be addressed.

Again, it may not involve any wrongdoing, but it certainly involves the perception of wrongdoing. It is an issue that I have struggled with for some time.

It has come to focus in the last few weeks with an article in the September 12 issue of the New Yorker. I notice that Representative MILLER circulated copies of that to our colleagues today. But I read the original and decided at that time to speak on it before this body.

The title of the article is "Fee Speech," not, free speech, but fee speech, "free" with the "r" removed.

Mr. Speaker, this article talks about members of the media who are very critical of the Congress for any perks we have, real or imagined, and who are very critical of the honoraria that Members of Congress used to receive. In fact the bill we passed today not only prevents us from receiving honoraria, which was already prevented, but also prevents us from receiving honoraria designated to charitable institutions when we speak to a group. I think that is going too far, but that is a side issue.

But in this case I am speaking about the honoraria or the fees that reporters receive for speaking to groups about Congress, and speaking about issues of national importance.

This is an important issue. It is not negligible. I found it very interesting, as the article points out, that Sam Donaldson of ABC displayed a certain ethical obtuseness by noting that just 4 days earlier, before this reporter's writing, "Prime Time Live," which Sam Donaldson coanchors, had attacked the Independent Insurance Agents of America for treating congressional staff people to a trip, this is not even congressmen, but congressional staff people, to a Key West trip.

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Yet several months earlier the same insurance group had paid Donaldson a $30,000 lecture fee to speak to that group.

I can go through the many other examples here, and I will take time at some later date to do that, but the point the article makes is that many reporters, not just Sam Donaldson, but many reporters, speak to the same groups that we deal with, lobbying organizations, associations of businesses. They speak to these organizations for exorbitant fees ranging from $7,000 per speech up to $35 or $40,000 per speech, and yet they are reporting on the activities of those very same groups, they are reporting on the issues that these groups are lobbying in the Congress about, and what is fascinating is that the reporters who receive these amazing fees for speaking to these groups think there is nothing wrong with it. Their defense is, as Donaldson says:

I believe it's not the appearance of impropriety that's the problem. It's impropriety.

And yet this is the same profession that says we must not display any appearance of impropriety.

There are others who, when asked about this practice of theirs, say, "It's none of your business," and when Fred Barnes, who appears in the McLauglin Group and other areas, was asked how he would respond to a question posed by Members of Congress, he said:

They're elected officials. I'm not an elected official. I'm not in government. I don't deal with taxpayers' money.

And Wolf Blitzer, CNN senior White House correspondent, when asked what

he would say to a Member of Congress who asked how much he made speaking and from which groups, said:

I would tell a Congressman, "It's none of your business."

Now frankly I think it is the people's business when we have people in the national media accepting very large speaking fees from organizations and then speaking to the American public through print, through the electronic media, about these various issues. Frankly, the Congress has very little power, and individual Congressmen have much less power, than a major network news person. They have a much greater impact on public policy and on shaping public opinion, and I believe it is time for us to recognize that and talk about possibly disclosing the fees that these figures receive.

Mr. Speaker, I appreciate the opportunity to address the body, and I will amplify on these remarks at a later time and go into them in greater detail.

NAFTA

The SPEAKER pro tempore (Mr. ROEMER). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 30 minutes as the designee of the majority leader.

Ms. KAPTUR. Mr. Speaker, this evening I would like to place in the RECORD information that is not available in the nation of Mexico, or at least not able to be placed in the press, and the purpose of my special order this evening concerns the North American Free Trade Agreement [NAFTA] and, as we promised, we would provide information to the American people as we saw this trade agreement implemented.

We have heard about the so-called benefits of NAFTA, and there has been quite a campaign in this country since its passage last year and implementation starting January of this year to try to convince us that it was all good for us. Well, nobody seems to be talking about the millions of people, ordinary Americans, and Mexican workers and farmers, who have seen none of the benefits of NAFTA, and tonight I would like to speak on behalf of them and give a human face to this trade agreement.

The real side of the NAFTA story needs to be told. Let us call it the big picture. In fact, since NAFTA's passage America's historic trade advantage with Mexico has declined by one-third already this year. That is compared to past years when we had a much greater surplus. At the same time investment flows have been leaving our country and going to Mexico at a much faster pace. That means investment that could have occurred in this country but in fact has been moving south. Foreign investment has expanded in Mexico by over one-third, with over 60 percent of that new investment coming from our country even though here in our Nation we have one of the worst savings and investment rates in the world. The number of factories which have already left the United States this year for Mexico and the number of United States workers left in their wake is an untold story.

According to the Department of Labor and the NAFTA trade adjustment assistance program, already our country has lost over 224 more factories to Mexico. That is one factory a day since NAFTA's passage and over 8,000 more of our citizens are out of work because of NAFTA. And in fact, if you look at what has been happening with all of this investment in Mexico and the expansion of plants down there, what has been happening is the continued development of an export platform, goods being manufactured there and then shipped back into our country. And some people would tell us that all this would be good because in fact the Mexican people would earn more money and they would be able to buy the goods that they are making, except what do the numbers tell us for this year? The numbers tell us that the productivity of the Mexican worker has been going up at skyrocketing rates, increasing by 64 percent just this year. And their wages? Well, their wages have been cut by another third. In terms of real buying power today they have less than they did a decade and a half ago.

The environmental mess at our borders grows every day, and the problems associated with even greater numbers of Mexican citizens apprehended at our border, due to trade policies that ignore people, only increase. From October of last year to June of this year more than 730,000 Mexican citizens were apprehended by our United States Border Patrol attempting to gain entry into our country, more than ever before. The political instability, largely caused by poverty in Mexico, and the lack of buying power looms a serious challenge for long-term stability on this continent.

NAFTA truly has been a bad deal for ordinary Mexicans. Just ask them. Poverty has grown for 40 million Mexicans over this last year, especially those being thrown off their land, while the 24 most wealthy Mexican individuals, billionaires, saw their wealth increase by over 100 percent. On the other hand, the 24 most impoverished municipalities in Mexico have on average an illiteracy rate of over 67 percent, with more people, the poor from the countryside, being divested of their farm production, moving into these swollen population centers that are just teeming with people in dire poverty. Eighty-seven percent of these people lack sewers and drainage systems. Eighty-seven percent have no electricity. Eighty-four percent have no running water. Ninety-five percent have dirt floors in their homes. If you have ever traveled there, you know that. Ninety-one percent earn little more than the minimum salary of about a dollar an hour.

The big picture can be numbing, and a human face needs constantly to be placed on these trade numbers, and tonight I want to talk about that more personal side, a story about the labor abuses in Mexico and of bureaucratic ineptitude right here in Washington, in our Nation's Capital. I am speaking of the historic first case of labor abuse under the NAFTA accord brought forward to the National Administrative Office known as NAO, administered by our U.S. Department of Labor and how that office has mishandled those cases because the law and the treaty is so poorly drafted.

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It is my belief that the cases of Honeywell and General Electric, which I will document tonight, are representative of what has always been wrong with NAFTA and trade agreements like it, which do not balance corporate profits with decent treatment of people.

Within weeks of hosting a tour of United Electrical Workers, electrical workers from Pennsylvania and Ohio, 11 workers from General Electric's Compania Armadora plant in Juarez, Mexico, were fired for trying to organize a free trade union. That is one not controlled by the government of Mexico, on December 2, 1993.

After protests from union locals in the United Electrical Workers and from citizens in Mexico, General Electric claimed to have afforded reinstatement to 6 of the 11 workers who were fired. It was later determined that General Electric never even contacted the 6 workers to offer them reinstatement.

This evening I would like to provide to the RECORD a photo entitled "General Electric's Mexican Labor Relations Strategy: You're fired." This was in the United Electrical Workers newsletter. A subhead read "6 of the 11 General Electric employees in the General Electric plant in Juarez have been fired for trying to organize a union at the plant."

And what is interesting, some of these individuals we have talked to, and I am providing their names for the RECORD tonight. This is a story that did not make it on the front pages of our paper, but this is a very historic story, because these are people of true courage.

General Electric, a corporation incorporated in this Nation, with stockholders around this country, has blocked independent trade union organizing activities at this company, Compania Armadora, by restricting workers' access to organizer and union literature.

More seriously, General Electric recently terminated or pressured into voluntary resignation over 100 workers, including a young woman who came to the United States to learn how to organize a workers' union in that plant.

This is widely perceived as an effort by General Electric to rid itself of senior workers in that country of Mexico who speak up for better wages, for more purchasing power, to get something for the work that they put in, or who complain about shop conditions, and union activists.

As detailed in an article by David Brauer in the Twin Cities Reader, the Honeywell case is similar to that of General Electric and thousands of other United States and Mexican workers. In the past decade, membership in the local union representing the Twin Cities Honeywell assembly workers has dropped by more than 3,000 workers. Approximately 6,000 nonunion workers have replaced them, putting together what that company makes, air filters, thermostats, and air conditioner switches at so-called maquiladora plants near the Mexican-American border.

A woman named Ofelia Medrano was one of the Mexican workers for Honeywell until last November 25th, Thanksgiving day in our country, when Honeywell fired her and 22 other employees at its Chihuahua plant just 8 days after NAFTA passed Congress. Ofelia Medrano was fired because she tried to organize an independent union, a rare thing in Mexico, where most unions are controlled by that Government and where people fear speaking out for their own rights and their own dignity as workers.

The Honeywell and General Electric cases are important, because they are the first to be filed with the National Administrative Office, the office set up under the NAFTA side agreements here in our country to monitor labor abuses in Mexico, which are overwhelming.

Given the importance of these two cases, one would assume that our Government would have paid special attention to their handling. Instead, our Government has treated the cases with a patent disregard for the principles and the people involved.

I know that my colleagues have much to say on the subject of how our Department of Labor and NAO specifically handled the Honeywell and General Electric cases. But let me just state a few of the criticisms.

The actual companies were not required to appear at the hearing. Even after a promise was given for permitting media coverage during the hearing, this was disallowed at the last minute. This is happening in our country.

There was no simultaneous translation available, thus cutting the time for people who had traveled so very far from Mexico to properly state their case. They were limited to a very short period of time.

Although the date for the hearing was finally changed due to pressure from this Congress, the hearing was initially scheduled for the week leading up to the Mexican presidential election, which would have precluded the attendance of any Mexican representatives who were busy trying to participate in elections in their own country.

The hearing was held here in Washington, making it extremely difficult for Mexican workers who earn $1 an hour to attend, a very long way away from where the problem occurred.

Finally, our Government refused to commit adequate funds for a proper hearing to be held. Of course, even if abuses were documented during the hearing, the NAFTA agreement is such a toothless tiger, it has no enforcement. So all that can happen under the agreement is these people, who take their own futures in their hands, come here to our country in hopes that someone here will listen to their story.

These are just some of the criticisms of the manner in which this particular first hearing was handled, and, by extension, our administration so poorly handled these first hearings, there is no doubt in my mind that they gave hope to those who wish to perpetrate more labor abuses in Mexico.

The administration talked a great deal about protecting the rights of Mexican workers and American workers during the NAFTA debate, but their actions betray their true sentiments since NAFTA.

The supporters of NAFTA sold the trade agreement as one which will benefit ordinary Americans and Mexicans. But when questioned about tying American high-wage, high-skilled jobs to the lower wages and standards prevalent in Mexico, the answer was given that Mexican wages were sure to increase, and eventually match those of the United Electrical Workers States because of productivity gains. The question remains, however, how can Mexican wages ever be expected to increase, when Mexican workers are powerless to collectively bargain, to organize, or even to peacefully demonstrate to improve their working conditions and express their grievances? How can wages really go up in Mexico, unless our Government is able to be a force for a better way of life in that country as well as our own?

Equally disturbing is how U.S. workers are asked to sit idly by as their jobs continue to be shipped further south. If this administration is truly concerned about the plight of our workers and Mexico's workers, it can begin at least by giving those who have suffered the worst abuses under NAFTA a fair and a very thorough hearing.

For purposes of the record, I would like to read the names of those Mexican workers fired by General Electric for trying to organize a union at the General Electric Compania Armadora plant in Ciudad Juarez, Mexico.

From left to right, those who were fired, and these are true leaders of ordinary people fighting for their own rights, are Fernando Castro Hernandez, who came to testify at the hearings in Washington and was given so little time; Jorge Cobarrubias; Roberto Valerio; Gerardo Baltazar Olaya; Manuel Gomez; and Apolonio Talamantes, who is kneeling.

In their own country, they are given no opportunity to be known. I hope as the American people listen tonight, I hope you will know them, and I hope your hearts will be with them, and I hope in the future our Government is able to stand up for decent working conditions and fair treatment of people, regardless of which side of the border they live on.

□ 2040

INCREMENTAL REFORM

The SPEAKER pro tempore (Mr. ROEMER). Under the Speaker's announced policy for February 11, 1994, and June 10, 1994, the gentleman from Washington [Mr. MCDERMOTT] is recognized for 30 minutes as the designee of the majority leader.

Mr. MCDERMOTT. Mr. Speaker, as you are aware, I have made an effort to talk on a regular basis about various issues in health care reform. Tonight I want to talk about the suspension of health care reform in this session of Congress.

And I want to talk about how we cannot allow themselves to be distracted in the next session of Congress, as we were in this session, by the false promise that incremental reform, health insurance reform, somehow will get us part way to our goals.

We cannot be distracted by the notion that we can avoid giving every American health insurance that can never be taken away.

Now some people are saying it will be harder next year to guarantee every American health insurance that can never be taken away. Some people are saying we can only take small steps. A lot of people have convinced the American people that true health reform really cannot happen.

Mr. BUYER. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. MCDERMOTT. I yield to the gentleman from Indiana.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. BUYER. Mr. Speaker, my question is, on Special Orders, that the Special Order was yielded to the gentleman. However, the gentlewoman

from Ohio is no where in the well. Is the gentlewoman supposed to stay here and be present in yielding 30 minutes to someone else on other issues, when I have reserved the time?

The SPEAKER pro tempore. Under the Speaker's announced policy, each party leader has an hour to designate to their individual speakers. Under this arrangement, the gentlewoman from Ohio was designated by the majority leader for 30 minutes, and the gentleman from Washington was designated by the majority leader for 30 minutes, a total of an hour.

The gentleman from Indiana will be recognized shortly for a portion of the minority leader's hour.

Mr. BUYER. Mr. Speaker, I thank the Chair.

Mr. McDERMOTT. Mr. Speaker, it is pretty clear that the advocates of incremental reform will be back next year trying to convince the American people that we can do health reform without universal coverage.

Well, I am here to tell you that those people are wrong. The reason incremental reform did not pass this year is because no one could figure out a way to do affordable insurance reform without universal coverage.

Every proposal for insurance reform alone without universal coverage would have caused private health insurance premiums to increase. The truth is that universal coverage is the foundation of affordable health care.

By the year 2000, health insurance premiums are expected to double. And as premiums go up, more and more people will lose coverage because their employers won't be able to provide it—and people simply will not be able to purchase it by themselves.

The inability of incremental reform to solve these problems is not going to change. So we have to start over, we have to return to the basics, and do this right in the next session of Congress.

So let's return to the basics.

When we started the reform process almost 2 years ago, we shared a vision—of a health care system financed by everyone and covering everyone.

We had a vision of a health care system that was fair and ended the cost-shifting that business and those with health insurance no longer can sustain.

We envisioned providing our people with health coverage so secure that they could devote themselves without distraction to their families and their jobs.

We envisioned a health care system that would grow at a predictable rate so that the rest of our economy could flourish.

The question is: Has anything happened since we began this process to justify abandoning health reform goals of universality, affordability, security, and choice?

Are more people insured today? Are more employers providing insurance? Are health care costs declining? Are citizens enjoying increased choice of providers and receiving better continuity of care? Are administrative costs declining? The resounding answer to these questions is "no."

In fact, more people have lost insurance since 1992, bringing the total of uninsured to almost 40 million. More employers are dropping insurance and when people change jobs, their new employers are less likely to provide comparable health benefits.

Health care costs continue to rise, assuring that health insurance will be unaffordable to Americans who do not receive it through their employment. Those Americans who do have insurance are increasingly unable to choose their doctors and hospitals.

Involuntarily forced into managed care plans selected by their employers, more Americans lose their doctor every time their employers change plans—a source of increasing anxiety and frustration.

This trend continues against the backdrop of soaring administrative cost within the insurance industry. The nation's largest managed care companies now devote nearly 30 percent of premium dollars to administrative overhead and profit.

The question is: will incremental reform do anything to address these fundamental problems or will it make things worse?

Having examined the existing proposals, I have concluded that they not only will make things much worse—reducing coverage, increasing costs, further eroding choice for our citizens—but that in fundamental ways they will set back the course of health reform 30 years.

I want to make clear why insurance reform as currently conceived will represent a giant step backward.

The element of incremental reform that has attracted a great deal of attention is the effort to make sure that people who have medical problems will not continue to be prevented from buying insurance. The phrase used to describe this is limiting exclusions due to preexisting medical conditions.

The problem is that this approach will only work if it is applied in a system in which there is universal coverage.

Universal coverage is the foundation of successful health care reform. We cannot construct any reasonable shelter unless it is built on that foundation. Put another way, universal coverage is the big tent.

With universal coverage, everyone can fit into the tent. People with preexisting conditions are in the tent and have health insurance coverage. With universal coverage, your health insurance moves with you when you change jobs, so you stay in the tent.

With universal coverage, you can get cost-containment and insurance premiums become more affordable because insured people are no longer paying for someone else's bad debt—and everyone can stay in the tent.

But if you try to eliminate preexisting condition exclusions without universal coverage, insurance premiums will increase. People with preexisting conditions may no longer be technically excluded—they simply will not be able to afford the price of the insurance policy.

Without universal coverage, there is no way to keep healthy people in the insurance system. The tent gets smaller. As a result, when people with preexisting conditions finally buy insurance and healthy people leave the insurance pool, the risk pools worsen, premiums rise, fewer individuals and employers can afford the price of buying health insurance and people lose coverage—they have been forced out of the tent.

Whatever we do in health care reform, we must assure that health care becomes more affordable or it is inevitable that people will lose coverage.

Only universal coverage makes insurance affordable. Without it, we will never be able to spread the risk of insurance to keep costs low and we will never be able to control cost-shifting—the means by which the insured patient pays for the debt of the uninsured patient.

And unless we stop cost shifting, cost containment throughout the entire system is a pipe dream.

Without universal coverage, someone is uninsured. And providing care to the uninsured is terribly expensive because they are simply too sick by the time they seek care.

The uninsured patient is like the leak in the dike. Either you fix the dike or you face the flood, and without universal coverage the flood is uncontrollable health care costs.

The element of incremental reform that is supposed to at least get the Nation on the road to universal coverage is the subsidy program that would give people vouchers to help them buy private insurance. But the way the incremental proposals pay for those subsidies will cause many Americans to lose coverage they already have.

How would these proposals pay for the subsidies to help people buy insurance? They would cut the Medicare Program, our national health insurance program for senior citizens and the Medicaid Program, our national/state health insurance program primarily for mothers and children.

This is just robbing Peter to pay Paul, except at the end of the day, fewer people will have insurance coverage and the robbery will create great disruption in our health care system.

Assuming that you could overcome the enormous hurdle of administering voucher subsidies on an individual

basis to well over 100 million Americans—a task that is completely unnecessary in a single-payer system—a subsidy program could work to expand coverage if: the level of the subsidy were sufficient to assure that the voucher actually could pay for an adequate insurance policy and people knew they could count on the vouchers if they needed them.

None of the proposals for incremental reform designs a voucher system that will actually pay for insurance policies or be there when you need them. They all tie the funds available for subsidies to deficit reduction, resulting in an inadequate and unstable subsidy program.

The George Washington University Center for Health Policy Research determined that under incremental subsidy proposals, a family earning a total of $23,780 per year still would need to spend more than 16 percent of its gross income on health insurance.

The linkage between financing and subsidies in the incremental proposals are particularly destructive. The incremental proposal in the House proposal terminates the Medicaid Program removing the guaranteed safety net of medical care in this country.

It is replaced only with a conditional subsidy program that will fluctuate from year to year: People may be eligible in 1 year but not the next or may have a voucher that will actually purchase an adequate policy—or may not. Literally millions of people—mostly mothers and children—who have some protection now will be placed at risk.

Because these proposals are more concerned with reducing the deficit than expanding coverage, the subsidies are financed with cuts in the Medicare and Medicaid Programs. Contrary to the widespread claims, these cuts are not just reductions in payments to doctors and hospitals, but include real cuts in services.

For example, under the financing package which forms the basis for the financing discussions by the minority Members in the other body, the Early and Periodic Screening, Diagnosis and Treatment Program for children—the foundation of child health care in this country for 30 years—would be terminated while the House proposal ends the early childhood immunization program.

The proposed cuts will affect directly more than 1 million infants, toddlers, and school-aged children who suffer from chronic diseases and physical and developmental disabilities and require health care programs to succeed in school. The cuts in programs serving disabled adults will affect hundreds of thousands of adults who rely on health care services to remain employed.

It is important to understand that the cuts affect more than the patients these programs are designed to serve. Major health care institutions and community-based providers rely on Medicaid and Medicare for their survival.

Children's hospitals rely on Medicaid and Medicare payments for between 40 and 70 percent of their revenues. It is doubtful that one children's hospital in the country would survive this disruption in its financing.

Rural health clinics and public health agencies offering primary care services as well as the Nation's teaching hospitals all depend to a great degree on Medicaid and Medicare.

Yet, under the financing package proposed in the Senate by opponents of universal coverage, Medicaid coverage of rural health clinics and federally qualified community health centers would be eliminated, costing these clinics an enormous proportion of their operating revenues.

The combined effect of these financing provisions cuts into the heart and soul of the entire pediatric health care system in this country. Even the wealthy will not have access to care if major providers cease to exist.

Public hospitals and many urban hospitals would be devastated by this reduction in funding. The only option for those hospitals that have a private patient base would be to shift costs onto the privately insured, causing health insurance premiums to skyrocket.

Mr. Speaker, I cannot understand how anyone can defend an approach to health care reform that weakens what little security our system currently provides. Is this what health care reform was supposed to do?

Is eliminating children's health care institutions, academic health centers, and the major providers of rural health care in this country a step forward?

Of course not. These proposals take us 30 years back. What they fail to recognize is that we just cannot turn the clock back 30 years and pretend that nothing has happened in the interim.

We simply cannot contain costs in the public health care system alone without creating huge distortions throughout the entire system.

The effect will be massive disruption in the delivery system as a whole, significant increases in private health insurance premiums, particularly to small businesses, and dramatic and visible reductions in access to care.

What insurance reform and a subsidy program as directed by the minority in the Senate and House offer the American people is subsidy programs that are illusory, unstable financing, the elimination of existing health coverage, narrow risk pools, and a health care system plunging further into chaos—all of which will lead to higher health insurance premiums.

And in all of these proposals there is not one word that will protect the American people from the disruption in the patient/doctor relationships that people now experience at the hands of their changing health plans.

These incremental proposals simply enable insurance companies to complete their takeover of the health care process.

But more importantly, nominal incremental reform delays us—possibly for years—from confronting the real problems while we wait to see the clearly predictable consequences of incrementalism unfold.

The cost of intervening later will be much, much higher and the toll taken in human suffering much greater.

But Mr. Speaker, I want to be absolutely clear about what has happened to health care reform in this session of Congress.

This is not the failure of comprehensive reform. This is the failure of incremental reform.

We were tempted, Mr. Speaker, by the promise that universal coverage was not necessary right away, that we could do other things first.

So we put comprehensive reform and universal coverage to one side while we tried these other things. And what happened, Mr. Speaker, is that no one could come up with a plan for incremental reform that did more good than harm.

What happened, Mr. Speaker, is that we learned that we must have universal coverage before we can do anything else.

What happened, Mr. Speaker, is that we learned that we took a false road in the hope of finding a shortcut and now we have to return to the right road.

There are no shortcuts here. We learned that we have to come back and provide universal coverage or nothing else will work.

Mr. Speaker, as difficult as the past 2 years have been for the American people and for the Members of this Congress as we truly struggled with this issue, I believe the 2 years were worth learning the lesson that halfway measures and shortcuts will not work.

So when the advocates of incremental reform come back again to attempt to obstruct real solutions with promised shortcuts, the American people must be prepared to defend universal coverage by asking tough questions.

To the opponents of universal coverage, we must ask:

If I change jobs, how can I afford to take my health insurance with me if my employer does not contribute to the premium? I can pay $6,000 for a health policy today on my own and get insurance. Isn't incremental reform just saying, "Go buy insurance"? Why is that reform?

Even if I can technically buy insurance with a preexisting condition, how will that help me if I can't afford the premium which will be $12,000 a year for a family by the year 2000?

How can I keep my doctor if my employer changes health plans?

Where will I go for health care if my rural health clinic or the children's hospital has closed?

Where will I get my health care if providers won't accept Medicare patients anymore?

The incremental proposals have no answers to these questions. And the reason is that universal coverage lies at the heart of the answers.

Providing universal coverage in America is not Mount Everest. In fact, it is not even a hill. We already have the delivery system. We already conduct the research. And we already spend the money. We simply are trying to adjust our already oversized health care system to serve all of our citizens.

To say that we are the only Nation in the industrialized world that cannot provide affordable universal health coverage is unworthy of the American people.

Winston Churchill observed that "you can always count on the Americans to do the right thing—but only after they have tried everything else."

When it comes to health care reform, we have tried everything else, and it now is time to do the right thing. We can do it, and I intend to come back again in the next session of Congress to do just that.

□ 2100

HAITI

The SPEAKER pro tempore (Mr. ROEMER). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BUYER] is recognized for 60 minutes as the designee of the minority leader.

Mr. BUYER. Mr. Speaker, I come to the House floor tonight to discuss an issue that has been discussed a lot here on the House floor, not really in forms of debate, not in forms of hearings that have occurred in any of the committees except for one recent discussion today in the Committee on Foreign Affairs room on the Torricelli bill, or actually resolution.

I came to the floor to discuss Haiti. The only way I can really begin to discuss Haiti is starting with the history of Haiti. Then I want to discuss the President's foreign policy, some indecisions at the White House, the characterization of problems with regard to Haiti intervention, I will list 3 points. Then I want to discuss where we go from here.

Haiti, we have to understand, was established in 1804 after a slave revolt against the French. It was ruled by ex-slaves. The political system was full of problems from its inception. Twenty-two different dictators ruled Haiti from 1843 to 1915. Of these, only one served out his term. Many were forcibly removed from office, three died in office, one was blown up, one was poisoned, one was hacked to death and one resigned. Between 1867 and 1910, there were 8 United States military interventions in Haiti to save foreign lives and property.

In 1915, President Wilson sent the United States Marines when Haitians revolted, dragged their then President from his palace and killed him. Three thousand marines occupied Haiti and met some resistance. The marines began a long term of nation-building projects building roads, installing sewer systems, had a telephone system, forming and training and leading the Haitian police force and running vital governmental functions. A revolt of peasants from 1920 to 1922 resulted in 3,000 Haitians and 1,400 Americans dead, so history says. This caused public opinion both in Haiti and in the United States to turn against the occupation. In 1934, the marines left Haiti, no more prosperous in the democratic forum than it was in 1915.

Haiti continued to suffer through a series of dictators until 1957 when six regimes rose and fell in 1 year. On the edge of civil war, Francois Papa Doc Duvalier took over power. This began a corrupt and murderous regime that was so infamous that President Kennedy cut off aid to Haiti in 1963. Papa Doc turned over power to his son Baby Doc in 1973 and the atrocities continued until 1986 when Baby Doc was forced into exile. From 1986 to 1991, six more regimes came and went until Jean-Bertrand Aristide was elected in early 1991 only to be overthrown by a military coup later that same year.

That is the history of Haiti. Let me shift to the President's foreign policy and I will return to the history.

President Clinton's foreign policy is based on an idea of enlarging democracy. One of President Clinton's national security staff Morton Halperin wrote in an article for Foreign Affairs last year that:

> When people attempt to hold free elections and establish a constitutional democracy, the United States and the international community should not only assist but should guarantee the result.

He also wrote in this article of guaranteeing democracy that an international guarantee clause will be credible only if key countries including the United States commit to using force to restore or establish constitutional democracy.

They spell this out, when you read this article, you get a good blueprint of the President's foreign policies, especially with regard to Haiti. The analogy is, here in the United States, we have a guarantee clause in our Constitution. The guarantee clause would be that when there are other States out there, if there is a State that seeks to change from a republican form of government, the guarantee clause will ensure that all other States will make sure that that State that seeks to change is not allowed and will guarantee a republican form of government. That is what we have in our Constitution.

What Mr. Halperin is suggesting is that in our international agreements, we should have a guarantee clause. Now, think about this. We have a guarantee clause in our U.S. Constitution. Morton Halperin suggests that we should have international guarantee clauses in these agreements. So if there is a country out there that wants to turn democratic, the credibility from an international guarantee clause would be the use of force. So in order for that to occur in his thesis he says that we, the United States, must give up our unilateral abilities to act in the world and only move in a multilateral force. What that means is that we in the United States would give up our unilateral abilities and move to the United Nations and allow the United Nations to move in a multilateral force to guarantee democracy abroad in other countries who seek to be democratic. That is exactly what is occurring with Haiti.

I encourage anyone to read Morton Halperin's article on guaranteeing democracy. You begin to understand what is occurring in the White House. I do not question the sincerity of the President or his national security advisers on what they are trying to do. If you read this article, you begin to understand much better how they are seeking their process. I do not agree with it. I do not agree at all with it. But you begin to understand much better where they are coming from.

I think it is difficult to establish a consistent and workable foreign policy that is based on such a utopian ideal. In 1991, the United States went to war in the Persian Gulf not only to stop the aggressor nation from overwhelming the peaceful neighbor of Kuwait, but also to protect the world's oil supply and to seek stability in a region of the world in fact which was unstable. In doing so we protected one autocratic regime, Saudi Arabia, and rescued another, Kuwait. These were not democracies, yet this action was in our United States vital national security interest.

□ 2110

In 1992 Algeria was about to elect a Moslem fundamentalist government that was hostile to the United States. The military overthrew the fundamentalists. I doubt that it would have been in America's best interests to uphold this democratic fundamentalist regime.

In Nigeria last year the elected civilian leader was jailed by the military, yet we did not intervene in that nation, and the military remains in charge.

If we follow this utopian ideal set out by Mr. Halperin, which they are following at the White House, we could find ourselves engaged in many places throughout the world. I believe we should return to a pragmatic foreign

policy that is based on protecting America's vital national security interests. American military forces should only be deployed when those interests are truly threatened, and also to protect and save American lives abroad.

In remarks to the National Press Club on November 28, 1984, then-Secretary of Defense Casper Weinberger outlined six criteria for the use of force overseas. He called it the Weinberger doctrine. The Weinberger doctrine was at that time drafted by a young general who was moving through the ranks rather quickly by the name of Colin Powell. It set forth that, first, vital national interests must be at stake. Second, troops should be committed with the intention of winning. Third, we should have clearly defined military and political goals. Fourth, we should size our forces to accomplish our goals. Fifth, the military commitment must have the backing of the American people. Last, and sixth, the forces should be committed as a last resort.

President Clinton I believe has violated most of these principles of the Weinberger doctrine with his recent intervention in Haiti. In addition to being based on the unachievable utopian ideal of Morton Halperin's theories, Clinton's foreign policy is dangerously multilateral. It is obvious from this most recent intervention and from the previous one in Somalia that he is more interested in the approval of the United Nations than the opinion of the American people and that of the elected representatives here in the U.S. Congress.

Many of us on both sides of the aisle have been asking for debates. I asked for hearings in the Armed Services Committee. I did it in May, I did it in June, I did it in July, I did it in August, and I did it in September. Those hearings do not come, and it is completely unfortunate.

The problems with the Haitian intervention, one point I would like to make is that there are no clear vital national security interests in Haiti. This intervention will not solve the economic, social and political problems in Haiti. You cannot restore democracy in a place where it never was in the first place.

The military forces should be used when our vital national security interests are at stake and American lives are threatened. Haiti cannot be compared to, as I read in the press, and as the President sought in justification, cannot be compared to Panama where at that time one United States officer was killed, one military family kidnaped the canal threatened with major drug trafficking and the declaration of war even against the United States. And in Grenada, a Russian financed, Cuban-built airfield under construction, 800 U.S. students threatened by the shoot-to-kill night curfew. At no time has Haiti presented a security threat to the United States or the stability of the region, not only within our own hemisphere, not only within our own continent, but not even in the Caribbean.

The so-called crisis I believe was created by President Clinton, who then forced a situation where Clinton's credibility was on the line. The President's political credibility I believe is the worst possible reason to risk American lives. This is no time I believe for the administration to thump their chest for having taken one of the poorest nations in our hemisphere. While it has always been accepted that our forces could enter Haiti easily, it is difficult to see how we can expect our forces to accomplish the long-term mission of nation building.

Point No. 2 is that returning Aristide to power does not mean democracy in Haiti. Jean-Bertrand Aristide is a defrocked priest who has embraced Marxism and is anti-American. Aristide is no George Washington. Two days before he was ousted in a coup he gave the speech of which many have talked, advocating the use of necklacing for his political enemies. Aristide has actively and passively supported his followers taking violent revenge upon political opponents and even those in the Catholic Church in Haiti. It has been Clinton's support for Aristide's unwillingness to even consider amnesty for General Cedras that has brought this crisis to a head. The Governors Island Agreement had a clause that guaranteed Cedras amnesty. Aristide withdrew his support for this amnesty. Aristide withdrew his support for this amnesty after the agreement was signed. Cedras subsequently refused to sit down as called for in the accord.

Aristide has been a reluctant and ungrateful supporter of the United States actions in Haiti. After 3 days of silence following the landing of U.S. troops he has only said thank you. He has given speeches, but you can tell in his tone. After pressure from the administration and full honors on arrival at the Pentagon with a 21-gun salute has brought about his comments.

According to the Washington Post, Anthony Lake and Strobe Talbott return Aristide as a way of distancing the administration from the policy of supporting brutal military leaders in Latin America, because they were friends of big business or anticommunism.

William Grey III, the White House special adviser on Haiti and former Member of this body, did state that "We used to put in place characters like Cedras in order to keep characters like Aristide out."

The third point I would like to make is that the United States is conducting a form of liberal colonialism in Haiti. I first heard the Senator from Indiana, DICK LUGAR, talk about this new era of colonialism, and I think he is right. President Clinton has conducted a military operation to install someone who is an anti-American defrocked priest as president. The operation is full of inconsistencies. President Clinton allowed former President Carter to turn General Cedras from being the thug into America's new partner in maintaining order in Haiti. Cedras says he will not leave and Aristide says he must go. Folks, this creates a lot of real problems. The U.S. forces are stuck right in the middle and mission creep sets in.

First United States forces are not allowed to interfere to stop the Haitian police from beating civilians. They have to just stand by and watch the brutality. Then they change the orders. Now our forces are charged with maintaining civil order. United States troops will now disarm the Haitian military and police, then protect the military and police from angry Aristide supporters who want revenge. U.S. troops will protect the Parliament so it can meet and vote the amnesty called for in the Carter agreement or else Cedras will not sit down and Aristide will not return.

To quote one of the recent columnists, "We are in Haiti to restore democracy to a country that never had it, to build a civilian-controlled military where it had never existed and to create a secure environment for peaceful transition of power among murderous rivals."

What really concerns me is placing the U.S. military in the middle. It is hard to predict in a country such as Haiti the volatility between warring factions.

□ 2120

We cannot forget the lessons that occurred with the mission creep in Somalia, when you take the military and you place them in the position of being now a referee, and that at some point in time then having to choose a side as they walk into the street, and they see fighting or a gunburst.

How is that 19-year-old private going to make a decision on who is the good guy and who is the bad guy? You see, you have to exercise some good common sense here. I believe the sooner the U.S. military gets out, the better. The sooner we can establish an environment for which Mr. Aristide returns, we get out, and a peacekeeping force in an international capacity goes in, the better, because, you see, when the United States moves in and places themselves on the side of Mr. Aristide, they have chosen sides, and once Aristide comes back into power, things are going to happen.

Even Mr. Aristide may try, in his efforts to stop any activities, any murderous conduct or terror, it is going to happen. There have been people who want to get back, revenge, seek retribution.

Now, where does that place our military? How about Cedras' followers, taking potshots at our military?

You see, it really concerns me. I will exercise common sense. When you come from Indiana and a basketball State, when our military comes in and plays the part of a referee, you cannot choose sides, because when you choose sides, you become a target.

Let us say there is a basketball game between Indiana and Notre Dame, I am going to be the referee. Now, what protects me between the players, or like the soldiers, the players on the floor in that arena and from the fans is my neutrality. So during that game I can make all the calls and nobody gets too upset. They might a little bit, because they see that I am neutral, but now if I come to the game already being on the side of Indiana, wearing an Indiana T-shirt, I say I am already for Indiana, I want Indiana to win, and I am going to promote Indiana, and then I am going to take the floor.

First of all, Notre Dame is going to think something is up. Then when I am on the floor, Notre Dame is on a breakaway layup, I have had it with this guy who does all the scoring, so I trip him and throw him into the wall. I tell you what, I have no neutrality whatever. I have shown what side I am going to be on. I am not neutral.

U.S. troops cannot participate in peacekeeping missions. They are not neutral. They have already established a side, Aristide's side. So they become targets to other factions, and that referee becomes a target not only by Notre Dame, now also upset, but also from Notre Dame fans who definitely want to throw me out of the arena.

So we have to be very careful in this era of multilateralism. I do not care if it is Haiti, I do not care if the President wants to live up to his commitment and puts troops in Yugoslavia, if we conduct air strikes and dropping bombs and being seen as an enemy, you cannot put United States troops on the ground, put them in peacekeeping missions, and call them neutral if they have already decided which side they are going to be on, because they are targets. So we have to be very, very careful.

I think we have been very fortunate so far on the limited loss of life. I note we had lost one military officer.

I guess, really, where do we go from here? I am not a Member of this body who just likes to bash. I think it is very important. I think it would be wonderful if we had more open debates and discussions and a more democratic process really in the House to really get in and debate matters of policy.

You see, I was one that was pretty upset when I constantly asked for hearings on the Committee on Armed Services with reference to let us debate Haiti, let us debate it, let us talk about it—let us debate it, let us talk about it, let us exhaust our ideas, and it never happened. And then as soon as we have a peaceful entry of Haiti, immediately rushed to the House floor is this vote, a vote to commend the President, commend Carter—former President Jimmy Carter—and Senator SAM NUNN, and Gen. Colin Powell, and to commend the troops.

You see, I was pretty upset about that. I really felt that was politics, and I would not participate in it, and I voted "present." You see, it is pure politics. All of a sudden we can rush to vote something to commend, but no, let us not debate and discuss the ramifications of military intervention of Haiti.

President Clinton right now has placed our military in an impossible situation, but I think one from which we can discern.

Now that our forces are in Haiti, there are a few good options, whether we stay or leave. United States forces are in Haiti. Their stated mission is to ensure the Haitian military complies with the provisions of the Carter agreement, ensure the safe return of President Aristide, and provide for parliamentary elections, facilitate the flow of humanitarian aid, ensure the return of Haitian refugees from Guantanamo Bay in Cuba.

Today the Committee on Foreign Affairs passed on a party-line vote, 27 to 18, a bill sponsored by the gentleman from New Jersey [Mr. TORRICELLI], authorizing the United States military to stay in Haiti until March 1, 1995, and limiting its role to protecting United States citizens, stabilizing security, and helping provide humanitarian aid.

While I oppose this military intervention in Haiti, I have serious reservations about setting a "date certain" for our withdrawal. Setting a date will create a situation on the ground in Haiti that will hamper our military's ability to conduct any type of operation, including an orderly withdrawal. Setting a date may unnecessarily endanger our troops already on the ground in Haiti by allowing opposition forces to lay low until we leave before rising again to create more unrest. We saw that in Somalia.

Given the situation, we need to ensure the swift transition of power from the coup leaders to a legitimate government. With this being accomplished, our forces should not remain in Haiti to referee the hostilities between the two rival groups.

I have cited that example. You see, we have already chosen sides. We cannot just move in and say, "OK, now they are going to be peacekeepers." It is time to move out.

Our mission, the missions in Haiti, should be limited, clearly defined, and achievable. We should not become involved in the long-term, open-ended mission such as nation-building or restoring democracy. These are utopian ideals that involve the long-term reform of the entire Haitian culture.

Given Haiti's history, it is highly unlikely we could succeed. It is certainly not a mission for our Armed Forces, so we should do what is responsible and prudent, and that is to get our troops out as soon as possible from Haiti.

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

Mr. BUYER. I yield to the gentleman from Pennsylvania.

Mr. WELDON. I thank my colleague for yielding, and I appreciate his taking out this very important special order this evening.

This has been a continuing effort on the part of many of our colleagues in the House to bring forth facts that we would like to debate openly on the House floor as well as in committee on Haiti but have not been given that opportunity.

I know my colleague and friend who sits on the Committee on Armed Services, as I do, shares my feelings that we have an obligation as members of the Committee on Armed Services to especially watch out for the safety and well-being of our troops.

The special concern we have, as we have had in Desert Storm and even when our troops have been deployed out here domestically as they were with Hurricane Andrew and other sites, is to make sure we are doing what is in their best interests, and I think it is probably safe to say that the majority of our colleagues who sit on the Committee on Armed Services are not happy with where we are in terms of Haiti.

I want to discuss a couple of points and build upon some issues that the gentleman raised this evening in the remaining time, if he will allow me.

The first is, I think, the misconceptions that have been brought forth to the American people and Members as to why we are in Haiti. The President and our U.N. Ambassador and our Secretary of State made a series of speeches where they maintained that one of the prime reasons for going into Haiti was to stop the boat people from coming in, to protect our country from illegal immigration. I would submit if that is our policy perhaps we should invade Mexico, because we have far more illegal immigrants coming across the border from Mexico than have ever come in from Haiti.

But be it as it may, we have to look at why are these boat people coming to America. I think we have to go back to November 12, 1992, when then-candidate Bill Clinton made the following quote while George Bush was the President of the United States, and he said, "I think that sending the refugees back to Haiti is an error, so I will modify that process. I can tell you I am going to change that policy."

Now, here is a candidate for the Presidency of the United States stating

publicly his criticism of then-President George Bush because he was stopping the boat people, and this candidate for the highest office in the country said, "When I am elected, and if I am elected, I will change that policy, and I will allow the boat people to come in." Yet 2 years later, after the boat people are coming in, he says, "We are going to put our troops in Haiti, because we have to stop the boat people from coming here."

Part of the reason why we are where we are today in regard to Haiti is because of the President not having a consistent policy when it comes to our relationship with Haiti.

□ 2130

The second thing that has really bothered me about this whole operation, besides the fact that we have not been able to have a full debate before putting our troops into harm's way, was that the President, when he spoke to the American people that Thursday evening before the mission moved into Haiti, made the case this was going to be a multinational effort, in fact this was not going to be America alone. In fact, he boasted of the fact that 24 countries had agreed to join this effort, they were going to be supplying troops and dollars and so forth.

Most of us knew that was not the case because all of our key allies had denied the request to go in with us; Canada, Great Britain, our European allies did not want to put any of their troops in harm's way and, in fact, would not cooperate in the Haitian effort.

In fact, here we are now, 11 days after the occupation of Haiti by some 19,000 troops—as I mentioned earlier today—I had the opportunity in a hearing yesterday on the Armed Services Committee to ask Deputy Secretary of Defense John Deutch exactly how many of our allied cooperative nations were involved in the Haiti mission as of that date. As of yesterday there were 19,000 American young troops all throughout Haiti; the total amount of other nations amounted to 24 individuals—not 24 nations, 24 people. When I asked him where those 24 were, he went on to say in front of the committee that those 24 were in the headquarters building in Port-au-Prince.

Mr. Speaker, that really bothers me because here we are being led as a nation to believe that this really is a multinational effort, that we are sharing the responsibility, when nothing could be further from the truth.

Secretary Deutch went on to tell us in committee that there will be additional commitments of troops and some are being trained right now for the police part of this operation, not for the initial military occupation.

But he also told us, and this leads to another major concern that I have, that America will bear the full cost of this operation. We will, the taxpayers of this country, pay the full cost for all of those troops that go into Haiti with us. The United Nations will not pay that bill; Haiti will not pay that bill; Aristide will not pay that bill; the American taxpayers will pay that bill.

When I asked Secretary Deutch what that amount of money would be, he hemmed and hawed and said, well, there was one figure floating around in the Pentagon that talks about an amount somewhere near $800 million but he doubted that it would go that high.

Most of us who sit on the Armed Services Committee know full well that the internal documents of the Pentagon show that, depending upon how long we stay in Haiti, that figure could rise to $1.5 billion.

Here we are talking about not enough money for some of the basic domestic problems we have in this country. We are talking about not being able to extend unemployment comp benefits to people that are out of work; we are talking about not having enough money to meet some of the other concerns that Americans have, student loan funding for kids who want to go to college. Yet we are going to spend $1.5 billion of our taxpayers' money to fund the Haiti operation, where many of us believe 6 months after we leave Haiti we will find the country in exactly the same situation we found it, as was outlined by my colleague, Mr. BUYER, here tonight. That has been the policy and the history of Haiti throughout this century.

So cost, in fact, is a big factor in terms of how long we are staying. But there is another issue that has not been raised much that needs to be talked about. This President did something in Haiti that undermines a basic foreign policy objective of this country throughout this entire century. One of the most hallowed principles of American foreign policy has been to keep the military power of other nations out of the Western Hemisphere. From the Monroe Doctrine to the 1947 Rio Treaty setting up a hemispheric cooperative military force, every U.S. administration, Republican and Democrat, during that time period has insisted that no other nonwestern hemisphere nation come into our hemisphere to help militarily in terms of a threatening situation. Yet that is exactly what we have done here.

Just this past week, the President announced that even Russia would be sending troops to Haiti. Many of the most learned foreign policy experts in this Nation now feel that we have made a grave error. We have opened the door and established a precedent for other military operations, not just in the Western Hemisphere, but we have also—supposedly behind the scenes—agreed to an understanding with Russia whereas we will not object to their activities in the former Republic of Georgia.

So there are foreign policy implications well beyond Haiti that unfortunately have been overturned with our current mission there.

My key concern right now, Mr. Speaker, is how are we going to get our troops out of Haiti? I was over in Somalia in January after we sent our troops in that fall to allow the relief supplies to get to the starving people in Mogadishu and Baidoa and the rest of the impoverished nation.

While we were in Mogadishu, we were at the United States command center meeting with General Johnston. Once again, the 10th Mountain Division was in Somalia, and as they are doing now in Haiti, they did a fantastic job there. In our discussions with General Johnston, we said, "When do you expect the United Nations to take over so that the United States troops could come back from Somalia." What he told us was that he had not heard from or seen anyone from the United Nation. We all know that it was not until May of that year that we began to see U.S. troops come home.

Unfortunately, we did not turn over the entire command. We allowed 4,500 of our troops to stay. We denied the backup support they needed that was requested by one of our on-scene generals. and in September of that year we lost 20 young Americans to the point we were not even able to go in there and retrieve their bodies in downtown Mogadishu after they had been attacked, and their bodies were dragged through the streets of that country.

Many of us fear the same thing could occur in Haiti.

A question that I asked of General Sheehan and the Deputy Secretary of Defense at our briefing 2 days ago, I said it is not a question of when General Shalikashvili determines we should turn it over, that is the easy part. We have confidence in our generals, in our military leadership. The question is not when General Shali is ready to turn over command, the question is when will the United Nations be ready to take over the command in Haiti?

As of this moment we see no U.N. activity, we see no U.N. multinational force moving into place, and we see articles like the one that was in the Boston Globe just this past week saying we could have extensive involvement in Haiti through the year 1996.

If that occurs, we continue to subject American young men and women to possible attacks like the one we saw today, where five innocent citizens were killed. We also see a larger and larger dollar figure in terms of the amount of money we are going to have to spend to keep the Haiti operation viable.

And we do this at a time when we are cutting back on the readiness of our reserve forces, cutting back on the

amount of training and steaming hours and flying hours for our military because our defense budget is already being squeezed in such a hostile manner.

Mr. Speaker, there are just too many things here that do not add up. But what really bothers most of the colleagues that I have talked to in this body is what appears to be the long-term understanding of why we are going into Haiti in the first place.

I know that all goes back to the series of internal U.N. memos prepared by the U.N. special envoy, Dante Caputo. In those documents released during the summer on ABC–TV and the Wall Street Journal, two internal memos where Dante Caputo was writing to Boutros-Ghali telling him about what the U.S. ultimate goal was and what our intentions were, as well as the notes from the two meetings that Dante Caputo attended with both U.S. administration officials, including Strobe Talbott, and other officials from other allied nations. Those documents clearly show as far back as May of this year that the U.S. intent was not to solve this problem diplomatically but rather to resort to a military action.

I have placed the Dante Caputo memos and internal notes into the CONGRESSIONAL RECORD in their entirety on two separate occasions, in early August of this year, when I first got them, and again the first week of September to focus attention on these memos.

I have done talk radio shows all across the country, CNN live debates to let the American people and our colleagues understand that here was the U.N. special envoy to Haiti telling us we are going to experience what we are now experiencing, that President Clinton in fact was going to have our troops enter Haiti sometime before the end of the summer or, at the very latest, by the November elections. And that is in black and white in these special documents.

The documents further stated that Dante Caputo's impressions were that the United States actually stopped, and held back, and put a brake on the actual negotiated settlement in terms of Haiti's leadership and actually wanted to see a military involvement to help bolster the President's political standing.

□ 2140

All of this, Mr. Speaker, is in black and white, and that is what so enrages me.

We have tried to see whether or not these memos are true. We have not had anyone refute them, but two startling things have happened.

The first, Mr. Speaker, was in August when the gentleman from Texas [Mr. FIELDS], the ranking member of the Committee on Merchant Marine and Fisheries that oversees the Coast Guard, of which I am a member, a ranking member of a subcommittee there; JACK FIELDS held a briefing in his office with eight of our colleagues. We had the Commandant of the Coast Guard present. We had other members of the Coast Guard personnel, and we had one of the top assistants to the President's national security team from the White House. At that meeting were other Members of this body. I asked him very specifically in August, "What is the administration's response to the Dante Caputo memos which say we're going to be in Haiti militarily within a matter of weeks and months?"

His response to me, in front of all of our colleagues, was, "No comment. The President and the administration have no comment. Not denying them, not saying they're false, simply no comment."

The second thing that is of concern in relation to these memos is that, when the President decided to go into Haiti a week ago Sunday, the next day, on Monday, Dante Caputo announced that he was resigning from his post at the United Nations, and in his resignation statement he referred to the fact that he was so upset with the policy that the United States had taken in regard to Haiti, that clearly this had been our objective all along and that he saw it coming, that we, as a nation, really had no intent of allowing a negotiated settlement to occur.

So here you have the same man who was in these meetings who wrote these internal memos to Boutros-Ghali now having the integrity to resign his position because of America's action, and what did our President do? He did not invade Haiti on a day that we were in session when we could vote. He waited until we were in recess for the Jewish holiday, and on that Sunday evening, when he knew we would not be in session, he ordered the planes to take off with our troops.

Mr. Speaker, someone has to answer the Dante Caputo memos because in my opinion they are a time bomb waiting to explode because, if they are true, what, in fact, they say is, that the President and this administration entered Haiti for purely political purposes to enhance the President's image in terms of being a world leader. It is clear. It is in the memos. They are in the RECORD. In fact, our colleague inserted them in the RECORD again this evening.

Nowhere in the history of this country have we ever seen a Commander in Chief commit our troops to enhance his political standing, and certainly not without a full debate in this body and a vote in this body, yet that is what is happening.

I was hoping, as many of my colleagues were hoping, that we would get a chance to ask Strobe Talbott or Warren Christopher, our Secretary of State, directly as to what their response was to the Caputo memos. The Committee on Armed Services briefing, which was held 2 days ago, was supposed to have three witnesses. The witnesses were supposed to be John Deutsch, who showed up; General Sheehan, in charge of operations for the Joint Chiefs of Staff, who showed up; and Strobe Talbott representing the State Department. Strobe Talbott's name tag was on the table, but Strobe Talbott never showed up for the 2-hour briefing with members of the Committee on Armed Services. Even through he was not there, Mr. Speaker, I asked the questions about the Caputo memos because they have to be answered.

Now the Committee on Foreign Affairs had held a hearing the day before. Strobe Talbott showed up for that hearing, and he was asked about the memos, and in published reports today in the Washington papers he denies knowing anything about them and, furthermore, denies any conversations with Dante Caputo that would suggest what Caputo wrote to Boutros-Ghali that America's motives were less than honorable in terms of our position with Haiti.

Mr. Speaker, what this leads to is a simple conclusion: Someone is lying. Either Dante Caputo, the U.N. special enovy to Haiti, is lying when he said as far back as May 23 of this year that we had no intent of involving Haiti without a political involvement—I mean a military involvement—or else Strobe Talbott is lying. Mr. speaker, the American people deserve to know the truth; Members of this body deserve to know the truth; and constituents of ours across the country, and especially our Armed Forces, deserve to know the truth.

Mr. Speaker, I would say to you that during the 8 years I have served on the Committee on Armed Services I have used every moment of my time to fight for the best interests of our military. I have been to every place that we have sent them to make sure they are properly protected, they have the best equipment, their morale is up. But I can tell you right now, today, that while I support them unequivocally—I will do anything to assist them in Haiti—but I know it is only a matter of time before we see additional casualties in Haiti. We have already had one young military personnel that has been killed. We do not know the events surrounding his death. We think it is a possible suicide, but that has not been determined yet. We know today we had five civilians that were bombed by hand grenades. We are going to see more of this occur.

Mr. Speaker, at the very least this body has to debate this issue. We have been told we will debate it next week, 2½ weeks after we entered Haiti. That is unacceptable.

What also has offended me with the President is when he stood up in the national news conference the day after the vote in this House Chamber last Monday in terms of supporting our troops and said to the media, "I was very pleased that the House of Representatives voted overwhelmingly today to support our position in Haiti," and then the White House came on CNN later on and said, "No Democrat opposed that measure." Mr. speaker, I called CNN and had them correct that on the news that evening, which they did, because, as we all know, that resolution was not one to support the President's Haiti policy.

That resolution said two things. It said this Congress recognizes and supports the efforts of Jimmy Carter's team that went down to Haiti to avert a military armed intervention in Haiti, and for that we were very happy and thankful, and the second thing that resolution said was that we support our troops. There was no mention in that resolution of support for President Clinton, yet he said publicly on TV that he hoped the Senate would pass a resolution also supporting him.

In fact, during the debate on the House floor that day on that very resolution there were 34 Members of Congress who spoke in the well or at one of the microphones. These are people who did not insert their comments in the RECORD. Fourteen of those Members are Republican, and all 14 Republicans said they were voting for the resolution and supporting it but they did not support the President's policy. Twenty Members, of the Democrat Party, also spoke on that resolution and 10 of them, half of them, expressed reservations during their comments in regard to the President's policy of committing our troops there. So 24 of 34 Members of this body who spoke on the House floor on that resolution said unequivocally that we have concerns with the President's policy. Many of them said they would like to have an up or down vote as to whether or not we should commit our troops there.

Now our troops have been there 11 days, still in harm's way, no end in sight, no game plan, and we are talking about a vote and debate next week. Mr. Speaker, I think this policy is wrong. I think it is outrageous, and it scares me because I have constituents who are in Haiti wearing our uniform, especially in light of what I feel to be an unhonorable way to go in there in light of Dante Caputo's memos saying that our total initiative all through the summer was to have a military occupation occur.

Mr. Speaker, I would hope that our colleagues would continue to express outrage on this issue. I would hope that at some point in time one of our committees could have Dante Caputo come before that committee, and I have asked for that on the Committee on Armed Services. I have written to the gentleman from California [Mr. DELLUMS], the chairman, and also to the ranking member, the gentleman from South Carolina [Mr. SPENCE] asking them to invite Dante Caputo to come in and testify as to the veracity of his memos and the internal notes, as well as the reason why he resigned, and to respond to Strobe Talbott's testimony before the House Committee on Foreign Affairs 2 days ago that said that that was not in fact what he said to Dante Caputo and was not the impression that he left him.

Mr. Speaker, someone is lying. Someone is lying, and that lying has allowed us to put our troops in harm's way, and we have got to get to the bottom of what our real motives are. More importantly, we have to obtain a timetable as to when those troops are going to be brought home.

□ 2150

Mr. Speaker, I would be happy to again remind our colleagues that may be listening tonight, and our constituents, that they can obtain copies of the Caputo memos—and there are 13 pages of them—from the CONGRESSIONAL RECORD. It has now been inserted three times, including today, so they can see for themselves and read for themselves what in fact the United Nations said we would do, that in fact we are doing at this very point in time in Haiti with our military troops.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FIELDS of Louisiana (at the request of Mr. GEPHARDT) for today and tomorrow, on account of official business.

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mr. HUTTO (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT) for today through Monday, October 3, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. LIVINGSTON, for 5 minutes, today.
Mr. KASICH, for 5 minutes, today.
Mr. GINGRICH, for 5 minutes, today.
Mr. MICA, for 5 minutes, today.

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.
Mr. SWETT, for 5 minutes, today.
Mr. FINGERHUT, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today.
Mr. HOKE, for 5 minutes, today.

(The following Member (at the request of Mr. BURTON of Indiana) to revise and extend his remarks and include extraneous material:)

Mr. WELDON, 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. LIVINGSTON) and to include extraneous matter:)

Mr. CALVERT.
Mr. SOLOMON, in three instances.
Mr. MYERS of Indiana.
Mr. CALLAHAN.
Mr. ZIMMER.
Mr. FISH.
Mr. KING.
Mr. DORNAN.
Mr. PETRI.
Mr. SCHAEFER.
Mr. CRANE.
Mr. ROTH.

(The following Members (at the request of Mr. MCDERMOTT) and to include extraneous matter:)

Mr. COLEMAN.
Mr. REED.
Mr. JACOBS, in two instances.
Mr. SKELTON, in three instances.
Mr. BARRETT of Wisconsin.
Mr. PALLONE.
Mr. ACKERMAN.
Mr. ROSE.
Mr. KILDEE.
Mr. CHAPMAN.
Mr. ANDREWS of New Jersey, in two instances.
Mr. LANTOS.
Mr. TOWNS.
Mrs. MALONEY, in six instances.
Mr. BARCA of Wisconsin.
Mr. BONIOR.
Mr. JOHNSON of South Dakota.
Mr. MILLER of California.
Mr. WHEAT, in two instances.
Mr. LIPINSKI, in two instances.
Mr. RAHALL.
Mr. FILNER.
Ms. LONG.
Ms. MCKINNEY.
Mr. BROWN of Ohio.
Mr. GEJDENSON.
Mr. ANDREWS of Texas.

(The following Members (at the request of Mr. WELDON) and to include extraneous matter:)

Mr. BUYER.
Mr. PASTOR.
Ms. ESHOO.
Mr. MCINNIS, in four instances.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

H.R. 4539. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 2144. An act to provide for the transfer of excess land to the Government of Guam, and for other purposes.

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the year ending September 30, 1995, and for other purposes.

ADJOURNMENT

Mr. WELDON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Friday, September 30, 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:

3886. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

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. MINETA: Committee on Public Works and Transportation. H.R. 4967. A bill to designate the Federal building and U.S. courthouse in Detroit, MI, as the "Theodore Levin Federal Building and United States Courthouse"; with amendments (Rept. 103-762). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4910. A bill to designate the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse" (Rept. 103-763). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4939. A bill to designate the U.S. courthouse located at 201 South Vine Street in Urbana, IL, as the "Frederick S. Green United States Courthouse" (Rept. 103-764). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4394. A bill to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes; with amendments (Rept. 103-765 Pt. 1). Ordered to be printed.

Mr. BEILENSON: Committee on Rules. House Resolution 555. Resolution waiving points of order against the conference report to accompany 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 (Rept. 103-766). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 556. Resolution waiving points of order against the conference report to accompany the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes (Rept. 103-767). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS (for himself, Mr. CLINGER, Mr. TOWNS, and Mr. SHAYS):

H.R. 5128. A bill to strengthen the partnership between the Federal Government and State, local, and tribal governments, to end the imposition, in the absence of full consideration by the Congress, of Federal mandates on State, local, and tribal governments without adequate funding in a manner that may displace other essential governmental priorities, to better assess both costs and benefits of Federal legislation and regulations on State, local, and tribal governments, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. BARCA of Wisconsin:

H.R. 5129. A bill to provide for a reduction in the number of members of the Armed Forces of the United States stationed in Europe unless the European member nations of NATO assume an increased share of the nonpersonnel costs of U.S. military installations in those nations; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. GOODLING (for himself, Mr. PETRI, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. ARMEY, Mr. FAWELL, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BOEHNER, Mr. CUNNINGHAM, Mr. HOEKSTRA, Mr. MCKEON, Mr. MILLER of Florida, and Mr. CASTLE):

H.R. 5130. A bill to extend for 1 year the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for certain other purposes; to the Committee on Education and Labor.

By Mr. HINCHEY (for himself and Mr. KANJORSKI):

H.R. 5131. A bill to amend the Housing and Community Development Act of 1974 to prohibit the Secretary of Housing and Urban Development from recapturing, adjusting, withdrawing, or reducing any UDAG funds from recipients of UDAG grants, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUTCHINSON:

H.R. 5132. A bill to establish a period during which individuals under 65 years of age who are entitled to benefits under part A of the Medicare Program on the basis of a disability or end state renal disease may enroll under part B of the Medicare Program in order to meet eligibility requirements for health benefits under the Civilian Health and Medical Program of the Uniformed Services under title 10, United States Code; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. POMBO (for himself and Mr. THOMAS of California):

H.R. 5133. A bill to provide for expediting an investigation by the International Trade Commission by providing for the monitoring of the importation of certain kinds of tomatoes and peppers; to the Committee on Ways and Means.

By Mr. SANTORUM (for himself, Ms. PRYCE of Ohio, Mr. CANADY, Mr. CLINGER, Mr. WELDON, Mr. BOEHNER, Mr. ARMEY, Mr. RIDGE, Ms. MOLINARI, Mr. KYL, Mr. DELAY, Mr. CUNNINGHAM, Mr. LIVINGSTON, Mr. BACHUS of Alabama, Mr. HUNTER, Mr. TORKILDSEN, Mr. INGLIS of South Carolina, Mr. LINDER, Mr. ROTH, Mr. MCCOLLUM, Ms. DUNN, Mr. DUNCAN, and Mr. KNOLLENBERG):

H.R. 5134. A bill to protect victims of crime; to the Committee on the Judiciary.

By Mr. SAXTON:

H.R. 5135. A bill to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to clarify provisions governing fiduciary duties in relation to external benefits, social investing, and economically targeted investments; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. TAUZIN:

H.R. 5136. A bill entitled, "The Offshore Supply Vessel Construction and Development Act of 1994"; to the Committee on Merchant Marine and Fisheries.

By Mr. VOLKMER:

H.R. 5137. A bill to amend the Internal Revenue Code of 1986 to restore and increase the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RAMSTAD introduced a bill (H.R. 5138) for the relief of Saeed Ghasemimehr; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. CARR.

H.R. 300: Mr. CASTLE.

H.R. 393: Mr. ANDREWS of Maine.

H.R. 739: Mr. LEVY.

H.R. 885: Mr. BARCIA of Michigan.

H.R. 911: Mr. DE LA GARZA.

H.R. 1322: Mr. GLICKMAN and Mr. UNDERWOOD.

H.R. 2213: Mr. BARCIA of Michigan.

H.R. 2418: Mr. TORKILDSEN.

H.R. 2717: Mr. BLUTE.

H.R. 3207: Ms. SLAUGHTER.

H.R. 3393: Mr. BARCIA of Michigan.

H.R. 3449: Mr. LEWIS of Kentucky.

H.R. 3538: Mrs. MORELLA and Mr. JOHNSTON of Florida.

H.R. 3619: Mr. HERGER.

H.R. 3851: Mr. FIELDS of Texas.

H.R. 4279: Mr. LEWIS of Georgia.

H.R. 4404: Mr. RAMSTAD, Ms. DELAURO, Mr. LEWIS of Georgia, Mr. KLECZKA, Mr. SABO, Mr. MINGE, Mr. MAZZOLI, and Mr. HORN.

H.R. 4411: Mr. ENGEL.

H.R. 4578: Mr. EVANS and Ms. SLAUGHTER.

H.R. 4589: Mr. BARCA of Wisconsin.

H.R. 4610: Mr. ROSE, Mrs. UNSOELD, Ms. VELÁZQUEZ, Mr. DURBIN, Mr. DUNCAN, Mr. SARPALIUS, and Mr. BARLOW.

H.R. 4786: Mr. PARKER.

H.R. 4830: Mr. TORKILDSEN.

H.R. 4831: Mr. FROST and Mr. SKEEN.

H.R. 4936: Mr. GUNDERSON, Mr. KASICH, Mr. STUMP, Mr. KOPETSKI, Mr. LIGHTFOOT, Mr. SPENCE, and Mr. ZIMMER.

H.R. 4942: Mr. ORTIZ.

H.R. 4957: Mr. MENENDEZ, Mr. HAMBURG, and Mr. BARCA of Wisconsin.

H.R. 4996: Mr. KLECZKA and Mr. HILLIARD.

H.R. 4997: Ms. NORTON, Mr. REYNOLDS, Mr. GEJDENSON, Mr. ABERCROMBIE, Mr. PORTER, Mr. DEUTSCH, Ms. ESHOO, Ms. ROYBAL-ALLARD, and Ms. FURSE.

H.R. 4998: Mr. GILLMOR.

H.R. 5062: Mr. LAFALCE, Mr. SAM JOHNSON of Texas, Mr. SCHIFF, Mr. MAZZOLI, Mr. GRAMS, Mr. TAYLOR of North Carolina, Mr. MCCURDY, Mr. SISISKY, Mr. COBLE, Mr. SANGMEISTER, Mr. DICKEY, Mr. RAMSTAD, Mr. SKEEN, Mr. CLAY, Mrs. VUCANOVICH, and Mr. GREENWOOD.

H.R. 5071: Mr. BONIOR, Mr. LUCAS, and Mr. MCCLOSKEY.

H.R. 5082: Mr. MCCLOSKEY, Mr. PETRI, Mr. HASTINGS, Mr. OLVER, Mr. GINGRICH, Mr. GRAMS, Mr. TORKILDSEN, Mr. SHARP, Mr. LEWIS of Kentucky, Mr. KIM, Ms. ROS-LEHTINEN, Mr. HUFFINGTON, Mr. KNOLLENBERG, Mr. BILIRAKIS, Mr. COOPER, Mr. HALL of Texas, Mr. REGULA, Mr. FAWELL, Mr. DIAZ-BALART, Mr. PETERSON of Minnesota, Mr. BERMAN, Mr. BUNNING, Mr. SABO, Mr. DORNAN, Mr. HUNTER, Mr. MCCANDLESS, Mr. COX, Mr. PACKARD, Mr. CONDIT, Mr. CALVERT, Mr. COPPERSMITH, Mr. MINGE, Mr. BARLOW, Mr. OBEY, Mr. DEFAZIO, Mr. PICKLE, Ms. PRYCE of Ohio, Mr. LONG, Mr. CUNNINGHAM, and Ms. ROYBAL-ALLARD.

H.R. 5083: Ms. PELOSI.

H.R. 5111: Mr. TAYLOR of North Carolina, Mr. SARPALIUS, Mr. TALENT, Mr. VALENTINE, Mr. MANZULLO, Mr. FRANK of Massachusetts, Ms. SHEPHERD, Mr. HAMBURG, Mr. HEFLEY, Ms. ROYBAL-ALLARD, Mrs. THURMAN, Mr. FROST, Mr. DOOLEY, and Mr. WHEAT.

H.J. Res. 184: Mr. MCDADE, Mr. QUINN, Mr. HASTERT, Mr. POSHARD, and Mr. BACCHUS of Florida.

H.J. Res. 332: Mr. TAYLOR of Mississippi, Mr. KENNEDY, Mr. TEJEDA, Ms. ROYBAL-ALLARD, and Mr. SERRANO.

H.J. Res. 358: Mr. SHAW, Mr. JOHNSON of South Dakota, Mr. SKEEN, Mr. EVANS, Mr. RAHALL, Mr. BATEMAN, Mr. LANCASTER, Mr. MACHTLEY, and Mr. MARTINEZ.

H.J. Res. 385: Ms. MCKINNEY, Mrs. BENTLEY, Mr. BERMAN, Mr. CLEMENT, Mr. CALLAHAN, and Mr. COPPERSMITH.

H.J. Res. 398: Mrs. KENNELLY, Mr. MCKEON, Mr. BISHOP, Mr. OLVER, Mr. REYNOLDS, Mr. OBERSTAR, Mr. STOKES, Mrs. BYRNE, Mr. SCOTT, Mr. WELDON, Mr. GREENWOOD, Mr. EWING, Mr. GILMAN, Mr. CRAPO, Mr. SLATTERY, Mr. GALLEGLY, Mr. BLACKWELL, Mr. KILDEE, Ms. BROWN of Florida, Mr. LANCASTER, Mr. COLLINS of Georgia, Mr. PETRI, Ms. MCKINNEY, Mr. OXLEY, Mr. DIXON, Mr. REGULA, Mr. LEVY, Mr. ORTIZ, Mr. TAYLOR of North Carolina, Mr. FILNER, Mr. SCHUMER, Mr. CLYBURN, Mr. GOODLING, Mr. GORDON, Mr. YATES, Mr. KLECZKA, Ms. MARGOLIES-MEZVINSKY, Mr. THOMPSON, Mr. MCDERMOTT, Mr. WATT, Mr. THORNTON, Mr. HEFNER, Ms. KAPTUR, Mr. TUCKER, Mr. VENTO, Mr. JOHNSTON of Florida, Mrs. LOWEY, Mr. RICHARDSON, and Mr. MCINNIS.

H.J. Res. 401: Mr. ANDREWS of Maine, Mr. CALVERT, Ms. DELAURO, Mr. EDWARDS of Texas, Mr. GLICKMAN, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HAMBURG, Mr. HILLIARD, Mr. HUGHES, Mr. FRANK of Massachusetts, Mr. MCHUGH, Mr. MENENDEZ, Mrs. MEYERS of Kansas, Mr. NEAL of North Carolina, Mr. ORTIZ, Mr. SISISKY, and Mr. SPENCE.

H.J. Res. 418: Mr. MANTON, Mr. BURTON of Indiana, Mr. SWETT, Mr. WYDEN, Ms. NORTON, Ms. PRYCE of Ohio, Mr. PRICE of North Carolina, Mr. LIPINSKI, Mr. EMERSON, Mrs. UNSOELD, Mr. MONTGOMERY, Mr. MEEHAN, Ms. SNOWE, Mrs. JOHNSON of Connecticut, Ms. MCKINNEY, Mrs. MORELLA, Mr. WILSON, Mr. MFUME, Mr. STENHOLM, Mrs. MINK of Hawaii, Mr. FRANK of Massachusetts, Mrs. THURMAN, Mr. DOOLITTLE, Ms. SHEPHERD, Ms. WOOLSEY, Mr. SHARP, Mr. FROST, Ms. KAPTUR, Mr. NEAL of Massachusetts, Mr. CALVERT, Mr. ORTIZ, Mr. BAKER of California, Mr. BROWDER, Mr. COBLE, Mr. CONYERS, Ms. COLLINS of Michigan, Mr. EWING, Mr. EVANS, Mr. GLICKMAN, Mr. HEFNER, Mr. HUTTO, Mr. LANCASTER, Mr. TORRICELLI, Mr. HAMILTON, Mr. HERGER, Mr. MARTINEZ, Mr. YOUNG of Florida, Mr. TAYLOR of Mississippi, Mr. TAUZIN, Mr. BORSKI, Mr. HOLDEN, Mr. JEFFERSON, Mr. TOWNS, Mr. WYNN, Ms. FURSE, Mr. LEWIS of Georgia, Mr. CONDIT, Mrs. MEYERS of Kansas, Mrs. ROUKEMA, Mr. ROWLAND, Mr. VOLKMER, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. TRAFICANT, Mr. PETE GEREN of Texas, Mrs. BENTLEY, Mr. SISISKY, Mr. LANTOS, Mr. PICKLE, Mr. HOYER, Mr. COLEMAN, Ms. SCHENK, Mr. ROSE, Mr. SPENCE, Mr. THORNTON, Mr. COPPERSMITH, Mr. HUGHES, Mr. STOKES, Mr. PAYNE of Virginia, Mr. RICHARDSON, Mr. SABO, Mr. DEAL, Mr. HALL of Ohio, Mr. GREENWOOD, AND Mr. SYNAR.

H. Con. Res. 98: Mr. DIXON and Mr. SHAYS.

H. Con. Res. 212: Mr. LAFALCE and Mr. WYNN.

H. Con. Res. 281: Mr. PALLONE, Mr. FROST, Mr. FILNER, Mr. ENGEL, and Mr. BARCA of Wisconsin.

H. Con. Res. 296: Mr. BACCHUS of Florida, Mr. KLEIN, Mr. PALLONE, Mr. HUTTO, Mr. LEWIS of California, Mr. BERMAN, Ms. LOWEY, Mr. MCNULTY, Mr. LIPINSKI, Mr. MANTON, Mr. HOCHBRUECKNER, Mr. FROST, Mr. SAWYER, Mrs. UNSOELD, Mr. FILNER, Mr. GILMAN, Mr. MCDERMOTT, Mr. ORTIZ, and Mr. ENGEL.

H. Res. 525: Mr. CALVERT, Mr. DICKEY, and Mr. MANZULLO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3222: Mr. PETRI.

H.R. 3949: Mr. FROST.

EXTENSIONS OF REMARKS

OPPOSE PRO-DRUG TELEVISION—BOYCOTT MTV

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SOLOMON. Mr. Speaker, it was recently brought to my attention by the International Drug Strategy Institute that MTV is once again broadcasting pro-drug messages. The MTV network recently broadcast "Straight Dope: A News Special on Drugs," which supported legalization and portrayed pro-drug advocates and users as drug experts. This pro-drug special was assisted by the Drug Policy Foundation; a well financed, pro-drug lobbying organization.

Instead of responding to the concerns of drug experts regarding inaccurate and biased information. MTV repeated the hour-long show six times between August 23 and August 28. The promotion of these pro-drug messages by a network watched regularly by millions of young children and teenagers across this Nation is an outrage.

In response to this programming the International Drug Strategy Institute has joined with Drug Watch International to encourage parents in the United States to "Pull the Plug on MTV." Both of these groups are nonprofit organizations concerned with effective international policies and strategies which discourage drug use, oppose legalization of illicit drugs, and provide accurate scientific information on drug use. Parents are urged to contact their local cable television company and request that a "block" be placed on the MTV channel of their cable service.

Furthermore, parents are also urged to contact the advertisers on MTV to oppose this type of programming. A number of major national advertisers did respond to the calls of concerned parents and drug experts by canceling their support of the broadcasts. According to Eric Voth, M.D., chairman of the International Drug Strategy Institute, "Because of its pro-drug messages, MTV has caused concern to parents in the past. But the network's inaction on this television special tells America MTV promotes drugs to children. Parents can tell the network that they don't want drug use glamorized to their kids in their own homes. They can "Pull the Plug on MTV."

First as a father and grandfather and as a Member of Congress I commend the International Drug Strategy Institute for their concerted efforts to rid our Nation of illicit drug use and to protect our children from the horrors of drug addiction. I urge my colleagues to join me in boycotting MTV and opposing this misuse of television technology. I fear for a nation that delivers this type of message to its future generation of leaders.

PULASKI DAY PARADE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today in tribute to a wonderful annual event in New York City—the Pulaski Day Parade. This year's parade, to be held this Sunday, October 2, will be the Nation's largest, with over one million people attending. I would like to give a special note of tribute to Mr. Thomas Wojslawowicz, president of the Parade Committee and a leading citizen in the Polish-American community and to Grand Marshal Leon P. Klementowicz, director of the Polish and Slavic Center and a resident of my own Greenpoint district. I would also like to add a note of thanks to all my loyal friends in Greenpoint, a large and vibrant Polish-American community. Their continuing support has been wonderful.

Mr. Speaker, the Pulaski Day Parade commemorates that great son of Poland Gen. Casimir Pulaski, the Father of the American Cavalry. At the age of 30, General Pulaski came to America on July 23, 1777, to help our struggling Nation in its fight for independence against British tyranny. This heroic son of Poland organized the cavalry forces of our infant Republic and died of a wound received at the Battle of Savannah on October 11, 1779.

General Pulaski's career highlights the special responsibility America has toward Poland—a responsibility which is recognized in the recently announced Partnership for Peace program. However, I do not believe that program goes far enough. Poland had demonstrated her commitment to democracy. The bravery of her people in the struggle for independence inspired the world. I believe that Poland will assume an increasingly vital role in central Europe in the years to come.

That is why I strongly support the NATO Expansion Act, legislation that would guarantee Poland full membership in NATO by 1999 at the latest. I think it is time for America to look to the long-term security and stability of Central Europe. The inclusion of Poland and the other newly reborn democracies of Eastern Europe in NATO is the best means to that end.

I am fighting hard for the extension of many of the benefits of NATO membership to Poland. Poland was the forerunner of the democratic spirit which has swept through Eastern Europe over the past decade. She deserves to be treated just like any other European democracy. America must not repeat the mistakes made at Yalta 50 years ago. We must start bringing Poland into NATO now.

TRIBUTE TO COL. KATHRYN G. CARLSON, U.S. ARMY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SKELTON. Mr. Speaker, today I pay tribute to a dedicated U.S. Army officer and gentlewoman as she departs from her post after 4 years as a Deputy Legislative Assistant for the chairman of the Joint Chiefs of Staff to the position of commander, Military Entrance Processing Stations, eastern region.

Col. Kathryn G. Carlson deserves our tribute and honor. She has been connected with the Congress in one position or another for over 6 years of her distinguished 20-year Army career. Colonel Carlson's challenges and accomplishments read like an emerging history of the U.S. Army in its third century of service to the Nation as it fully realizes the incredible talent and potential of women in its ranks.

A native of Latta, SC, Colonel Carlson graduated Phi Beta Kappa from the University of South Carolina in 1970. She also earned a master's degree in counseling from Wayne State University. Her military career began in 1974 when she received a direct commission in the U.S. Army. Upon completing her routine initial training, she acquired an Adjutant General Corps Officer specialty with an additional public affairs qualification. She served two separate tours with the U.S. Command in Berlin, managing protocol, public affairs, and personnel activities. She has also been assigned to key personnel positions at the U.S. Army Infantry Center and Infantry School, Fort Benning, GA, and U.S. Army Forces Command, Fort McPherson, GA.

This fine officer has held high level assignments on the Army Staff, in the Army Secretariat, and on the Joint Staff. She served consecutively at the Pentagon as executive officer for the Army's civilian personnel modernization project; personnel staff officer in the Office of the Deputy Chief of Staff for Personnel, directing enlisted promotion and professional development programs; Chief of Special Actions Branch in the Office of the Army's Chief of Legislative Liaison; and finally in the Office of the Chairman, Joint Chiefs of Staff.

Colonel Carlson is a graduate of the Women's Army Corps and Adjutant General Corps Officer Basic Courses, the Adjutant General Corps Officer Advanced Course, the U.S. Army Command and General Staff College, and the Army War College. Her awards and decorations include the Defense Meritorious Service Medal, multiple awards of the Army Meritorious Service Medal, the Army Commendation Medal, and the Army of Occupation Medal.

She has been one of the principal liaison officers to Congress for two Chairmen of the Joint Chiefs of Staff, Gen. Colin Powell and

Gen. John Shalikashvili, during momentous times in our Nation's history—the end of the cold war, Operations Desert Shield/Storm, Provide Promise, Provide Hope, Provide Comfort, Southern Watch, Deny Flight. She has served as the Chairman, Joint Chiefs of Staff principal liaison with the House Foreign Affairs, Senate Foreign Relations, House and Senate Intelligence Committees, and earlier with the House Armed Services Committee.

Mr. Speaker, it is an honor and privilege for me to pay tribute to Col. Kathryn G. Carlson today. It is clear, through her record of accomplishment and her command assignment, that she is a professional soldier with the clear sense of honor, integrity, and purpose found in the finest military officers of this Nation.

I know that the other Members of this body wish her well in her new assignment.

HOW DO YOU SPELL R-E-L-I-E-F?

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. JACOBS. Mr. Speaker, our most distinguished former colleague, Walter Fauntroy, has written an excellent letter to President Clinton. The letter represents Mr. Fauntroy's usual insight and eloquence.

NEW BETHEL BAPTIST CHURCH,
Washington, DC, September 19, 1994.

Hon. WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I simply cannot tell you how proud I am of your leadership over the past seven days in rescuing the Haitian people and the American people from what would have been a disastrous situation for all, had we been forced to shoot our way into that tortured nation.

The strategy which you devised in the eleventh hour was simply superb. I say that not just because it included the first two of an eight point plan that I have earnestly tried to get staffers for both you and President Bush to adopt since first this crisis developed three years ago, but also because it really opens the door now for a sharp break in Haiti with its brutal past.

HOW DO YOU SPELL R-E-L-I-E-F?

My first reaction to your success was one of relief. A very ugly, violent and painful situation would have ensued had we launched an invasion. Not only would thousands of anti and pro Aristide supporters been killed by one another and by our forces in the initial period of chaos accompanying an invasion, but it is likely that many of our young men and women would have died as well. There remained the real possibility that shooting our way in would have initiated a war of attrition like that waged against the U.S. occupation from 1915 to 1934, and the one waged against Napoleon's army in the Nineteenth Century. That would have required not only that we remain at least as long as we did after our 1915 invasion, but it would also have impeded the enormous task of recovery for an economy that has been devastated by both the embargo and two decades of decline.

I am relieved as well that the embargo has been lifted. I have always been opposed to the embargo because it devastated an already pitiful economy, punished the poor whom we wanted to help, empowered and enriched the worst elements in Haiti, drove out U.S. industries and tens of thousands of scarce jobs, and destroyed years of work that we had invested in reforestation and soil conservation programs.

I'm also pleased that at long last the rest of the formula for resolution of this crisis that I have advocated from the outset, is getting serious consideration. You may recall from several previous letters I have sent you on this subject that, drawing upon my fifteen years as chair of a Bi-partisan Task Force on Haiti in the Congress, I have been pushing an eight point plan, two key features of which had been rejected by both the Bush Administration and your advisors up until last week. The first was my insistence that you appoint a negotiation and medication team composed of experienced people who were knowledgeable of the history and political culture of Haiti, and who I thought could win a negotiated and peaceful settlement. I had been pushing President Carter and General Powell for such a role for months. As late as July of this year, I talked to Colin about offering himself for such a role. In Senator Sam Nunn, chairman of the Armed Services Committee, we got the absolutely perfect complement to President Carter and General Powell.

As you see from an enclosed press release that I issued in July of this year, my second appeal was that you make it clear to President Aristide that his posture must be one of reconciliation of all elements of Haitian society, and stern opposition to any form of retribution on the part of his supporters. When in your address to the nation on Thursday night you announced such a position for President Aristide, my spirits were lifted. When I learned later that the Carter delegation was talking "amnesty" for the coup leaders, I breathed a sigh of relief, for I knew we were on our way. Those two things were the only reasons the Governor's Island Accord of July, 1993 was not in fact implemented. What Carter and company were able to accomplish, quite frankly, was the implementation of the Governor's Island Accord, free of signals by Aristide that he would neither allow amnesty nor restrain his supporters from deadly acts of retribution when the U.S. returned him to power.

In short, what began with your speech on Thursday night and ended with the Carter team visit with the Haitian leaders was a skillful and effective negotiation that saved the day; and for that, the American people and the people of Haiti are forever in your debt.

WHERE WE GO FROM HERE

While we averted an invasion that would have killed a lot of people and made the job of reconciliation and recovery enormously more difficult, that was really the easy part compared to what now must be done. I am comforted that our military has in place the civil affairs and legal units that can manage adherence to the dictates of the Haitian Constitution by all parties in Haiti, including the Aristide government. I am pleased that we have the Military Police units going in to establish a sense of order in the day-to-day on-the-street situation in Haiti. I can't wait to see the dimensions of the program for economic recovery in Haiti that is to be put in place by the United States and other donor nations to undergird the democracy that we are now committed to put in place. I think it will take every cent of the hundreds of millions of dollars that we have saved by not having to go through with an invasion.

May I be so bold, Bill, as to suggest to you what it's going to cost now after the enormous damage done by our failure to follow the eight point program I outlined some nearly three years ago after I had had an opportunity to study the situation. In my view, there are at least five initiatives that must now be taken to give the democratic process any chance of taking root in Haiti:

At least a $10 million program to get the Port Au Prince port up to competitive standards in the region, $5 million for the actual physical improvements, and another $5 million for technical assistance.

At least $5 million for the provision of the electrical power necessary in the short term to begin the economic recovery process. Only 10% of the population of Haiti has access to electricity now, for example. Haiti desperately needs an energy strategy to replace wood fuels with viable alternatives. Initially I would strongly suggest that we deploy some of our largest warships off the coast of Haiti for purposes of providing power to key cities and regions of the country.

We are going to have to commit at least $8 to $10 million in a short term effort to revitalize the Export Manufacturing sector that has be decimated by the embargo. Employment in the export sector dropped from 46,410 workers to less than 15,000 today. We've got to find ways to quickly bring back the firms that left for greener pastures in places like Costa Rica, Honduras and the Dominican Republic as a result of the embargo.

A meaningful rural public works program is going to cost at least $20 to $30 million if there is to be any hope of stability and subsistence in those regions of Haiti where the wretchedly poor live. Roads, bridges, wells, latrines, houses, schools and health centers need to be provided as matters of highest priority in Haiti's rural communities.

Finally, agricultural production for both export and domestic consumption needs a $10 to $15 million shot in the arm. Only 28% of Haiti's land is now cultivatable to begin with, and 65% of the work force and 46% of the land is farmed—much of it in ways that exacerbate the extremely serious environmental degradation that occurs in Haiti. We've got to concentrate on established crops that have the greatest export potential to assure fast capital infusion into Haiti. I'm talking about the production of mangos, limes, coffee, papayas and rice, for example.

Please take note as well, Bill, of items three through eight of my earlier recommendations.

If I can be of any help to you in defending publicly your noble and sagacious actions in resolving this crisis in a manner that facilitates reconciliation, the building of democratic institutions, tolerance, and economic recovery, please feel free to call upon me.

Sincerely,

WALTER E. FAUNTROY,
Member of Congress, 1971–1991.

LOURDES SENIOR COMPANIONS—GREAT ASSETS TO SOUTHERN NEW JERSEY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, on October 21, 1994, the Lourdes Senior Companion volunteers will be honored at a recognition luncheon given on their behalf. The Senior Companion Program was authorized in 1973 as part of the Domestic Volunteer

Service Act and is now part of the Corporation for National Service. The program was established to provide individualized support and create part-time stipended volunteer community service opportunities for low-income persons aged 60 and over. Senior companions provide assistance to elderly adults experiencing difficulty with one or more activities of daily living. As part of a comprehensive care team, they help homebound persons live independently.

The program at our Lady of Lourdes began in 1989 in the city of Camden and now serves older residents of Camden and Burlington Counties. There are currently 92 active volunteers and 20 volunteer stations, serving over 250 clients. When we talk of unsung heroes or heroines, these senior companions come to mind. They provide invaluable person-to-person services.

Mr. Speaker, I would like to thank and congratulate these extraordinary individuals. They are William Addison, John Anderson, Hester Banks, Gertrude Booker, Mabel Boone, Willa Mae Braddy, Gladys Braxton, Mary Brockington, Frances Burch, Marie Carlson, James Carter, Annie Clayborne, Catherine Cook, Geneva Cox, Juanita Cruz, Rose D'Angelo, Nancy Darby, Anna DeLeonardia, Margaret DiNunzio, Josephine Doria, Guillermo Enriquez, Theresa Fahey, Gabriel Ferraro, Sr., Catherine Forgacs, Ophelia Fuller, Hester Funches, Mary Garner, Carmela Gentile, Ramona Gonzales, Doris Grant, Ora Green, Frances Hallman, Helen J. Hannum, Catherine Hansbury, Jean P. Harvey, Elizabeth Helmstead, Theresa I. Hussey, Alice Ingalls, Herbert Johnson, Marjorie Johnson, Mildred R. Johnson, Esther H. Jones, Anita Kalick, Mary Katz, Martha Kersey, George King, Miriam Kyle, Carrie LaBoy, Mae Helen Lee, Galdys A. Lewis, Lena T. Lewis, Miriam Lott, Hannah E. Lovelock, Beauty Lovett, Gladys Mallon, Shahidah Matean, Margaret Menoken, Veronica Meyers, Aguatin Molina, Eula E. Moore, Else Mulvenna, Sara Y. Nathan, Clifford Nelson, Estella Pratt, Cecilia Read, Vivian Rhone, Isaac Rodriquez, Annie Rozier, Katie Scanes, Elizabeth Schilling, Sophie Schmidt, Carrie Solomon, Maceo Stewart, Azelda Stovall, Helen M. Thom, Willa Mae Thomas, Hattie Thompson, Madeline M. Thorne, Michael Threadgill, Rose Tragno, Violet Tresvant, Cecil Virgo, Marian Ward, Mary Watkins, Gladys M. Williams, Leslie Wilson, Christine Wing, and Clara M. Wittenberger.

Mr. Speaker, I would also like to congratulate and commend Catherine Virginia Jerecki and Anne Marie McAdams for their dedicated and caring service to our program and community.

TRIBUTE TO CLAUDE MATTHEWS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. McINNIS. Mr. Speaker, I rise today to recognize an amazing feat accomplished by one of my constituents, Mr. Claude Matthews.

Mr. Claude Matthews of Palisade, CO was recently recognized for his contribution to highway safety. Mr. Matthews, an employee of Roadway Express, Inc., as a commercial truck driver, was commended for driving 2 million miles without a preventable accident. This performance is a tribute to Mr. Matthews' professional approach to driving and dedication to safety. This achievement is a milestone attained only by a select few professional drivers.

Mr. Speaker, I ask that all our colleagues join me in congratulating Mr. Matthews' for a job well done. He has proven to be an outstanding professional driver and an important member of our Nation's vital trucking industry.

TRIBUTE TO RABBI H. DAVID TEITELBAUM

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor Rabbi David Teitelbaum, an outstanding leader of the 14th Congressional District and Temple Beth Jacob in Redwood City, CA. This year he celebrated his last high holiday services as head of this remarkable congregation as he prepares for his coming retirement.

David Teitelbaum came to Temple Beth Jacob 38 years ago as its third full-time rabbi at a time when it had just 100 active families. Under his leadership, the oldest Jewish congregation in San Mateo County grew to its present size of 480 families. Rabbi Teitelbaum brought to the congregation his devotion to scholarship, his interest in interfaith couples, and his passion for civil rights.

This remarkable man marched with Rev. Martin Luther King, Jr., in Selma, AL, and spoke out early and courageously against America's involvement in the Vietnam war. Rabbi Teitelbaum has always considered it his moral duty to speak out against injustice, believing that the history of persecution of the Jewish people creates in them a special obligation to protect the human rights of all.

Mr. Speaker, throughout his remarkable career, Rabbi David Teitelbaum has preached a message of compassion, justice, and service to others, and every day of his life he has served as a shining example of these values. I urge my colleagues to join me in saluting this noble man of faith, this passionate community leader, and this inspiring human being.

BIRTH OF TWINS VINCENT AND NICHOLAS DORY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the birth of twin babies. Vincent Edward Dory and Nicholas Edward Dory were born to Edward and Darlene Dory, who reside in Lemont, IL.

Vincent Edward Dory was born at 3:39 p.m. on August 24, 1994. One minute later, at 3:40 p.m. his twin brother Nicholas Edward Dory was born. On an occasion such as this, I join with the members of the Dory family in wishing the newborns all the best for the promising future ahead of them.

I am sure that my colleagues join me in congratulating the proud parents, Edward and Darlene, on this most joyous occasion. With the new addition of twins, their life together will no doubt continue to be an adventure. May this blessed addition to their lives bring them much happiness in the years to come.

HONORING FATHER CARMELO GAGLIARDI'S 20 YEARS IN THE PRIESTHOOD

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues a wonderful man who will mark his 20th anniversary in the priesthood on Sunday, October 2.

Padre Gagliardi Mario Carmelo was born in the small Italian town of Savoia di Lucania in 1946 to Michael and Maria Mangino. His parents were farmers of modest means, and made many sacrifices for their three children.

From early in his life, Father Carmelo has been dedicated to improving himself, and the lives of those around him. He began his education at Savia di Lucania Elementary School, and continued his education at Vietri di Potenza, nearly 10 miles from his home. Despite the fact that the mountainous roads between from Savoia to Vietri were not paved and difficult to traverse, young Father Carmelo made it to school every day on foot or by bicycle. Years later, Father Carmelo would attend Seminario Regionale di Salerno, where he would receive his bachelor's of science in theology in June 1974.

In 1981, Father Carmelo moved to New York, where he has become an invaluable part of the community, touching the hearts of countless New Yorkers. He is particularly active in efforts to support the religious and social needs of the Italian-Americans at Mount Carmel Church in Brooklyn, NY. In 1987, he founded the Italian Center of New York City, an association for Italian emigrants, where he gives social, cultural, and religious assistance to those in need.

In addition to his involvement with the center he founded, Father Carmelo is also a member of the Foundation for a Brighter America, the Theatrical Association of New York, and European Community of Journalists. Currently, Father Carmelo is a representative, to the International Catholic Education Office at the United Nations. His outstanding work on behalf of Italian community of New York recently earned him a citation from the New York State Assembly.

Mr. Speaker, there is little doubt the world became a better place when Father Carmelo entered the priesthood, and it is New York's good fortune that he decided to make New York his home. I take this occasion to salute his tremendous accomplishments, and wish him well on his next 20 years in the priesthood.

CLINTON'S MILITARY: SITTING ON THE SIDELINES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SOLOMON. Mr. Speaker, I have said it before and I will say it again, the Clinton administration is bringing this country to the brink of unilateral disarmament.

The latest evidence of this is truly shocking, Mr. Speaker. I still can't believe this. Last week, the commander of the Naval Reserve ordered that all paid drills and annual training for reservists be cancelled for the rest of the fiscal year. So there we have it. While President Clinton is diverting our precious defense resources to an unimportant island in the Caribbean, the Naval Reserve has just folded up shop due to budgetary constraints.

And listen to this: The Navy has also shut down three carrier air wings and six naval patrol squadrons for the rest of the year. I am just aghast, Mr. Speaker. We have a military that cannot operate and train for its real missions—defending America and her interests—because the Clinton administration has got us involved in countless places that are of no strategic interest to the United States, while simultaneously gutting the Defense budget. Add to this the diversion of defense resources for things like aid to Russia, defense conversion, environmental cleanup etcetera, etcetera, etcetera, and it is just no wonder that this is happening.

Mr. Speaker, it turns out that those of us who have been saying recently that we are going hollow were wrong. We are hollow.

A SALUTE TO THE MOBILE, AL, BLACK HISTORY MUSEUM

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CALLAHAN. Mr. Speaker, I would like to take this opportunity to give recognition to an extraordinary program that has boldly taken a leading role in promoting cultural awareness of African-American history in the Mobile area.

As we all know, Alabama has played an important role in the advancement of African-Americans, including its role as the nerve center from which much of the modern-day civil rights movement originated.

However, what most people don't realize is that Mobile has its own special chapter of black history even beyond that movement. It is the purpose of the Mobile Black History Museum to convey this legacy to this generation of African-Americans, as well as all future generations.

Three years ago, Robert Battles began his struggle to make the vision for the Mobile Black History Museum become a reality.

His efforts to enshrine the contributions of the African-American men and women who have come before us into the hearts and minds of the youth of Mobile County are to be commended. Quite frankly, it has become very easy these days for people to concentrate on only the negative things happening around us. While these factors cannot be ignored, neither should we ignore the positive things that occur each day. Indeed, we should strive to focus our attention on these positive things.

The Mobile Black History Museum is unique in its contribution because it highlights the struggles and achievements of Mobilians. It is important that the youth of Mobile see that there is always room for change and reform, no matter who you are, no matter where you come from.

Young minds need role models, and with the rampant increase in black on black violence, AIDS, drug abuse, and poverty, it is more important than ever before to take time to care for our future as a community, State, and nation.

The museum directs its efforts toward youth, targeting kindergarten through 12th grade. Recently, they sent out over 5,000 pamphlets to schools in the Mobile area in hopes of reaching all of the young people of our county.

Mr. Speaker, I commend Mr. Robert Battles, executive director and curator of the museum, for his leadership in making this museum a reality. Soon, young people of all races will be able to learn about African-American history, as well as the many achievements of the black community of Mobile in education, social reform, sports, science, and medicine.

And on behalf of the museum, as well as the people of Mobile, I want to extend a cordial, south Alabama invitation to all visitors who may be in our vicinity, to visit the Mobile Black History Museum and experience history that is truly living.

TRIBUTE TO NORVAL E. "NORV" CAREY

HON. JOHN T. MEYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. MYERS of Indiana. Mr. Speaker, Norval E. Carey is retiring, and his colleagues and his friends on the Hill are sorry to see him leave.

Norv spent 30 years at General Atomics. His distinguished record includes expertise in energy and defense matters and his knowledge, competence, and honesty are well recognized by those who know him. Over those years he accumulated a wealth of institutional knowledge, and I have benefited from his expertise. Norv has been a valuable resource. But now he will sharpen his fishing techniques and get in the time on the water that he has postponed all these years.

Fish, beware.

Norv's friendship I will always cherish. It must be something about the Midwest, but that Nebraska native and this Hoosier learned the value of a dollar early on and shared the same sense of what direction our country needed to go to enhance its future.

Born in Overton, NE, Norv graduated from his hometown high school, earned a degree from Hastings College and received a law degree from the Cumberland School of Law in 1951. A Navy veteran, Norv also is a former FBI special agent. And a great American.

In 1954 Norv went to work for Lawrence Livermore National Laboratory. In 1964 he joined the General Atomics Division of the General Dynamics Corp. and in 1969 became its Washington office manager. He was made a vice president of General Atomics Co. in 1974 and a senior vice president in 1987.

Norv helped establish the American Nuclear Energy Council and served as secretary and treasurer for several years. He has maintained membership in the American Nuclear Society, the American Defense Preparedness Association, National Security Industrial Association, the Air Force Association, the U.S. Army Association, and the Navy League.

Norv is a good friend. A good husband to Claire, a good father to 5 children, a good grandfather to 14 grandchildren, and an incredible great father. He's a solid citizen. Straight forward. One who speaks his mind. And one whose gentle smile belies a piercing wit.

Well, Norv, in retirement you'll do it right, casting your line ever so smoothly into new waters, listening carefully to the gurgles and the splashes, always ready to extend that guiding hand for those who reach out.

Congratulations, pal, you've earned it.

INTRODUCTION OF THE OFFSHORE SUPPLY VESSEL CONSTRUCTION AND DEVELOPMENT ACT OF 1994

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. TAUZIN. Mr. Speaker, I rise to introduce the Offshore Supply Vessel Construction and Development Act of 1994. This bill would grant the Secretary of Transportation, through the Coast Guard, specific authority to establish regulations to allow domestic shipyards and operators to design offshore supply vessels [OSV's] in accordance with the International Tonnage Convention measurement system. This bill will promote U.S. shipbuilding and operators by encouraging the domestic OSV industry to build and operate vessels designed to compete in the world market.

OSV's serve the offshore petroleum industry by delivering supplies, material, workers, and fuel to offshore exploration and production facilities.

Currently, U.S.-flag OSV's must be built in accordance with a statutory definition that is based on the antiquated U.S. regulatory measurement system. The old U.S. tonnage system encourages ship designs that have proven to be less competitive in the world market than vessels built according to the international system. The international system promotes cleaner ship designs, that are more efficient, safer, and more easily maintained than vessels built to the present domestic standards.

This bill would offer ship builders the option of designing to U.S. regulatory or ITC measurement standards. It empowers the Coast Guard to determine the size limitations on the new vessels and any additional safety requirements that the agency might deem to be appropriate.

This issue was the subject of two hearings before the Subcommittee on Coast Guard and Navigation during the 103d Congress concerning U.S. maritime regulatory reform initiatives. This bill was developed through a cooperative effort between the Coast Guard and the OSV industry.

This bill has the full support of the Coast Guard's Office of Marine Safety, Security, and Environmental Protection and the Offshore Marine Services Association.

The following report language is recommended to clarify how certain provisions of the bill should be administered by the Secretary of Transportation and the Coast Guard:

First, under the new definition of an OSV, a vessel owner will continue to be able to use the optional regulatory measurement system under section 14305(a)(1) for the inspection of the vessel since chapter 33 is in part B of subtitle II.

Second, in establishing the upper limit for the size of an OSV, the Secretary should consider the established provisions and guidelines of the International Maritime Organization.

Third, in prescribing regulations to implement the amendments made by the act, the Secretary, in compliance with the Administrative Procedure Act, should consult with representatives of the private sector having experience in the operation of OSV's and shall consider the unique characteristics, methods of operation, and nature of service of OSV's.

I ask my colleagues to support the Offshore Supply Vessel Construction and Development Act of 1994 and help reestablish our domestic shipbuilding industry.

TRIBUTE TO SHERIFF ROBERT A. O'NEAL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. JACOBS. Mr. Speaker, Indianapolis is closing quickly on the 40th anniversary of a significant public event, the election in 1954 of Robert A. O'Neal as the sheriff of the Indianapolis county of Marion.

Bob O'Neal's election marked the historic demarcation between the old system of political patronage for policing and the new system of professional officers.

Sheriff O'Neal had served as superintendent of the Indiana State Police, and his father served as chief of Indianapolis Police. Steeped in the tradition of professional excellence, Bob O'Neal embarked upon the noble effort of transforming the Marion County Sheriff's Department into a modern organization suitable to the emerging extension of Indianapolis into the suburbs.

Because of the inspiration of his example. the State of Indiana adopted its first statute guaranteeing merit policing in its sheriffs' departments. And that guarantee of professionalism has endured to this day, a fine legacy of a fine police officer who, now retired from active police work, continues to be a model citizen in our community. He deserves this happy anniversary of extraordinary community achievement.

TRIBUTE TO GEN. MERRILL A. "TONY" McPEAK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SKELTON. Mr. Speaker, I wish to take this opportunity to publicly recognize the career of one of this country's great airmen, Gen. Merrill A. "Tony" McPeak, General McPeak will retire from his position as the Chief of Staff of the Air Force after selflessly serving our Nation for 37 years. General McPeak's leadership and vision have prepared not just the Air Force, but our Armed Forces and Nation for the 21st century.

General McPeak has been formulating what type of Air Force we need since his graduation from San Diego State and its Reserve Officer Training Program in 1957. First, he became a superb and skill aviator, flying the F–100 and F–104. He also flew over 260 combat missions in Southeast Asia.

Then, General McPeak built upon this experience by successfully commanding a variety of Air Force organizations, from the historic 20th Tactical Fighter Wing at RAF Upper Heyford to 12th Air Force to our Pacific Air Forces.

But, when we asked him to take charge of the Air Force in October 1990, he recognized, perhaps better than any contemporary military leader, that the post-cold-war era demanded a dramatically different type of military. And, General McPeak set out to reinvent the Air Force along these lines. First, he reshaped the structure of the Air Force, reducing its major commands from 13 to 8. He eliminated an entire management level—the Air Division. He changed the Number Air Forces from a management bureaucracy to an operational, warfighting command geared to support joint operations. In the process, he streamlined, flattened, delayered the Air Force, making it more responsive, more flexible, smarter, and more capable. We have an Air Force today that meets the fiscal and security demands of our new era.

At the same time, his leadership has ensured that our Nation has the tools needed to meet our Nation's international commitments. Our men and women in Air Force blue have provided a continuous air occupation over Iraq, enforcing the U.N. mandate. And, in almost every other operation—from providing relief to Russia, Bosnia, Somalia, and Rwanda—we've turned to the Air Force first. General McPeak has made sure these forces are capable—they've gotten the job done in superb style.

General McPeak has also had his eyes turned to the future. During the past decade, while the Air Force budget has declined about 40 percent, its procurement budget is down over 60 percent. Recognizing that today's modernization is tomorrow's capable Air Force, General McPeak has stressed before this distinguished body the importance of maintaining key modernization programs, like the F–22 to continue our 40-plus year record of never losing a soldier to enemy aircraft attack. There's also the importance of the C–17, needed if we are to keep the pace of our international operations. Quite frankly, I don't see an end in sight, and General McPeak has been right to push for continued support for this aircraft. General McPeak has also been a staunch supporter of upgrading our space assets—from launch capabilities to ensure we have affordable and available access to space—to the satellites that allows the Air Force to exploit space through monitoring world events and providing critical navigational and communications support to the warfighter. There are a host of other key issues that General McPeak has championed, from taking care of the men and women who wear the uniform, to the need for a modern, stealth bomber with capable, smart conventional munitions that gives our national leadership options.

At the beginning of his tenure as Chief of Staff, he published a watershed document, "Global Reach—Global Power." This document outlined how air and space power now offers the Nation the ability to mass and maneuver in the air. Modern conflict is essentially a contest with which the battle for control of air and space precedes the control of territory. And, General McPeak has detailed how our stealth and precision strike capabilities have given our Air Force the ability to dominate air and space.

During the next 50 years, many in the Air Force and Defense Department will look back on General McPeak as probably the most influential Chief of Staff since Gen. Carl Spaatz first established the Air Force as an independent Air Force. We will miss his stewardship, vision, leadership, and command of so many complex defense and security issues. As the General and Mrs. McPeak leave active duty, I encourage my colleagues to join me in wishing them well and saluting their dedicated service to our Nation.

HONORING ANTHONY BELLINI

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the achievements of Andy Bellini, a very important member of my community in Astoria, NY.

Andy Bellini has a long history of service, commitment and leadership to his community. This became quickly evident soon after graduating from the Long Island City High School in June 1943, when a young Andy Bellini eagerly joined the U.S. Marine Corps to help out our great country during World War II. From the islands of Hawaii to the Japanese mainland, Andy served this Nation with honor and distinction, and at the end of the war, after the official declaration of peace was signed on the Battleship *Missouri*, Andy's division had the unique opportunity of accepting Japan's formal surrender in Sasebo.

After the war, Andy carried his service and leadership skills to New York City's wine and spirits industry where he has since made a strong mark in the business community through his many accomplishments. Beginning as a retailer in Astoria, Andy later became a

gifted salesman and an outspoken union representative. So much so that in 1981, Charmer Industries awarded him Salesman of the Year, and his successful qualities as both a great salesman and a union leader easily won him an appointment as executive secretary of the Liquor Salesman's Union, Local No. 2, a position he continues to hold to this day.

During the early 1980's, State Senator Anthony Gazzara recognized Andy's talents and hired him as a legislative aide. Andy soon became known for helping many area residents and community organizations with their problems. He continued his generosity and kindness by later working for Senator George Onorato. For more than a decade, Andy's dedication and enthusiasm as a legislative aide have helped improve the quality of life in our neighborhoods. He is a trusting friend, and his actions show clearly how much he cares for the people and causes that he fights for.

Andy has also been an outstanding member of the Taminent Regular Democratic Club. His diligence and eye for detail have been essential to many of Taminent's successful club functions.

Mr. Speaker, because of his tremendous achievements on behalf of others, I hope my colleagues will join me in honoring Mr. Anthony Bellini. He deserves our highest respect.

TRIBUTE TO BILL HARTLESS ON BEING NAMED EMPLOYEE OF THE YEAR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. McINNIS. Mr. Speaker, today, I would like to congratulate Mr. Bill Hartless, property technician at Centennial Correctional Facility in the East Canon Correctional Complex, on the occasion of being named employee of the year by the department of corrections.

Employees of the year are selected by their peers on the Department of Corrections executive employee council based on qualities that include job performance, professionalism, and community involvement.

During his 10-year career, Mr. Hartless has been an outstanding employee whose dedication and proficiency has allowed him to earn this prestigious award. Besides being a role model in the workplace, Bill is also an important part of the community. He is active in community affairs, the Boy Scouts of America, and the Red Cross, to mention just a few.

Mr. Speaker, I ask our colleagues to join me in congratulating Bill Hartless on his award. I know all of us thank him for his dedication, professionalism, and service to the department of corrections.

TRIBUTE TO LEONARD "POOCH" MILLER—THE MAN WITH THE MEDALS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. FISH. Mr. Speaker, 60 years ago, my father's most noted constituent, Franklin Roosevelt, had just taken office as President, our economy had no place to go but up, a cup of coffee was a nickel or less and Leonard "Pooch" Miller was about to begin his stint in Washington's restaurant business.

First honing his skills at Harvey's as maitre d', and then at O'Donnels and the National Press Club, "Pooch" was well known to hungry thousands before he joined the House dining room staff in 1971. Since then he has kept us happy and nourished.

"Pooch" is a special fellow: an unruffled gentleman always at his hectic post. Resplendent in the medals and pins representing our States, counties, and towns, he has always been professional and courteous. No matter whether it was for J. Edgar Hoover at Harvey's or any of us in the dining room, "Pooch" did his job for all these years in outstanding fashion.

Now "Pooch" has chosen to retire. I know this was a difficult decision, as it has been for me. I wish "Pooch" Miller, the "Man with the Medals" Godspeed and much happiness.

RETIREMENT OF HON. PHILIP T. COLE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. COLEMAN. Mr. Speaker, I wish to pay tribute to the Honorable Philip T. Cole on the occasion of his retirement. I am especially indebted to this individual because he has dedicated the past 14 years of his life as a U.S. magistrate judge in the Western District of Texas, El Paso Division. Judge Cole's retirement will be effective today, September 30, 1994.

In September of 1994, Judge Cole entered the University of Texas School of Law. While a law student, he worked as a student attorney for the Legal Aid Clinic, a cooperative project with the Travis County Bar Association, providing legal services to the poor. He was employed part-time in the Texas House of Representatives and later as clerk with the Austin law firm of Clark, Thomas, Harris, Denius & Winters. He also served as an associated editor of the Texas Law Review from 1960 to 1962. He graduated with honors on January 7, 1962.

After graduating from law school, Judge Cole returned to his hometown of El Paso. He was licensed to practice on April 23, 1962, and immediately thereafter was appointed assistant county attorney in El Paso. He left the County Attorney's Office to enter private practice in 1964. On March 21, 1980, he was appointed U.S. magistrate in El Paso.

Judge Cole is a member of the American Bar Association and the American Judicature Society, and a former director of the El Paso Bar Association.

Judge Cole's success as a magistrate is based on a combination of profound insight and a prodigious awareness of the law and its place in our society. He is greatly respected by his peers in the legal profession. He is a man of great intellect and wit, and also of great compassion. Judge Cole is to be commended for the exemplary wisdom and dispassionate judgement that he has exercised from his position as Federal magistrate to this Nation.

I ask my colleagues to join me in congratulating Judge Cole on the occasion of his retirement and wish him well in all of his future endeavors.

TRIBUTE TO THE 1994 INDUCTEES TO THE ENTREPRENEURSHIP HALL OF FAME

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize the entrepreneurial achievements of a select group of leaders from the Chicago metropolitan business community. I am proud to salute these entrepreneurs and founders of small and mid-sized businesses for their induction into the 10th annual Entrepreneurship Hall of Fame, Thursday evening, October 20, 1994, in Chicago.

The Institute for Entrepreneurial Studies in the College of Business Administration at the University of Illinois at Chicago cofounded and continues to sponsor the Entrepreneurship Hall of Fame, honoring outstanding business leaders whose spirit and success help keep America's business community strong and vital.

The sponsors, the Arthur Anderson Enterprise Group, LaSalle National Bank, and William Blair & Co., have enabled the university to cement this partnership and recognize outstanding entrepreneurs. The program is exceptional because it creates an active partnership between the academic and business communities. Students and entrepreneurs alike benefit from an exchange of knowledge, experience, and creativity.

Today, I would like to congratulate these leaders, each of whom is listed below, for using their imagination and resources to foster an excellent program which enhances the quality of higher education and underscores the value of entrepreneurship in America. I am sure that my colleagues join me in recognizing these entrepreneurial leaders for their important contributions to employment generation, the entrepreneurial spirit, and our great Nation.

The 1994 inductees to the Entrepreneurship Hall of Fame: Bud Greene, Dick Rosenberg, Glen A. Johnson, Larry I. Kane, Thomas Kreher, Lee Loudermilk, Bill McInerney, Roger P. Miller, Seymour H. Persky, Mark S. Pflanz, Theodore H. Pincus, Mark Polinsky, Allen Sutker, John W. Rogers, Jr., Scott Wald, Jay

N. Whipple III, Michael B. Arrington, Diane Asche, Larry L. Asche, Keven M. Clark, Lisa Brandau, Becky Wright, Irwin H. Cole, Sidney J. Taylor, James L. Coxworth, Richard C. Crandall, Jr., Kathleen B. Drennan, Cindy Ellis, Barry Potekin, Mary Nissenson Scheer, Joan Weinstein, and Andrew J. Zahn.

TRIBUTE TO CANTOR HANS COHN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor Cantor Hans Cohn of Temple Beth Jacob in Redwood City, CA, in the 14th Congressional District. This year he celebrated his last High Holiday services as cantor with this remarkable congregation as he prepares for his coming retirement.

Hans Cohn has served Temple Beth Jacob, the oldest Jewish congregation in San Mateo County, for 30 years. He is renowned for his remarkably beautiful voice, great skill as a teacher, and genuine compassion as a spiritual leader. Succeeding generations of congregation families have benefited from his wisdom, instruction, and longstanding devotion to Temple Beth Jacob.

The life of Hans Cohn is a portrait in courage. A native of Germany, he lost most of his relatives in the Holocaust and as a boy was himself held in a refugee camp in China. Toward the end of his career, this great singer has battled throat cancer with amazing tenacity. Despite this illness, Cantor Cohen was with his congregation this year for High Holiday services, leading the choir.

Mr. Speaker, throughout his extraordinary career, Cantor Hans Cohen has inspired his congregation not only with the beauty of his voice but also with the passion of his spirit. I urge my colleagues to join me in saluting this blessed man of faith, this gifted teacher, and his shining example of courage.

WE SHOULD TAKE A HARD LOOK AT PAKISTAN

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, in August I expressed my grave concern about Pakistan waging a proxy war in the Indian State of Jammu and Kashmir. Today, I rise to express further concern about Pakistan's ever-growing support of fundamentalist groups in Afghanistan and India.

I would like to bring to your attention two reports which are very timely in revealing a Pakistani link to fundamentalist groups. First is a documentary by Peter Arnett: "Terror Nation? U.S. Creation?" The film, which was viewed on CNN by the American public last month, provides an account of links between Pakistan and the fundamentalist regime of Gulbuddin Hekmatyar. It was very disturbing to note that some of the Afghan groups that have had close affiliation with Pakistani intelligence are believed to have been involved in the New York World Trade Center bombings. In addition, some of the prime suspects of the World Trade bombing center are also said to have been bound together by the holy war headquarters in Peshawar, Pakistan, the bustling base of operations for the Afghan resistance.

Second, is an article that appeared in the Washington Post on September 12, 1994. The article states that:

> Pakistan's army chief and head of its intelligence agency proposed a detailed "blueprint" for selling heroin to pay for the country's covert military operations in early 1991, according to former Prime Minister Nawaz Sharif.

The report provides considerable detail on the degree to which Pakistan's military leaders have been involved in their pursuit of a nuclear bomb and export of fundamentalism to India.

Mr. Speaker, growing evidence of a correlation between these reports and reports of Pakistani involvement in the heinous bombings in Bombay, India, last March cannot be ignored. A prime suspect in these bombings has recently been arrested with documents, including a passport, drivers license, and birth certificate, provided to him by the Pakistani intelligence organization. Pakistan's encouragement and support of these fundamentalist groups and their destabilizing effects on Afghanistan and India should not be condoned.

I believe that it is important for the United States to look into this situation before another crisis occurs. I would ask the State Department to investigate these reports and share its findings with the committee's of jurisdiction. If the investigation does support the reports cited above, then Pakistan should be placed again on the State Department's watch list of nations suspected of supporting terrorism. We should address this situation in the interest of preserving security in an increasingly volatile region.

TRIBUTE TO THE HONORABLE JUDGE GEORGE C. STEEH III

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Circuit Court Judge George C. Steeh III. In 2 weeks, on October 12, Judge Steeh will be honored at the 10th annual Daughters of Isabella Queen of the Skies Circle fundraiser.

Judge Steeh has been a leader in our community since at least 1965 when he was captain of the Mount Clemens High School football team. George went on to distinguish himself both as an undergraduate at the University of Michigan and in law school where he graduated with honors. He continues to distinguish himself in Macomb County as a circuit judge.

Outside the courtroom, George has dedicated his time and talents to such organizations as the March of Dimes, Catholic Social Services, and Comprehensive Youth Services where he serves as an officer and member of the board of directors. George's involvement within the community exemplifies his commitment to service. I believe his ongoing efforts provide George with experience that well qualifies him to serve as judge. We are fortunate that Judge Steeh is willing to continue serving our community.

Each year the honoree of the Daughters of Isabella testimonial/roast selects a charity to receive proceeds from the dinner. This year the recipients are Turning Point, a domestic violence shelter, and the Interfaith Center for Racial Justice. Because of the concern and generosity of the organizers and the honoree, this event will promote greater understanding within our community and provide assistance to victims of abuse. I applaud their efforts to make Macomb County a better place to live.

I am pleased to pay tribute to Judge Steeh and the Daughters of Isabella. I ask that my colleagues join me in saluting their commitment to our community.

CONGRATULATIONS TO THE STAFF OF RIVERSIDE GENERAL HOSPITAL

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CALVERT. Mr. Speaker, there has been much said in this House about the topic of health care during the 103d Congress, but, unfortunately, words alone—even those from Members of Congress—do not make people healthier.

While we have been talking about health care reform, a dedicated group of health care professionals and local officials in my district have been hard at work doing something to improve the quality of health care for the citizens of Riverside County, CA. Working together, they have begun preparations for construction of the new Riverside General Hospital-University Medical Center.

For more than 100 years, Riverside General Hospital has served the needs of the citizens of Riverside County, and is currently the only county-funded hospital in Riverside County, and the only hospital to serve people without benefits and others unable to pay for their health care.

First established in 1893, Riverside General is currently a 358 bed facility, owned and operated by the County of Riverside, and governed by the county board of supervisors. It treats all persons, regardless of age, race, sex, creed, or ability to pay, and it offers training programs for nursing students, medical residents and allied health professionals attending Riverside Community College, Loma Linda University and other regional colleges.

As a Level II Trauma Center, Riverside General treats more than 60,000 patients in its emergency room each year, and provides special services for neurosurgery, neonatal intensive care, pediatric intensive care, high risk obstetrics, child abuse and neglect, and hemodialysis.

In addition, this wonderful medical facility provides more than 120,000 outpatient visits

each year with a staff of 1,500 and an operational budget of approximately 200 million dollars.

On October 13, a "Field of Dreams" groundbreaking ceremony for the new Riverside General Hospital-University Medical Center will take place in Moreno Valley in Riverside. I want to offer my congratulations to the Riverside General Board of Supervisors and to the administrators and staff of Riverside General on the beginning of an exciting new era of health care delivery in our county.

When this magnificent new facility is opened in 1997, the excellent staff of doctors, nurses and other health care providers at Riverside General will have a facility worthy of their skills and talents—a facility which will enable them to better serve the health care needs of the people of our county.

Thanks and congratulations to all who have made the "Field of Dreams" a reality.

QUAKER SPRINGS UNITED METHODIST CHURCH CELEBRATES 150TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SOLOMON. Mr. Speaker, it used to be called "the little church by the side of the road."

But the Quaker Springs United Methodist Church in Schuylerville, NY is much more than that, Mr. Speaker. Like many of the fine, old churches in our 22d Congressional District, Quaker Springs United Methodist has been not only an important center of worship, but a virtual museum of local history.

And on November 6, 1994, Quaker Springs United Methodist Church will be celebrating its 150th anniversary.

Mr. Speaker, a few years before Quaker Springs United Methodist Church was founded in 1843, a Frenchman by the name of Alexis de Toqueville visited the young United States. One of the things that stood out among his impressions was the religious fervor of Americans. He remarked that America would be great as long as she was good, and America's natural goodness he attributed to the numerous churches that formed the core of the Nation's community life.

I mention this story, Mr. Speaker, because Quaker Springs United Methodist Church has been exactly the kind of church Mr. de Toqueville had in mind. The present building was erected in 1844 and dedicated in 1845. The church was incorporated under the laws governing churches in New York State in 1880.

From the beginning, the church has been a center of faith and social life for generations of area Methodists, and an enduring monument to the legacy of religious freedom our forefathers fought and died to preserve.

Mr. Speaker, America is still great because she is still good, and she is good because in communities across this Nation, churches like Quaker Springs United Methodist play such important roles.

Mr. Speaker, I ask all Members to join me in congratulating Quaker Springs United Methodist Church on this occasion, and to recognize it's 150 years of outstanding service to the community.

MALONEY PRAISES SHARE-A-WALK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event which will be taking place in my district on Sunday, October 2.

Mr. Speaker, every year for 4 years now, I have participated in a march to raise awareness about one of the most important issues which face women in this country: breast and ovarian cancer. Since 1991, the annual Share-a-Walk has focused the attention of New Yorkers and others on these devastating diseases.

There is no more pressing concern for women than finding a cure for these terrible women-killers. That's why I am so pleased that, for the first time, Congress has allocated significant funding for breast and ovarian research—over $300 million.

This year alone, it is estimated that 182,000 women will be diagnosed with breast cancer and that 46,000 will die. Over 22,000 women will be diagnosed with ovarian cancer. These numbers merely indicate the severity of the problem; they cannot explain the human tragedy behind each statistic: the families which are torn apart, the children who lose their mothers. But the work of coping with the breast and ovarian cancer epidemic doesn't stop with funding research.

That's why Share, Self Help for Women with Breast or Ovarian Cancer, is so important. Share helps women cope with the emotional and social problems associated with these diseases. They also provide support to the families of women so that they can understand and manage better under such difficult circumstances.

Thanks to the phenomenal success of Share-a-Walk and the thousands who turn out every year, Share has been able to expand its services throughout New York City. Today, Share offers support groups and hotlines in English and Spanish, numerous education and wellness programs, and of course advocacy opportunities.

Mr. Speaker, because of the efforts of Share and the volunteers of Share-a-Walk, and of women across the country, the days of silence are over. Never again will women's health concerns be swept under the mat. As a mother of two young girls, I will be there on Sunday to march for the future of another generation of women who should not have to live in fear of breast and ovarian cancer. As the representative of thousands of women who have been diagnosed with these diseases, I hope my colleagues will be able to join me in thanking each and every participant in Share-a-Walk.

TRIBUTE TO SGT. MAJ. JAMES JUSTIN HEINZLER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SKELTON. Mr. Speaker, today I wish to recognize Command Sgt. Maj. (retired) James Justin Heinzler for serving over 42 years in the Missouri National Army Guard. He served from April 22, 1952, to September 11, 1994.

Command Sergeant Major Heinzler's most recent service with the Missouri Army National Guard was with the 1st Battalion, 128th Field Artillery. He served in this position for his last 16 years. Throughout his career, he has strongly committed himself to all that is required. He has gone beyond to provide guidance and support for his fellow soldiers.

He has received numerous military awards throughout his career. The awards are the Army Service Ribbon, the National Defense Service Medal, the Army Reserve Components Achievement Medal with silver oak leaf cluster, the Armed Forces Reserve Medal with three 10-year devices, and the Army Commemoration Medal. He is submitted for the Meritorious Service Medal.

Command Sergeant Major Heinzler has not only provided faithful and dedicated service to the Missouri National Guard, but to his country as well. I urge my colleagues to join me in congratulating him on his service.

TRIBUTE TO VIOLET EFFINGER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to commend Mrs. Violet Effinger. Vi, as she is known to everyone in Copper Mountain, CO, has diligently worked 19 years for the U.S. Post Office.

Violet is the epitome of the Postal Service motto. Through sleet, snow, rain, or shine, Vi has been there for the people of Copper Mountain. If the U.S. Post Office is ever in seach of a national spokesperson or role model for efficiency, they should look no further than Copper Mountain and Violet Effinger.

Mr. Speaker, I ask our colleagues to join me in thanking Violet for her years of dedication, professionalism, and selfless service to the citizens of the United States of America. May her remaining years with the U.S. Post Office be as rewarding as the past 19 years.

TRIBUTE TO CHARLA SULLIVAN AND SHAUNDA BRIGHAM

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CHAPMAN. Mr. Speaker, I would like to bring to my colleagues' attention the accomplishments of two of my constituents in Paris,

TX. Charla Sullivan and Shaunda Brigham, both of Troop No. 55 in the Red River Valley Girl Scout Council, have completed the demanding requirements for Girl Scouting's top achievement, the Girl Scout Gold Award.

The Gold Award is a nationally recognized award presented to girls based on their efforts and outstanding contribution in the areas of leadership, community service, career planning, and personal development. Charla Sullivan and Shaunda Brigham have successfully completed these goals and made significant contributions to their communities.

My colleagues, who have served in the Girl Scouts or worked with their daughters in the Girl Scouts, understand the commitment and dedication it takes to reach the Gold Award. I want to extend my sincerest congratulations to these Gold Award winners and encourage them to continue their efforts for the Girl Scouts and the Paris community.

RESIDENTS FOR A MORE BEAUTIFUL PORT WASHINGTON

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the members of Residents for a More Beautiful Port Washington and the people of the Fifth Congressional District in honoring Myron Blumenfeld, a most unique and dedicated individual.

In a time when we search for heroes and look for leaders willing to take on the responsibility of upgrading our daily existence, it is reassuring to note that Mike Blumenfeld is available to the residents of Port Washington. Beginning in 1969, Mike and a handful of Port Washington residents who were concerned about environmental conditions in the area brought this wonderful organization into being. With no headquarters, no staff, and a next to nonexistent budget, Residents for a More Beautiful Port Washington began its operations. Through Mike's exceptional leadership, the organization now has over 1,000 members, a cadre of highly active volunteers, a staff, and a large group of architect and engineer volunteers.

Under Mike's leadership, residents undertook an approach for dealing with the environment that can readily serve as a yardstick by which all such community action can be measured. Its history reflects what can be done under effective leadership in preserving and upgrading the economy. In 1970, residents successfully opposed a plan by the town of North Hempstead that would have dumped incinerated garbage into Hempstead Harbor. In addition, through the residents' efforts, LILCO has moved its utility lines underground and over 500 trees have been planted to enhance the area.

Mike and his group did not stop here. They gained national attention by appearing with Mike Wallace on "60 Minutes" in publicizing and demanding government action on a town-owned landfill that was generating methane gas. As a result of residents' efforts, the landfill was put on the Federal Superfund's list of most hazardous waste sites.

Mike and his residents have gone beyond the stage of reacting to existing crises and have undertaken an intergenerational program to create positive understandings and actions toward the environment. In conjunction with the Port Washington Board of Education and the School District Administration, residents have contributed thousands of dollars to fund projects which will provide students with an understanding and desire to maintain and enhance the environment.

Mr. Speaker, I ask my colleagues here today to join with me in recognizing the most necessary and effective contributions that have been made by Mike Blumenfeld and Residents for a More Beautiful Port Washington.

TRIBUTE TO SPECIAL AGENT PHILIP G. REILLY

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. REED. Mr. Speaker, it gives me great pleasure to rise today on behalf of Special Agent Philip G. Reilly who is retiring after a long and distinguished career with the U.S. Department of Justice's Federal Bureau of Investigation.

Philip G. Reilly was born and raised in Rhode Island and graduated from LaSalle Academy and Providence College. Upon graduation, he enlisted in the U.S. Marine Corps and left the corps as a first lieutenant after 3 years of exemplary military service. After completing his military obligation, Special Agent Philip Reilly was selected for the Federal Bureau of Investigation in February 1964 and was initially sent to the Kansas City Division. Subsequent division assignments were in Savannah, GA and New York City. In March 1976, Special Agent Reilly was assigned to the Boston Division/Providence Resident Agency.

Over the course of his public service career, Special Agent Philip Reilly received numerous letters of commendation recognizing his professional and outstanding conduct in performance of his duties. He has been involved in many investigations spanning a wide range of cases and is well respected by his peers in law enforcement. The people of Rhode Island have been well-served by his devotion to duty, professionalism, and many years of service to our country and I am proud to honor him on the occasion of his retirement after three decades of service.

Mr. Speaker, on behalf of my home State of Rhode Island, I would respectfully ask my fellow colleagues to join me in honoring an outstanding member of the F.B.I. from my district, Special Agent Philip G. Reilly.

"K.I.A."

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Ms. LONG. Mr. Speaker, the song—Killed in Action or K.I.A.—is a composition dedicated to the memory of those who were killed in all of our Nation's conflicts. The words and music were written by Robert D. Lynch from who resides in the Fourth Congressional District of Indiana. K.I.A. was scored and arranged by Georianna Judkins. K.I.A. is a song worth listening to. I am inserting the words of K.I.A. into the RECORD so that others may benefit from reading the verses.

The words of the song follow:

K.I.A. [KILLED IN ACTION]

For freedom's sake they fought and died in battles far away.
They gave all of their tomorrows that we might have today.
Not asking any quarter going bravely to the fray, they gave all of their tomorrow that we might have today.
The fought on every continent in the air, on land and sea.
Surrendering their precious lives to keep our nation free.
Standing at the great white throne they heard the master say, "You gave all of your tomorrow come live with me today.
All of your tomorrow in paradise you'll stay."
Throughout our country's history in peril or in strife.
They opted for their liberty without regard for life.
Then before the great white throne the Master bade them stay.
"For giving your tomorrow. Paradise is yours today."

CONGRATULATIONS TO CH2M HILL

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BARRETT of Wisconsin. Mr. Speaker, it is my pleasure to congratulate the international consulting engineering firm CH2M Hill for receiving the American Consulting Engineers Council [ACEC] Honor Award for the design of the Wisconsin Avenue Viaduct project in Milwaukee. CH2M Hill's many offices include a long-time presence in the city of Milwaukee.

The Wisconsin Avenue Viaduct was originally built in 1911, and was a vital transportation link between the city and its western neighbors. When the bridge became too expensive to maintain, the city wanted a new structure as impressive as the old one: a 1,500-foot-long open-spandrel arch viaduct with eight graceful spans. The firm designed a precast concrete strutted-arch bridge, the first of its kind in the country. The use of precast concrete saved the city some $2 million and shortened the construction period.

I congratulate CH2M Hill for winning this important award.

MALONEY HAILS GROUNDBREAKING OF DAG HAMMARSKJOLD PARK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event which will take place in my district on Wednesday, October 12. On that day, residents of the East Side will gather to celebrate the groundbreaking of Dag Hammarskjold Plaza Park, a long-awaited development which will mark the implementation of a beautiful park design and the first step in the creation of a splendid new public space.

At a time when the city is paring its budget, it is comforting to note that we still have the will and the vision to improve our open spaces. Dag Hammarskjold Plaza was always intended to be an impressive gateway to the United Nations; at long last this concept is on its way to fruition.

Mr. Speaker, there are many individuals who deserve to be thanked for their tireless work on this project. But I would rather focus on this project as the product of the efforts of the entire community. The new park will stand not only as a testimony to the wisdom and courage of the great statesman for whom it was originally named, but also to the ability of a community to unite behind a vision and see it through.

In particular, the Turtle Bay Association and the Friends of Dag Hammarskjold Plaza should be singled out for their leadership. Collectively, they recognized that the problems of vagrancy and vandalism only escalate when a park looks neglected. By providing the community with an open space of which they can be proud, the creation of the new Dag Hammarskjold Plaza Park will ensure future generations respect and care.

Mr. Speaker, I couldn't be any more pleased that this project will finally get under way on October 12. I hope all of my colleagues will join me in congratulating all those who made this wonderful day a reality.

TRIBUTE TO LAURENCE WEISS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. PALLONE. Mr. Speaker, on Sunday, October 2, 1994, at the Victoria Manor in Edison, NJ, the Middlesex County American-Hungarian Democratic Organization will pay tribute to one of New Jersey's leading citizens, Mr. Laurence S. Weiss of Perth Amboy, NJ.

Mr. Speaker, the story of Larry Weiss is one of the great American success stories. Born in Hungary, he immigrated to the United States with his parents at the age of 3. The Weiss family settled first in Jersey City, then Carteret, where Larry went through the public schools and graduated from the high school. After attending Middlesex County College and operating a service station in Newark, NJ, Mr. Weiss enlisted in the Army in 1940. After training at Fort Dix and Fort Jay, he was selected to go to Officers Candidate School at Fort Benning, GA, and was subsequently commissioned a 2d lieutenant, infantry. He served in the Pacific, through the campaigns on New Guinea, Leyte, Luzon, Bataan, and Mindanao, earning promotions to 1st lieutenant and company commander. He took part in the original landings on Shikokui, Japan, in August 1945 and remained there until his return to the United States. He joined the Army Reserve and was recalled to active service during the Korean conflict. He remained a member of the Reserve until 1958. His list of citations includes the Purple Heart, Bronze and Silver Stars, American, Asiatic, and European Theater Ribbons, and two Presidential Citations.

Upon his return, Mr. Weiss joined his former employer, the American Petroleum Corp., of Perth Amboy, NJ, and became the company's president in 1960. He served as a member of the Woodbridge, NJ, Library Board for 5 years, including service as the board's president and was instrumental in completing their building program. He also served as a member of the Middlesex County Planning Board.

Laurence Weiss was elected to the New Jersey State Senate in 1977, and went on to compile a remarkable and distinguished 14-year career for which he deserves the lasting respect and gratitude of the people of New Jersey. He served on the committees on agriculture, State government, education, oversight, and the legislative commission. But it was in his capacity as a member for 12 years of the senate finance, revenue, and appropriations Committee for which he is perhaps best remembered, particularly the 6 years during which he served as chairman. During my tenure as a State senator, I had the honor and privilege of being a member of Chairman Weiss' committee, and I was consistently impressed by his command of the facts, his fairness to all sides of an issue and, most importantly, his commonsense respect for how we spent the people's hard-earned tax dollars. He worked hard for balanced budgets. He consistently spoke for the adoption of a "rainy day fund," a mechanism to force all administrations to put money away in times of plenty to be used in times of meager income so that taxes would not have to be raised to cover budgetary short falls. His type of no-nonsense approach to protecting the taxpayers could sure come in handy these days.

Larry Weiss and his wife, Edith, whom he married back in the 1940's while he was in the Army, have two grown children: a daughter, Patricia W. Fisher, who works for the U.S. Fish and Wildlife Service in Washington, and a son, Dr. Steven A. Weiss, an engineer who lives in Florida. They have two grandchildren.

Mr. Speaker, it is a great privilege for me to pay tribute to Mr. Weiss in the pages of the CONGRESSIONAL RECORD. I look forward to joining his many friends and admirers for Sunday's tribute.

CELEBRATION OF THE FOURTH ANNIVERSARY OF THE WORLD SUMMIT FOR CHILDREN

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ZIMMER. Mr. Speaker, today marks the fourth anniversary of the World Summit for Children. At the 1990 summit, 159 nations, including the United States, pledged to achieve a set of global goals by the year 2000. These goals include: reducing child deaths by at least one-third; reducing maternal mortality and child malnutrition by half, and providing all children access to basic education. Investments in child survival activities and in basic education provide some of the highest impact and most cost-effective assistance possible, as demonstrated by successful community-based programs such as ASAPROSAR and the Bangladesh rural advancement committee.

Despite such proven benefits, the administration has cut funding to key programs which would help reach the global goals set at the summit. In fiscal year 1994, child survival and basic survival and basic education programs were cut by $40 million and $30 million respectfully, below their 1993 levels. The fiscal year 1995 foreign aid appropriations bill recently passed by Congress calls on USAID to reverse the cuts and transfer funds from projects that are not achieving results to child survival and basic education programs.

Mr. Speaker, the goals established by the World Summit for Children are vitally important, and we must continue our commitment to ensure they are met.

TRIBUTE TO RUTH ZEMLOCK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. McINNIS. Mr. Speaker, today, I want to congratulate Mrs. Ruth Zemlock for her dedication, devotion, and service to the community of Glenwood Springs and Valley View Hospital in particular.

Although Mrs. Zemlock has been retired for about 5 years from the coal, sand, and gravel company she and her husband Andy ran, she has not slowed down one bit when it comes to working. For the past 9 years, Ruth has been a volunteer at Valley View Hospital. Ruth has selflessly given countless hours of time to other such worthy agencies as the Professional Advisory Council to Valley View's Home Health Care Agency and Lift-Up.

Mr. Speaker, I ask our colleagues to join me in congratulating Mrs. Ruth Zemlock. I would also like to join her son Marty, daughter Dawn, and her four grandchildren in saying that Ruth's dedication, professionalism, and service to the community of Glenwood Springs does not go unnoticed. Again, thank you, Ruth, for everything.

GINETTA SAGAN: A HEROIC WOMAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. LANTOS. Mr. Speaker, I rise today to recognize and honor Ginetta Sagan for her lifelong work to promote and ensure basic human rights for people everywhere. Her voice raised against tyranny and human cruelty has saved many from death, torture, imprisonment, and other suffering, and her now legendary story serves to inspire many others to work and care for the cause of human rights. On October 2, 1994, a special luncheon is being held by Amnesty International and her friends in order to honor Ginetta for all that she has done.

My wife, Annette, and I have known and worked with Ginetta for over a decade. She is a person of great courage, dignity, and compassion, and her efforts have immeasurably advanced both the concept of the need for guaranteed human rights, and their actual realization in many places and situations.

Ginetta was a member of the Italian Resistance during the Second World War. She helped run an underground railroad that smuggled many Jews and other persecuted groups out of Italy to safety. In 1945, while she continued with this work, she was captured by Fascist secret police, imprisoned, and then brutally tortured. She was 19 years old. A doctor who had also been tortured and knew he would die wrote Ginetta a letter. It said, "Do everything you can to survive. There will be other human beings in the same condition as we are. Let your voice be heard." As we all know, there were others, and since then Ginetta has continuously spoken out to the world on their behalf.

In 1967, Ginetta was one of the founders of Amnesty International USA, and several years later she was instrumental in the development of the organization on the west coast. Since then, on two separate occasions she has served on the national board of directors, and in 1994 was named honorary chair. Also in recognition of her contributions, Amnesty International has created an annual award in her name that is given to people who have furthered the power and commitment of membership-based human rights organizations.

Ginetta also founded and runs the Aurora Foundation, which she created following the Vietnam war to document, study, and monitor the situation of political prisoners and reeducation camp detainees in the Socialist Republic of Vietnam. She was one of the first to bring attention to the needs of those who continued to be persecuted in Vietnam. Since then Ginetta has broadened the work of the Aurora Foundation to intervene on behalf of human rights all over the world often at great risk to herself.

Ginetta has been honored extensively for her work. She was named Italo-American Woman of the Year, has received an Honorary Doctorate of Humane Letters from the Starr King School of Religion, and is a recipient of the Jefferson Award, the Humanist Distinguished Service Award, and the Albert Schweitzer Award. In addition, she was recently nominated by the Congressional Human Rights Caucus for the Presidential Medal of Freedom, considered the Nation's highest civilian honor.

It is with great pleasure that I invite my colleagues to join me in paying tribute to this wonderful person, who dedication and respect for human life has helped and touched so many.

KILDEE SALUTES 75 YEARS OF WORSHIP AT BETHANY PRESBYTERIAN CHURCH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in commemorating the 75th anniversary of Bethany Presbyterian Church serving my hometown of Flint, MI. The anniversary will be marked with the installation of two former pastors of the church, Rev. Bert Clark and Don Lomas as Pastors Emeritus. The celebration will continue with a potluck dinner to be held after services on Sunday, October 2, 1994.

The long and very distinguished history of Bethany Presbyterian Church began in October 1918 when Mr. and Mrs. Robert Seaton started a Sunday School in the 1700 block of Delaware Ave. On May 11, 1919, a committee of Flint Presbyters met and formally organized Bethany Presbyterian Church with 21 charter members. The Rev. George B. Crawford was installed as the first pastor of Bethany, with William Mrohs and Robert Seaton serving as the first elders. In 1921, Bethany purchased four lots at the corner of Delaware and Franklin Aves. and the first building was completed in 1923.

The Rev. E. Gordon Black became pastor in June 1930. Under Rev. Black's guidance, work began on a new building at the corner of Nebraska and Minnesota Aves. during the summer of 1948. Many members of the church generously dedicated their time, talents, and resources to complete this building. The proud members held their first worship service in the new building on March 13, 1949 and the dedication ceremony was held on May 15, 1949.

Throughout it's history, Bethany has been truly blessed to be served by such dedicated servants of the Lord. When Reverend Black retired after 29 years of distinguished service, Rev. Donald Hart Gordon became pastor after serving as associate pastor for 2 years. In August 1962, Rev. Donald F. Lomas became pastor. In response to the continued growth of the congregation and the need for new education facilities, a fully graded program was established in the new Church School in the mid-1960's.

The Reverend Bert E. Clark was called as pastor in 1970, following Reverend Lomas' retirement. Reverend Clark served Bethany as pastor for over two decades. His dedication and commitment to serving the Lord was and remains an inspiration to his congregation and the community as a whole.

Reverend Clark retired on January 1, 1991, and the church was served well by Rev. George McMican and Rev. Harry Capps, until Rev. James Offrink was installed as pastor of Bethany on March 1, 1992. Reverend Offrink, his wife, Sally, and their three children, Laura, Andrew, and Benjamin are welcome additions to the Bethany family.

Mr. Speaker, without a doubt, our community is a much better place in which to live because of the 75 years of service, love, and spiritual support from Bethany Presbyterian Church. I urge my colleagues to join me in congratulating the congregation of Bethany Presbyterian Church for a wonderful, fulfilling 75 years, and in extending our best wishes and prayers for even greater success in the years ahead.

AMERICANS LOSE AS CONGRESS CLOSES THE BOOK ON HEALTH CARE REFORM

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ANDREWS of Texas. Mr. Speaker, this week Senate majority Leader GEORGE MITCHELL declared health care reform dead. This is regrettable, and it could have been avoided. The 103d Congress made real progress in this debate, and it is a shame that it failed to enact health care reform legislation this year. Even incremental measures which would not have fully accomplished all the worthwhile goals the President set out to achieve initially would have started us in the right direction. According to an ancient Chinese proverb, "A journey of a thousand miles must begin with a single step."

During this session, Congress had a truly historic opportunity that may not be repeated soon. Not since the enactment of Medicare nearly 30 years ago had health care been given such attention in Congress. And never has there been so much public information and education about the issue. Such a big investment of time, effort, and money should not have gone to waste.

Even though nothing was passed, the current problems of cost and access won't vanish; they will continue to worsen. And they will get harder and more daunting to solve. By starting now to improve access to coverage and to get increasing health care costs under control, Congress would have been more able and willing to put forth additional effort in the future.

Most Americans want access to coverage at reasonable rates; they want their health insurance to cover them without tricky exceptions; and they want assurances that they will not lose their coverage if they change jobs or become ill.

There is general agreement in Congress that it should enact insurance reforms to solve these problems. And it is possible to do so without significant negative consequences. By requiring insurers to accept and keep anyone who applies for coverage, by applying preexisting condition limitations only if people fail to maintain coverage, and by allowing rates

within a community to be reasonably adjusted for age, insurance reforms can attract young and healthy people into the system, keeping costs down.

In addition, purchasing groups for individual and small employers will achieve economies of scale that will bring costs down and help compensate for the cost-increasing tendency of sicker people on average to purchase insurance in a voluntary system.

Competition created by empowering consumers with appropriate incentives and information will also be a powerful cost containment tool. Many employers contribute more on behalf of employees who choose more costly plans. Congress could have enacted a rule that requires employees who contribute to their employees' coverage to contribute the same amount whichever plan an employee chooses. This way, the employee would get the savings from choosing a less costly plan.

In combination with rules for standardized benefits and quality reports that will help people compare plans, such reform would provide strong incentives for cost containment.

Incremental reforms could have also expanded options for elderly Americans by allowing them to apply their government payment to the private sector health plan of their choice. Under this proposal, beneficiaries who choose an efficient private sector plan would get more value for their money, with less paperwork, and better benefits, including prescription drugs, with the savings from more efficient care.

Similarly, changes in rules for Medicaid could have allowed States to contract with the most efficient private sector managed care organizations without requiring them to jump through bureaucratic hoops to obtain a special waiver permitting them to do so.

Incremental reforms would have improved access and started to bring costs down. As a result, fewer people would have been uninsured. For those remaining uninsured, there would be some safety net with county hospitals. Congress could have monitored this system under incremental reform and worked to improve it as necessary.

While incremental reform is not synonymous with universal coverage that can never be taken away, it would have been a valuable and important first step in a process of making much-needed improvements in our ailing health care system.

These steps would have been small but important. They would have affected millions of Americans and laid a foundation for a larger health care debate next year in the Congress and across the country. Thoughtful Americans understand fully the importance of reforming our Nation's health care system. The 103d Congress, however, did not grasp this, and it squandered an important and single opportunity to start the job.

LENOX HILL NEIGHBORHOOD HOUSE—A CENTURY OF CARING SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, it is my great pleasure this evening to bring to the attention of my colleagues the centennial anniversary of the founding of the Lenox Hill Neighborhood House, a multifaceted service organization located in the Manhattan portion of my congressional district.

One of the booklets put out by this stellar organization poses the question "Who needs a social service agency on the Upper East Side?" The answer is more than 52,000 people, ranging from 13,750 older adults living alone to 1,300 homeless people who avail themselves of the myriad services offered by Lenox Hill Neighborhood House.

The Lenox Hill Neighborhood House was founded 100 years ago as a kindergarten school for immigrant children. From those modest beginnings, LHNH has grown with the needs of its community.

Today, Lenox Hill Neighborhood House provides Head Start and after-school programs for young children, vocational training for at-risk teenagers, and counseling programs for families in crisis. For older East Siders, Lenox Hill Neighborhood House provides transportation for the disabled, a senior center with numerous activities and in-home care for those who are unable to leave their residence. This home care is comprehensive with trained assistants providing assistance with bathing, dressing, feeding, shopping, cooking, laundry, and cleaning. For the homeless, Lenox Hill Neighborhood House provides the kind of comprehensive, supportive services that are a model for helping homeless people back on their feet, permanently.

One of the greatest accomplishments of Lenox Hill Neighborhood House is that it achieves so much through the use of volunteers from the East Side. Many times, these volunteers are people who, at one time or another, made use of the services provided by LHNH.

Mr. Speaker, Lenox Hill Neighborhood House truly represents what is best about our community and truly reflects the ideal of service to our neighbors. I would hope that my colleagues will join me in congratulating this wonderful institution on its 100th birthday.

THE 50TH ANNIVERSARY OF THE BATTLE OF LEYTE GULF

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. KING. Mr. Speaker, I rise today to commemorate one of the monumental events in the global struggle against tyranny that was led by American forces in Africa, Europe, the Atlantic, Asia, and the Pacific from 1941 to 1945. This October marks the 50th anniversary of the Battle of Leyte Gulf—one of the largest naval engagements in the history of the world—the battle that cleared the way for the liberation of the Philippines and destroyed forever Imperial Japan's naval power.

I would like to focus on one small, but significant portion of this huge action—the outstanding combat record compiled by the U.S.S. *Orestes AGP–10*, a PT-boat tender that found itself in the very thick of the battle.

The U.S.S. *Orestes* was commissioned on April 25, 1944 and distinguished herself supporting the New Guinea Campaign. She was assigned to Gen. Douglas MacArthur's Philippines invasion forces, taking part in the historic Battle of Leyte Gulf.

Serving as the flagship of Task Group 77:11, the *Orestes* led a convoy as part of a diversionary feint during the invasion of Luzon. Noted naval historian Samuel Eliot Morrison described the mission of TG 7:11 as "three days and nights of hell." The convoy downed over 200 Japanese planes and was called by one historian, the "most kamikazed convoy of the war."

Upon reaching Mangarin Bay, Mindoro on October 30th, 1944, the *Orestes* was hit by a kamikaze. The ship was badly damaged and many of its crew killed or seriously wounded. Later, the *Orestes* was again attacked, this time struck by a 500-lb. anti-personnel bomb. One of my constituents, Edward Uher of Farmingdale, was a survivor of that attack. He heroically carried a badly wounded fellow seaman off the stricken ship to a field hospital.

The *Orestes* played an immeasurably valuable role in the success of the liberation of the Philippines. Throughout its service in the Pacific, the ship's crew suffered a casualty rate of 52 percent, with 59 KIA's and 106 WIA's.

The *Orestes* was the only ship of its class to suffer so high a casualty rate and the only PT boat tender authorized to carry the Navy's Amphibious shield. The *Orestes* was honored for its participation in four island assaults and its gunners credited with the destruction of 15 enemy planes.

The men of the *Orestes* crew symbolized through their courage and devotion to duty, the commitment and determination of the millions of Americans who served in World War II.

Next week, on October 6, 1994, the *Orestes* will be remembered by members of its crew in a ceremony at Battleship Cove in Massachusetts. Mr. Speaker, I know that every Member of this House joins me in saluting these brave men and their fallen comrades.

LEGISLATION ADDRESSING FEDERAL PRINTING POLICY

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ROSE. Mr. Speaker, I am pleased to note that we have reached an agreement with the administration to collaborate during fiscal year 1995 on legislation addressing Federal printing policy. This agreement also maintains the status quo regarding present printing and duplicating arrangements between the Government Printing Office and the executive branch.

I particularly wish to express my thanks to Acting Director Alice Rivlin for issuing a memorandum to executive agencies setting forth the goals we seek to achieve. Specifically, we recognize that legislative reform must achieve several goals. First, it should improve the efficiency and cost effectiveness of Government printing and duplicating by maximizing the use of private-sector printing and duplicating capability through open competitive procedures. Second, it should limit Government-owned printing and duplicating resources to only those necessary to maintain a minimum core capacity. By crafting legislation to meet these goals, we hope to be able to improve the efficiency of Government printing and save the taxpayers money.

Finally, it should enhance public access to Government information by improving the information dissemination practices of the Federal Government. In this regard, I particularly note the fundamental contributions of the Depository Library Program toward meeting this goal, and want to ensure that the Depository Library Program's role continues in the future.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, September 19, 1994.

Memorandum for Heads of Executive Departments and Agencies

From: Alice M. Rivlin, Acting Director.

Subject: Procurement of Printing and Duplicating through the Government Printing Office.

BACKGROUND

Information technology is changing the way words and images are put on paper, blurring traditional notions of printing and duplicating. As a result, the framework of laws governing these aspects of government publishing has become outdated.

In his July 22, 1994, statement accompanying the Fiscal Year 1995 Legislative Appropriations Act, the President expressed his eagerness and resolve to accomplish a comprehensive reform of Federal printing. The leadership of the Congressional committees of jurisdiction has agreed to work with the Administration to produce a legislative approach to solving this problem next year. Accordingly, we have agreed to maintain the status quo regarding present printing and duplicating arrangements during Fiscal Year 1995 to allow this initiative to go forward.

We have agreed that legislative reform of government printing must strive to achieve three goals. First, it should improve the efficiency and cost effectiveness of government printing and duplicating by maximizing the use of private sector printing and duplicating capability through open competitive procedures. Second, it should limit Government-owned printing and duplicating resources to only those necessary to maintain a minimum core capacity. Finally, it should enhance public access to government information by improving the information dissemination practices of the Federal government. I am certain you share these goals. We look forward to consulting with you as this legislative program is formulated.

POLICY

Accordingly, as a matter of Administration policy, Executive departments and agencies are to carry out their printing and duplicating activities during Fiscal Year 1995 in accordance with the following:

The procurement of printing and duplicating services from private sector sources shall continue to be the preferred method of fulfilling agency printing and duplicating requirements.

All procurement of printing and duplicating from private sector sources shall be through the Government Printing Office, except for individual printing or duplicating orders costing not more than $1,000, if such orders are not of a continuing or repetitive nature and cannot be provided more economically through the Government Printing Office.

Existing agency in-house printing and duplicating operations and agency cross-servicing arrangement (e.g., GSA's provision of duplicating services to other agencies in field locations) may continue to operate normally.

Agency printing and high speed duplicating capacity shall not be expanded. This is not intended to affect the ordinary maintenance and replacement of existing equipment capacity.

Existing agency plans to downsize internal printing and duplicating capacity shall continue to be carried out.

Agencies should ensure that all government publications, as defined in 44 U.S.C. Part 19, are made available to the depository library program through the Superintendent of Documents.

I must emphasize that agency compliance with these policies, and cooperation with Congressional oversight, is essential to the ultimate success of a comprehensive legislative initiative to reform government printing.

DOD APPROPRIATIONS CONFERENCE REPORT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. GEJDENSON. Mr. Speaker, today we passed the conference report on H.R. 4650, the Department of Defense appropriations bill. I wish to recognize the distinguished chairman of the House Defense Appropriations Subcommittee for his dedication and hard work in bringing together a bill which so well addresses our national security needs while accommodating the difficult fiscal environment in which we must operate.

Among the programs funded by the bill is the Navy's new attack submarine, or NSSN. The report language addressing this program cautions the Navy that above all, controlling costs of the NSSN must remain paramount as the Navy proceeds with this vital program. I am in full agreement with the conferees on this issue, and I can assure my colleagues that no one will be more diligent than I in monitoring the Navy's progress in keeping the NSSN affordable.

Included in the language accompanying the conference report, however, are some statements which should be corrected. This is necessary in order that the record accurately reflects the intentions of the Congress. For example, the recommendation of the Deputy Secretary of Defense is to remove the third NSSN, scheduled for authorization in 2001, from the Defense plan, not the second NSSN as stated in the conference report. Also, the House actually reduced funding for this program by $100 million, not the $200 million as stated in the report. Finally, it should be noted that the construction cost of the first NSSN has been stated by the Navy to be $2.3 billion, not the $3.4 billion mentioned in the report. Apparently the development costs were included in the procurement cost stated in the report.

Once again, Mr. Speaker, I wish to express my appreciation for the tireless efforts of our subcommittee chairman in bringing to fruition the Defense appropriation bill for fiscal year 1995.

APPRECIATION TO REPRESENTATIVE MOU-SHIH DING

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to bid farewell to a distinguished public servant from the Republic of China on Taiwan, the Honorable Mou-shih Ding, and to offer congratulations on his recent promotion to the post of Secretary General of the National Security Council in Taipei. Representative Ding has spent the last 6 years at the Coordination Council for North American Affairs effectively dealing with all aspects of U.S./RoC relations. From the executive to the legislative branches of our government, Mr. Ding has represented his country in a most honorable and praiseworthy manner.

Many of us in Congress have had the pleasure of working with Representative Ding, not only during his tenure in the United States, but also earlier when he served as the Minister of Foreign Affairs. He has been an important leader in the impressive economic, social and political transformation that has occurred in the Republic of China on Taiwan.

We are approaching October 10, which is widely observed as National Day, commemorating the date in 1911 when the Republic of China was founded by Sun Yat-sen as the first republic in Asia. On this anniversary, it is appropriate to note that U.S./RoC relations over the past several years have taken many positive, cooperative steps—a continuation of the sincere friendship and respect that have long existed between the people of our two nations. And on the world stage, the increasing impact and influence of the Republic of China on Taiwan is obvious.

Yet, there is a matter that remains unresolved. As one of the world's leading economic powers, the Republic of China on Taiwan deserves a seat in the United Nations. I encourage my colleagues to support this initiative, which would have a positive effect on the U.N. and its various international organizations. It is a goal that many of us share with the people of the Republic of China on Taiwan and with the man who has represented them with distinction in Washington for the past 6 years, Representative Mou-shih Ding.

ISLAMIC HOLY WAR IN KASHMIR

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BROWN of Ohio. Mr. Speaker, I call my colleagues' attention to an article in the August 26 London Times: "Kabul Paymasters Aim for Jihad in Kashmir."

The article is unsettling for those of us in Congress who are concerned about the rise of terrorist acts being perpetrated against Indian citizens in the Province of Kashmir.

According to Times correspondent Christopher Thomas, Pakistan's foreign policy on Kashmir has been taken captive by foreign Islamic terrorists who are determined to wage a holy war of terrorism on Kashmir.

Thomas notes that no Pakistani Government has ever been fully in control of its Kashmir policy.

Rather, until recently Pakistan's Kashmir policy has been directed largely by the Pakistani Army, which has contributed significantly to the unrest in Kashmir by training, supplying, arming, and underwriting Indian Kashmiris who have fought to overthrow the Indian Government and establish an independent Kashmir state.

Evidence is mounting, however, that in recent months, this military support has given way to foreign Islamic extremists allied with Gulbuddin Hekmatyar, the Prime Minister of Afghanistan.

These extremists are using Pakistan as a base to channel greater and greater amounts of funds, armaments, and soldiers into Kashmir.

The attack on Kashmir has now evolved from a secular independence movement into a religious holy war with a goal of making Kashmir a part of Pakistan.

Mr. Speaker, this is an ominous development.

First, Pakistan has declared war on India three times over the past four decades. Each of these wars has involved Kashmir, an Indian state over which Pakistan continues to claim territorial sovereignty.

Second, former Pakistani Prime Minister, Nawaz Sharif, recently stated publicly that Pakistan has for some time possessed nuclear weapons, despite statements to the contrary to the world community for the past 7 years. Former Army Chief of Staff General Mirza Aslam Beg also has said publicly that Pakistan would be prepared to use these weapons against India in any future war between the two nations.

Finally, Mr. Speaker, India is anxious to return self government to Kashmir, which had substantial control over its own affairs prior to this outbreak of terrorist aggression 4 years ago. However, India remains unable to return decisionmaking to the local level in the face of ever-widening terrorist attacks in Kashmir and Islamic fundamentalists in Pakistan, who have gained control of Pakistan's Kashmir policy.

Mr. Speaker, I urge my colleagues to read the Times article closely.

The issues raised in this important article cannot be ignored by the U.S. Government.

I ask that the article be included in the RECORD at this point.

[From the Times of London, Aug. 26, 1994]

KABUL PAYMASTERS AIM FOR JIHAD IN KASHMIR

(By Christopher Thomas)

Pakistan appears to have lost control of its Kashmir policy to foreign Islamic extremists who are channeling increasing amounts of money and weaponry into India's only Muslim majority state. This makes a peaceful solution all but impossible, despite India's apparent readiness to offer significant political concessions.

Benazir Bhutto, the Prime Minister, could not halt the flow of funds, men and guns across the mountainous border, even if she wanted to. No government in Islamabad has ever been fully in control of Kashmir strategy, which has been directed largely by the armed forces, but events have now moved well beyond the present government's reach.

Kashmir valley has become irrelevant, since the important paymasters are Islamic groups that see this as the next jihad (holy war). The sophisticated weapons entering the valley are proof of the escalating resources being committed to the conflict.

Groups within the Pakistani military continue to support the rebellion, but training, financing and supplying Indian Kashmiris is now mostly the business of foreign Islamic groups, primarily those in Afghanistan with most limitless resources from narcotics sales. Afghanistan rivals Burma as the world's largest supplier of raw opium.

Gulbuddin Hekmatyar, the nominal Prime Minister of Afghanistan, is close Hizbul Mujahidin, the biggest rebel group in the valley, which is fighting to reunite the former Kashmiri kingdom under the Pakistani flag, something the Muslims of the valley fear. The secular groups that launched the rebellion in 1989 wanted independence both from Pakistan and India, but such organizations are now almost irrelevant. What began as a nationalist uprising has been hijacked by Islamic extremists who have more money and better weapons.

Mian Nawaz Sharif, the former Pakistani Prime Minister, yesterday defended his claim that Pakistan has a nuclear bomb and that his government, which lost power last year, gave substantial funds to help the Kashmir uprising. In a written statement, he said has remarks were designed to stop Mrs. Bhutto from giving in to foreign pressure to curb the nuclear programme.

Mrs. Bhutto was seeking a compromise with the United States on the nuclear issue in the hope that Washington would restore military and economic aid, which had ended in 1990 because of suspicions that Pakistan has assembled the components for a nuclear bomb. After Mr. Sharif's comments on Tuesday, the Prime Minister cannot afford to be seen to offer any concessions on the nuclear issue.

Commentators suggested yesterday that Mr. Sharif's remarks were made at the behest of the Pakistani military, which is deeply committed to the nuclear programme as a defence against India's superior conventional forces and feared it might be rolled back under a pact with the United States.

Tensions on the line of control dividing Kashmir, which is heavily patrolled by troops on both sides, have risen amid rumours that some senior Indian army officer favour a policy of hot pursuit across the border. The Indian government has firmly ruled out such a policy, aware that it could spark war. In the latest atrocity in Kashmir yesterday, eight people were killed and 29 injured in a bomb on a school bus in a Hindu-majority region of Kashmir.

Delhi is ready to return substantial powers to Kashmir, which used to enjoy special status that gave it control over most of its own affairs, if peace and democracy can be restored. The government concedes that elections are impossible in the foreseeable future. Kashmiri Muslims fear that any elections would be rigged, as in the past, and their leaders have said they would order a boycott of any poll.

TRIBUTE TO FIVE CONGRESSIONAL BASEBALL GREATS

HON. DAN SCHAEFER

OF COLORADO

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SCHAEFER. Mr. Speaker, the congressional baseball game dates back to 1909. Since then, Democrats and Republicans have taken the field to battle each other in a true game of political hardball to benefit charities. While the players and outcomes have varied throughout the years, one thing has remained constant: help from people who love the game. In recent years, five individuals have given undying support for the congressional baseball game. They are: Kenny Burkheadt, Shepard Hill, Joseph Foley, Chinch Wollerton, and Wilmer "Vinegar Bend" Mizell. Today, we rise in recognition of their contribution of time and effort.

As our colleagues and teammates polish their skills at our early morning practices, these gentlemen patiently catch, throw, hit, and coach. Their dedication is remarkable. They come back year after year, continuing to help out wherever they can. It is because of their consistency and loyalty to this congressional tradition that we honor them today.

The congressional baseball game stands out as an institution of Congress that contributes to bipartisan cooperation and literally gives back to the Washington, DC community. This year alone, the game raised over $30,000 for local charities. This simply could not be accomplished without these five gentleman. We urge all of our colleagues to join us in recognition and appreciation of their efforts.

TRIBUTE TO MAHATMA GANDHI

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. FILNER. Mr. Speaker and colleagues, I rise today to mark the celebration of the 125th birthday of a great revolutionary and social reformer, Mahatma Gandhi. Gandhi was one of those unique individuals that sets out on a course to touch every life they come across in a positive manner, using their talents to promote change and progress.

He was born in a seacoast town in the Kathiaware Peninsula, north of Bombay, to a wealthy family. He practiced law, using both his intellectual abilities and deep religious beliefs to bring equality and justice to society.

In 1893, he accepted an offer from a Moslem firm to represent it in Pretoria, in the Union of South Africa. While traveling in a first-class train compartment in Natal, he was asked by a white man to leave. He spent the night at the train station meditating on the incident and made the momentous decision to devote his life toward eradicating prejudice. He helped to launch a campaign to improve the legal status of Indians in South Africa who, at the time, suffered the same discrimination as blacks. Gandhi knew he faced a monumental task; in fact, when he reached South Africa, an angry mob stoned and attempted to lynch him. But he continued to fight for equality and justice for Indians in South Africa, eventually winning a law declaring Indian marriages valid in South Africa and abolishing the tax on former indentured Indian labor.

Then he turned his eyes to his homeland.

Gandhi knew how to reach the masses, working with them to spread the idea of a new and free Indian individual. He also moved his people toward a spiritual regeneration of the nation, raising awareness and activism.

One technique he used in his effort to promote progress and change was the fast. He undertook a 21-day fast to bring the Hindu-Moslem communities together, believing that together they could accomplish much. In 1930, he began his famous 24-day salt march to the sea. At that time, a British law taxed all salt used by Indians, creating a severe hardship on the very poor. Several thousand marchers walked hundreds of miles to the coast, where Gandhi picked up a handful of salt in defiance of the government. This helped to start a nationwide movement against the tax, and made the British aware of Indian unrest.

In August 1947, India finally celebrated its independence. Gandhi is still regarded as the most influential force in making this possible, through his teaching of nonviolent civil disobedience and his work in bringing the Indian people together for the betterment of the whole nation.

In January 1948, Gandhi began his last fast, praying for Indian unity. He was shot and killed for his beliefs, but his ideals and works live on. Gandhi believed, as I do, that one person CAN make a difference. His followers joined with their hearts and minds to make their country better, not just for themselves, but for future generations. I join my friends today in remembering this great man and his work to bring the ideals of equality, justice and freedom to reality.

COMMEMORATING THE RETIREMENT OF DR. BENEDICT K. ZOBRIST, DIRECTOR OF THE HARRY S TRUMAN LIBRARY

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. WHEAT. Mr. Speaker, it is an honor for me to rise to pay tribute to Dr. Benedict K. Zobrist who will be retiring next month as director of the Harry S Truman Library in Independence, MO.

For nearly a quarter of a century, Dr. Zobrist has been at the helm of the Truman Library—overseeing its growth over the years and sharing the Truman legacy with countless thousands. He leaves behind a proud record of service and dedication to one of our Nation's most treasured landmarks.

Mr. Speaker, after leaving the White House, Harry Truman focused much of his efforts on establishing the Truman Library to help educate the country about his life, his work, and his times.

He never wanted the library to be a temple for tribute, but, instead, a place for people to read, to listen, to learn, and to judge the period and Truman's work for themselves.

As director, Dr. Zobrist made sure the library was run just the way Truman had envisioned it—and I know of no higher compliment than that.

Researcher after researcher, author after author, have singled out the library and Director Zobrist for praise. In his Pulitzer Prize winning work—Truman—David McCullough probably said it best when he cited Dr. Zobrist and wrote, "In my experience there is no more agreeable place in which to do research than the Truman Library."

Through his work as director, as an adjunct professor of history, as a lecturer, and in numerous other roles, Ben Zobrist has been a leading force in our community. He has helped open people's eyes and minds to the life and times of one of the greatest public figures of the 20th century.

Over the course of my years in Congress, Dr. Zobrist has also been an important source of information and assistance to me and others who have worked on congressional efforts to preserve and enhance the Truman legacy.

Even through Dr. Zobrist is technically retiring, I know that he will continue to carry on his work, including his important service on the Missouri State Historical Records Advisory Board.

I wish Dr. Zobrist all the best as he looks back on a long and distinguished career and looks forward to the challenges ahead.

SELECTIVE SEPARATION OF CHURCH AND STATE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CRANE. Mr. Speaker, at the same time Democrats visciously attacked Christian Republicans, apparently fearing a breach in the infamous wall separating church and state, President Clinton attended a church service and called passage of his boondoggie crime bill "the will of God." It is just another example of the misunderstanding of that overused remark made by Thomas Jefferson.

The Founding Fathers did not advocate a federally run church in the United States. In fact, the wall to which Mr. Jefferson refers is designed to protect churches from the government, not vice versa. At the time of this Nation's founding, States ensured that their Christian population would be well represented as Members of Congress were required to sign pledges affirming their Christianity.

While much has changed in the more than 200 years since then, America undoubtedly remains a theistic society. Although some Members of Congress cringe when children have a moment of silence to pray or reflect in public school, we still start our legislative days with a prayer. Although Democrats fight for the rights of atheists, the leader of their party can call on a Christian God to help pass his legislation. Although Democrats can accuse Christians of radicalism, their leader speaks about the need for family—that is Christian—values.

A recent article by nationally syndicated columnist Joseph Sobran addresses this convenient use of religion by the Democrats and I commend it to the attention of my colleagues.

SELECTIVE SEPARATION OF CHURCH, STATE

"The will of God," as Mr. Clinton called his crime bill in an unexpected seizure of piety, has been accomplished. If I may be allowed a little pun, it was an arresting phrase.

The crime bill will do for the crime problem exactly what the war on drugs has done for the drug problem. But never mind that for the moment.

My keen-eyed colleague Cal Thomas has remarked that the liberal media found nothing amiss in Mr. Clinton's stepping into a pulpit to equate his agenda with the purposes of the Almighty. Usually the media are on the qui vive for breaches of the separation of church and state, but not this time.

As a matter of fact, the liberal Democrats always have used the churches when it has served their purpose. The civil rights and antiwar movements have featured many clergymen who used their stature and charisma to advance political causes: Martin Luther King, the Berrigan brothers, William Sloane Coffin, Ralph Abernathy, Robert Drinan, Jesse Jackson. This is fine with me, and it was fine with the media.

But when "reactionary" clergymen get into politics—Jerry Falwell, Pat Robertson, the Religious Right in general—we hear dark media murmurs about the danger to the American tradition of separationism.

You can gauge how deeply the media care about religious freedom by the extent of their coverage of the oppression and persecution of Christians under communism: just about zero. Christians have never made the liberal honor roll of accredited victims.

And it isn't just the news media. Education is now assumed to mean exclusively secular subjects, even though throughout most of Western history religion was the central subject of education (as it still is in the Islamic world), most of our great universities were founded as Christian institutions, and most of our greatest art and music is Christian.

The Canadian writer John Muggeridge recalled in a recent speech that he had once taken a course in French literature that included no religious writing at all. And he was astonished, when he read on his own the same writers he had read in his courses, to find that many of them had written religious and devotional works. It was as if he'd taken a course in English literature without learning that Chaucer, Spenser, Milton, Donne, Bunyan, Swift, Dr. Johnson and T.S. Eliot were devout Christians.

We talk about "multiculturalism" at the same time we are systematically ignoring the core of our own culture. An Italian priest observed to me recently that America has "In God we trust" on its coins, and even chaplains in Congress yet won't provide for a moment of prayer in its public schools.

Nobody can claim to be fully educated without some awareness of religious experience. Not everyone can have faith, but no

mind can be well informed without an inkling of it. Christianity is still at the center of many if not most Americans' lives.

Yet the majority of journalists show little interest and less sympathy for it. They seem to feel no obligation to become acquainted with it before reporting on it. No wonder their reporting shows a tin ear for the inner life of faith. Christians, when they are not simply ignored, are usually portrayed as hypocrites and fanatics—unless they are liberals. The churches are portrayed as tyrannical for trying to maintain their own traditions, but the Democratic Party is permitted to escape criticism when it won't allow anti-abortion speakers like Gov. Robert Casey of Philadelphia to speak at its national convention.

Jacques Barzun has said that if you don't know baseball, you don't know America. He has a point. But the point applies even more strongly to religion. No newspaper would send a reporter who was ignorant of baseball to cover the World Series. Why do they send ignorant and even hostile skeptics to cover the activities of Christians?

COMMUNITY GROUPS WORKING TO STOP THE VIOLENCE

HON. PETER W. BARCA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BARCA of Wisconsin. Mr. Speaker, this weekend in Racine, WI, various community groups and concerned citizens are gathering to call for peace on the streets and in the schools.

That's because 40 of Racine's young people have lost their lives to violence in the last 3 years alone.

Think about it.

That's a classroom of kids who are no longer with us because of violence.

Mr. Speaker, earlier this month, President Clinton signed into law a tough and smart crime bill to try to prevent this type of violence. But we all know that Government can't stop the violence by itself. Stopping the violence starts in the community.

The Promoters of Peace in Racine, WI, have begun that fight. This weekend, on October 1, the Promoters of Peace and the Second District Action Coalition are holding a Community Awakening Gospel Festival at the Duke Hamilton Park in Racine. They have invited the entire community to participate in this event. The Community Awakening Gospel Festival is being dedicated to all of the young people in Racine, WI, who have lost their lives to violence.

I commend the Promoters of Peace and the Second District Action Coalition in their fight against violence. I hope that communities across the country will follow this example and end the senseless killing that is robbing this great Nation of our future.

100TH ANNIVERSARY OF THE APPLETON FIRE DEPARTMENT IN APPLETON, WI

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ROTH. Mr. Speaker, I rise today to praise the Appleton Fire Department for 100 years of service to the people of Appleton, WI. Generations of Appleton residents have benefited from the brave and valiant service given by these firefighters.

The Appleton Fire Department was initially founded in June, 1854, with the enactment of the city's first fire protection ordinance. It was given responsibility for the prevention and fighting of fires in Appleton, the summoning and recruitment of volunteers, and the coordination of water supplies.

However, the department did not become a full-time operation until November, 1894. At that time, it had only 10 full-time fire fighters, and just one fire station.

Today the Appleton Fire Department is staffed by 89 heroic men and women working in 5 fire stations. They serve over 68,000 individuals with the same rigor and dedication as their forefathers did one century ago. In addition to selflessly risking their lives on behalf of others when fighting fires, they spend countless hours teaching children and others about fire safety.

In recognition of the many good deeds of the department and its firefighters past and present, a memorial is being dedicated in the memory of fallen comrades and to honor the current firefighters who serve their community so well. A brief dedication ceremony will be held on October 12, 1994, to unveil the memorial and to place a historical time capsule.

The firemen and women of the Appleton Fire Department are still providing the same admirable service as was given years ago, namely, to protect the citizens and city of Appleton from the ravages of fire. They do their jobs with bravery, honor, and true dedication.

I honor those who have served the people of Appleton for so long and so well. Congratulations once again to the Appleton Fire Department for 100 years of service to the city of Appleton.

TITO PUENTE

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Tito Puente who was recently honored at the Hispanic Heritage Awards Dinner for Excellence in Arts.

Born to Puerto Rican immigrants, Mr. Puente grew up in New York's Spanish Harlem. He later served in the Navy and through the GI bill was able to attend the Julliard School of Music where he studied conducting, orchestration and theory. Since the 1950's, he has traveled the world sharing his musical gift. He is best known for his musical style that brings together the Latin mambo rhythms and salsa mixed with jazz and the big band sound.

Mr. Puente has recorded over 100 albums earning him numerous Grammy awards and a Hollywood star. In addition to his musical career, he appeared in "The Bill Cosby Show", the feature film "The Mambo Kings" and he hosted a show on Hispanic television. Throughout his career, Mr. Puente has not only given us the gift of his music but has committed himself to supporting the musical talents of Latino youth. The Tito Puente Scholarship Foundation has provided over 80 underprivileged youth with the opportunity to develop their musical talent.

As a long time fan of Tito Peunte, I am indeed honored to recognize his achievements. He is truly an exceptional artist who has played a pivotal role in disseminating the artistic and musical traditions of the Latin beat.

RAHALL SALUTES BLUEFIELD STATE COLLEGE ON THE OCCASION OF ITS CENTENNIAL YEAR

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. RAHALL. Mr. Speaker, I rise today to recognize and congratulate Bluefield State College of West Virginia, located in my third congressional district, on the occasion of the centennial year of its founding in 1895. I am very proud of Bluefield State's designation as an historically black college, and I honor it for its original mission, to educate talented African-American students in the coal fields, as well as the mission it now has to serve all students in an everexpanding range of educational and cultural learning experiences.

For an entire century, Bluefield State College has been committed to providing quality education in southern West Virginia. The history of the college is the heroic story of remarkable achievement in the face of seemingly insurmountable obstacles, establishing a legacy that provides an inspiration and challenge to those who follow.

Bluefield State College was created to provide better educational opportunities and services for African-Americans in the region. To serve the racially segregated public schools in turn-of-the-century coal camps, progressive citizens established Bluefield Colored Institute. BCI's first president, Hamilton Hatter, overcame enormous challenges and ran the institution with no legislative appropriations for 2 years.

Later, Bluefield State College adopted formal teacher training, as the college distinguished itself in the preparation of educators to carry traditions of excellence throughout the coal fields.

The college expanded, and in the 1920's and 1930's was involved in the explosion of black American culture known as the Harlem Renaissance.

In 1954, Bluefield State College observed another landmark, as white students seeking high-quality, low-cost, fully accredited higher education began to join the black students attending classes at BSC.

Curricular changes led to the creation of new academic areas such as engineering technology and computer science, business administration, and health sciences.

Mr. Speaker, as Bluefield State College celebrates its centennial, its president, Dr. Robert Moore, the dedicated faculty, and staff, merit high praise for their very significant accomplishments and for their vision and creative spirit in providing ever-expanding educational opportunities.

Bluefield State stands proud of its strong past, and exceptional willingness to meet the changing needs of the region it serves in what promises to be a dynamic future.

CLINTON'S MILITARY BUDGET—A DEFENSE DISASTER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. DORNAN. Mr. Speaker, I cannot in good faith support this Defense budget which still remains a Clinton blueprint for dismantling our military.

I include for the RECORD a recent memo by DOD asking the services to terminate or delay vital new weapon systems such as the RAH–66 Comanche V–22 Osprey and F–22 Lightning II.

Many of these systems are funded in this report, yet these research dollars could be wasted if Mr. Clinton has his way.

The memo states that we need to fund other areas such as the pay raise. It is Mr. Clinton who originally cut the pay raise for the military. It is Congress, not DOD, who restored this raise.

If you want to find additional savings Mr. President, then consider cutting items such as: Summer Olympic support; humanitarian assistance; and foreign aid to the former Soviet Union.

These are not DOD areas of responsibility.

I also include for the RECORD my dissenting views to the Defense authorization bill, a draft letter to Secretary of Defense Perry protesting new Defense cuts, and an article outlining how the Navy has run out of money to train reservists this year. The Clinton Defense budget is a disgrace.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, August 18, 1994.

[Memorandum for members of the defense resources board]

Subject: Additional DRB Program Alternatives.

The Program Decision Memorandum (PDM) for the first phase of the Fiscal Years 1996–2001 Program Review covered initial adjustments to the Military Department Program Objectives Memorandum (POM), as well as funding changes and policy guidance in other programs such as Ballistic Missile Defense and Chemical Demilitarization.

DMI, however, did not address several areas, particularly the possibility of funding a military pay raise at the ECI minus 0.5 percent level. Because 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 some POM priorities, we need to review several programs. What follows is a list of the program options that the relevant Department of Defense component should prepare for review by the Defense Resources Board (DRB) in September. Each of the components should provide a written summary of its program options to me by September 7, 1994, and be prepared to brief the DRB. This effort should not interfere with submittal of the Budget Estimate Submission (BES) as scheduled on September 9, 1994.

DEPARTMENT OF THE ARMY

Comanche helicopter program. The Army should develop a program alternative that terminates the Comanche.

Advanced Field Artillery System (AFAS). The Army should develop a program alternative that terminates AFAS and replaces it with additional upgrades to the Paladin system.

DEPARTMENT OF THE AIR FORCE

Joint Primary Aircraft Training System (JPATS) program. The Air Force should develop at least two program alternatives for JPATS: (1) deferring introduction of the JPATS trainer for up to seven years and (2) reducing cost by increased reliance on commercial practices, a slower procurement profile, and enhanced joint training.

F–22 fighter program. The Air Force should develop a program alternative that delays the initial procurement of F–22 fighters by up to four years.

Precision-Guided Munition (PGMs). The Air Force should develop at least two alternative programs: (1) cancelling the Tri-Service Standoff Attack Missile (TSSAM) and procuring other PGMs to perform the mission and (2) retaining TSSAM, but adding $100 million per year to near-term PGM programs.

DEPARTMENT OF THE NAVY

Medium Lift Replacement. From the September Defense Acquisition Board meeting on medium lift programs, the Navy and Marine Corps should submit for DRB consideration the most promising alternative that cancels the V–22 and replaces it with a helicopter alternative.

DDG–51 Destroyers. The Navy should develop two program alternatives for DDG–51 procurement in the FY 1996–01 period: (1) 2.5 per year beginning with two in FY 1996 and (2) two per year beginning in FY 1996. (In both alternatives procurement would return to three per year after 2001.

New Attack Submarine. The Navy should submit an alternative NSSN program that does not include a submarine in FY 2001.

Advanced Amphibious Assault Vehicle (AAAV). The Navy and Marine Corps should develop a program alternative that cancels the AAAV.

JPATS and PGMS. The Navy should develop alternatives that reflect the impact of the different Air Force JPATS and TSSAM alternatives on the navy.

OTHER DOD COMPONENTS

In addition to the options prepared by the Military Department, the DoD comptroller should identify potential reductions in overhead and infrastructure. These options should include personnel reductions in the Office of the Secretary of Defense and related defense support activities and operating agencies greater than four percent per year.

JOHN M. DEUTCH.

I also insert for the RECORD my extended remarks and a letter to Secretary Perry that I am circulating for signatures.

"WHY I OPPOSE THE 1995 DEFENSE BUDGET"

It is with some regret that I find myself, as a member of the House Armed Services Committee, opposing the recent House-Senate Conference Report on the FY 1995 Defense Authorization Bill. While there were some very positive steps taken by both the House and Senate Armed Services Committees towards maintaining and even improving U.S. military combat readiness, I fear that Congress has again lost a "golden" opportunity to influence the short-sighted policies of this present Administration with regards to the U.S. armed forces.

The military policies and budget set forth by this Administration simply do not make sense. During a time of drastically declining defense resources, when we should be requiring the highest standards of performance and capability from those few retained on active duty, this president has decided to turn the military into a social laboratory. From lifting the ban against homosexuals to opening up combat positions to women, the president has sought to use our military as a domestic political tool rather than even addressing whether or not such policy decisions would improve combat readiness.

In addition to these narrow minded political decisions, there is a dangerous hypocrisy resulting from a mismatch between the president's vague but growing foreign policy initiatives and continuing cuts to already reduced defense forces. Without clearly defining U.S. national interests or specific military objectives, the president has decided to offer U.S. military forces as the on call "911" forces of the U.N. and the rest of the world. Meanwhile, as the tempo for operations for our military continues to increase, including time away from home and family, the resources devoted to rewarding, training, and equipping these personnel continue to diminish at alarming rates.

This Administration supposedly cannot find enough funding within the Federal budget to provide our military with a modest 2.6 percent pay raise; it cannot provide enough dollars for Army tank battalion commanders to exercise units above the platoon level; it cannot buy additional B–2 bombers to replace aging B–52 aircraft. However, in spite of these defense budgetary constraints, the president can find more than enough funding from the Department of Defense for humanitarian assistance, foreign aid, and defense conversion projects. How do these programs directly improve U.S. combat readiness? How do these programs help our forces cope with the ever increasing tempo of operations as a result of increased foreign commitments? If the president wants to use our military forces as instruments of his foreign policy, then he must give them the funding necessary to perform their mission including adequate pay, adequate training, and new and improved weapons systems. If the Administration continues to gut the defense budget, then it must not continue to offer the U.S. military as the "911" force of the U.N. and the world!

What then, should Congress do to correct such shortcomings on the part of the executive branch?

First, we should demand that the Administration utilize some type of solid criteria before using military force and endangering lives. Any time we send troops abroad, whether it be for peacekeeping, humanitarian assistance, or direct combat, we must anticipate that the result could eventually be armed conflict. While we do not want to prohibit the President from acting as commander in chief, we do want to ensure that U.S. troops are not sent into areas where there are no vital interests or specific military objectives (i.e. Somalia and Haiti). I

would suggest using criteria first outlined in a November 28, 1994 speech by then Secretary of Defense Caspar Weinberger. I have expanded on his six guidelines in developing my own ten commandments for the use of U.S. military force. Included in these commandments are:

Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests.

What, for example, are the specific national interests at stake in Haiti?

Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives.

If we send troops to Bosnia, some estimates as great as 25,000, what will their objectives be? What do we specifically intend to accomplish with military force? When can these forces depart?

Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.

Clinton foreign policy, including PDD–25, seeks to expand U.S. involvement in international peacekeeping operations under foreign command. Lessons of Somalia clearly indicate that such command arrangements can be disastrous. Unless such command arrangements are with long-standing allies such as NATO countries, foreign command should not even be considered.

Next, we in Congress must address the growing threat of proliferation of ballistic missiles and nuclear, biological, and chemical (NBC) weapons/warheads. No other weapons can so directly threaten the United States, our allies, and forward deployed forces, as can these devastating weapons of mass destruction. Fortunately, the only direct defense against such weapons is now within our grasp, ballistic missile defense (BMD). However, both this Administration and this Congress have failed to provide adequate funding for even near term/low cost systems such as sea-based missile defense. We should immediately provide additional dollars for the handful of promising technologies that could deter, and if necessary defeat, the growing threat of ballistic missile attack from North Korea, Iraq, and elsewhere. Upper-tier sea-based systems on board Navy Aegis ships, Army theater high altitude area defense (THAAD), and Air Force boost phase intercept systems, all are technologies that should be developed and deployed now, not later when it may be too late.

In addition, we should immediately seek to repeal the outdated Anti-ballistic Missile (ABM) Treaty (a treaty with an evil empire that no longer exists) which threatens, as an obsolete political document, to limit the capability of even these modest BMD systems.

Finally, we must be more selective in approving which programs will relieve scare defense funds. We should evaluate every defense dollar and policy decision in terms of combat readiness. If a program or proposal does nothing to enhance our military's ability to deploy, fight, win and survive on the field of battle, we should consider opposing the program. In a tight budgetary period and a rapidly evolving world political environment, we cannot afford non-defense issues or programs to interfere with the much more pressing demands of troop morale, combat training, and weapons modernization.

Perhaps George Washington, our first President and first great military leader, said it best: "To be prepared for war is one of the most effectual means of preserving peace."

Congress should heed Washington's advice and ensure that every precious defense dollar is used to train, equip, maintain, and prepare our soldiers, sailors, airmen, and Marines for war.

OCTOBER 5, 1994.

Hon. WILLIAM PERRY,
Secretary of Defense,
The Pentagon,
Washington, DC.

DEAR MR. SECRETARY: We are extremely concerned over recent efforts by the Department of Defense (DoD) to identify additional weapons modernization programs for possible delay or outright cancellation in order to achieve additional cuts to an already greatly reduced defense budget.

An August 18 memorandum from Deputy Secretary of Defense John Deutch to the Defense Resources Board (DRB) identifies nine programs in the Departments of the Army, Navy, and Air Force that would be considered for delay or termination. According to the memorandum, "Because 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 some POM priorities, we need to review several programs."

We find the stated rationale for cutting these programs absurd. First, it was this administration which initially cancelled the regularly scheduled pay raise for members of the military in both 1993 and 1994. It was then only through congressional action that this pay raise was fully restored.

Next, no apparent consideration is being given to identifying other potential sources of cost savings that could be used instead of cutting back combat systems which address clear military requirements. There are an increasing number of programs currently funded by the DoD that are more properly the function of other agencies or departments and could be reduced or eliminated with far less consequences for DoD's combat mission.

For example, a September 1994 Congressional Research Service report identifies over $11 billion in FY 1995 defense funding that may not be directly related to traditional military capabilities. Included in this report are non-defense operations and maintenance programs ($1.4 billion), environmental activities ($5.6 billion) and defense conversion programs ($3.4 billion). In this era of rapidly declining defense resources, we should consider every defense dollar and policy decision in terms of combat readiness. If a program does nothing to enhance our ability to deploy, fight, win and survive on the field of battle, we should consider terminating that program before considering further modernization cuts. We simply can no longer afford non-defense programs to drain resources from the much more pressing demands of troop morale, combat training, and modernization.

It is becoming increasingly obvious that the administration's current defense budget plan cannot pay for the Bottom-Up Review two MRC (major regional contingency) strategy and associated force structures. Therefore, the operative consideration should be how to properly resource the Department of Defense budget, not how to make further reductions.

We remain committed to providing our armed forces with the best and highest quality troops, training, and technology possible. This requires continued pay raises to recruit and retain highly motivated young men and women, increased funding for combat training and equipment maintenance, and continued development and fielding of new weapon systems designed to improve the effectiveness and survivability of U.S. armed forces on the battlefield. We believe any attempts to cancel or delay the few remaining systems still left in the current DoD acquisition plan instead of first cutting non-defense programs or increasing the overall defense budget, to be shortsighted and directly counter-productive to promoting combat readiness.

We therefore urge you to immediately reconsider cancelling or delaying these new weapons programs and instead consider other available alternatives to address pressing Department of Defense budgetary shortfalls.

Best regards,

ROBERT K. DORNAN.